

## DEPARTMENT OF NATURAL RESOURCES

### FOREST RESOURCES DIVISION

#### OPEN AND PRESCRIBED BURNING

(By authority conferred on the Department of Natural Resources by sections 51503 and 51513 of Part 515 of 451 PA 1994, MCL 324.51503 and MCL 324.51513)

##### **R 281.421 Definitions.**

Rule 1. As used in these rules:

(a) "Continuous cover of fuels" means a cover of vegetation capable of sustaining and carrying fire over the area intended to be burned.

(b) "Director" means the director of Michigan department of natural resources or his/her designee.

(c) "Prescribed burn" or "prescribed burning" means the burning, in compliance with a prescription and to meet planned fire or land management objectives, of a continuous cover of fuels.

(d) "Land management objective" means a description of the desired future condition of the vegetation on a site at a specified point in time.

(e) "Escaped fire" means a prescribed fire that leaves the boundary of the area prescribed and authorized in the permit, and unable to be contained with the resources on-scene to conduct the burn.

(f) "Burn permit" means authorization to burn flammable material or conduct a prescribed burn, issued by state or local officials, written or verbally.

(g) "Prescription" means a written plan establishing the criteria necessary for starting, controlling, and extinguishing a burn.

(h) "Smoke management plan" means the state's interagency plan for tracking and managing the emissions from prescribed and wildland fires.

(i) "Vegetative land clearing" means activities to remove the existing vegetation on a site to convert the site for a different use.

(j) "NFDRS" is the national fire danger rating system.

(k) "CFFBPS" is the Canadian forest fire behavior prediction system.

(l) "Prescribed burn manager trainee" is an individual who performs some or all of the functions of a prescribed burn manager in a training role, under the oversight and guidance of a certified prescribed burn manager. The certified burn manager retains responsibility for all aspects of the burn.

History: 2007 AACCS.

##### **R 281.422 Purpose; intent scope.**

Rule 2. To implement the intent of the prevention and suppression of forest fires, the director promulgates these rules for the following purposes:

(a) Promote the public health, safety, and general welfare of those involved in contact with prescribed burning.

(b) Prevent economic damage, death, or injury due to the misuse of open or prescribed burning.

(c) Ensure the use of proper prescribed burning procedures.

(d) Provide a process to become a certified prescribed burn manager.

(e) Implement a process for certification renewal.

(f) Provide a means for decertifying certified prescribed burn managers who violate Michigan law, and threaten public health, safety, or property.

(g) Prevent the escape of fire with resulting damage to property, potential for injury and loss of life, and the resulting costs to suppress fires.

History: 2007 AACS.

**R 281.423 Open burning permits; procedures for obtaining; conditions.**

Rule 3. (1) A burning permit shall be obtained from a department representative or local unit of government. The permittee shall meet all conditions of the permit at all times. Noncompliance with permit conditions is considered grounds to rescind the permit.

(2) A permit for burning is required whenever the ground is not snow-covered, and may be rescinded by the issuing agency at any time it considers burning conditions are too extreme.

(3) Permits for burning may be issued in writing, over the telephone, or over the internet. Permits for burning debris from vegetative land clearing shall be issued in writing.

History: 2007 AACS; 2015 AACS.

**R 281.424 Prescribed burning permits; procedures for obtaining; conditions.**

Rule 4. (1) Permits for prescribed burning are required at all times, including when the ground is snow-covered. The certified prescribed burn manager shall do all of the following:

(a) Obtain verification of the issuance of a burn permit from either the department or the local unit of government, whichever has jurisdiction over burning permits in the township where the burn is planned.

(b) Make a copy of the prescription for the burn available to the issuing authority upon their request.

(c) Notify the owners of all power lines and pipelines with the burn area at least two weeks prior to conducting the burn.

History: 2007 AACS.

**R 281.425 Prescriptions; minimum requirements.**

Rule 5. A prescription for each burn shall be on-site and available for inspection by a department representative, or a representative of the fire department having jurisdiction. Mandatory prescription requirements shall include all of the following:

(a) The stand or site description, to include the landowner's name and mailing address and the legal description of the treatment area. The legal description shall include the county, township, section, and quarter-section.

(b) The acreage to be treated.

(c) A map of the area to be burned indicating special concerns located within 1 mile of the treatment area. Special concerns include, but are not limited to, all of the following:

(i) Adjacent landowners.

(ii) Power lines.

(iii) Utilities.

(iv) Roads.

(v) Residences.

(vi) Schools.

(vii) Hospitals.

(viii) Nursing homes.

(iv) Public facilities, in general.

(d) The personnel and equipment to be used to conduct the burn.

(e) The land management objectives of the burn.

(f) The type of vegetation or fuel model (NFDRS or CFFBPS) to be burned and the amount of fuel to be consumed in either tons/acre or percent of the available fuel load.

(g) The operational plan of the burn procedure, including, but not limited to, the following:

(i) Fire breaks to be used to confine the burn to the prescribed area.

(ii) Ignition and holding plan.

(iii) Mop-up needs.

(iv) Provisions for the safety of the individuals conducting the burn.

(v) Provisions for the protection of power lines, pipelines, and other utilities within the burn area.

(h) A contingency plan for how escapes will be suppressed. The contingency plan shall include necessary supporting resources and emergency contact information.

(i) Persons and agencies that are to be contacted prior to the burn. These contacts shall include the permitting agency, the fire department of jurisdiction, and the local central dispatch center.

(j) Weather parameters, including but not limited to surface wind speed, direction, relative humidity, temperature, and fine fuel moisture thresholds.

(k) Expected fire behavior factors, including burn technique, flame length, and rate of spread.

(l) Time and date prescription was prepared.

(m) Time period for the burn.

(n) Evaluation of the anticipated smoke impacts and a plan to mitigate these impacts. This mitigation plan shall include both of the following:

- (i) Conformance to the state's smoke management plan.
- (ii) Ventilation index limits.
- (o) The criteria the certified prescribed burn manager will use for making go/no-go burn decisions.
- (p) Signature and certification number of the certified prescribed burn manager.
- (q) Signature of the landowner for whom the burn is to be conducted, or designee.

History: 2007 AACCS.

**R 281.426 Prescribed burn manager certification; original application and requirements.**

Rule 6. (1) An applicant for prescribed burn manager certification shall submit an application to the department on a form prescribed by the department.

(2) An applicant for prescribed burn manager certification shall satisfy either of the following conditions:

(a) Provide documented proof to the department of having met all of the following:

(i) Completion of the following certified training courses offered by the National Wildfire Coordinating Group (NWCG) or their equivalent, as approved by the department:

(A) S130 - Basic firefighter. The Michigan Fire Fighter's Training Council certified course entitled, "introduction to wildland fire suppression for Michigan fire departments" may be substituted for the NWCG S130 course.

(B) S190 - Introduction to wildland fire behavior.

(C) S290 - Intermediate wildland fire behavior.

(ii) Completion of the Michigan certified prescribed burn manager course offered by the department.

(iii) Proof of having direct experience on 5 prescribed burns by satisfying either of the following requirements:

(A) On at least 2 of the 5 prescribed burns, an applicant shall have actively participated in the management of the burn as a prescribed burn manager trainee.

(B) An applicant shall submit written documentation, detailing his or her experience on 5 prescribed burns. The department shall review each case to determine if the applicant's experience is satisfactory.

(b) An applicant may provide documentation to the department of certification by another governmental unit or agency, provided the other unit or agency has similar or more stringent certification requirements than those provided in subdivision (a) of this subrule.

(3) Burn manager certification shall be valid for a period of 5 years from the date of issuance.

(4) A person who has been convicted of a felony under Chapter X - Arson and Burning of the Michigan Penal Code, MCL 750.71 to 750.80, or under section 51510 of Part 515 of the Natural Resources and Environmental Protection Act, MCL 324.51510, shall not be certified as a prescribed burn manager.

History: 2007 AACCS.

**R 281.427 Certification; renewal requirements.**

Rule 7. (1) An applicant shall complete all of the following requirements to renew certification as a prescribed burn manager:

(a) Apply to the department on a form prescribed by the department.

(b) Provide proof of satisfying either of the following requirements to the department:

(i) Completion of at least 8 hours of training related to prescribed fires, as approved by the department.

(ii) Attendance at Michigan prescribed fire council annual meeting.

(c) Provide 1 of the following proofs to the department of having participated in prescribed burns. Such proof shall be submitted on a form prescribed by the department.

(i) Submit a prescribed burn manager certification number for at least 2 completed burns.

(ii) Participate in 5 burns, documented and verified by a currently certified prescribed burn manager.

(iii) Complete the department's Michigan prescribed burn manager course.

(2) An applicant who fails to renew certification within 1 year from the expiration date of his/her previous certification may renew his or her certification, but only after completing all of the requirements for original certification contained in R 281.426.

(3) Burn manager recertification will be valid for a period of 5 years from the date of issuance of the renewal.

(4) A person who has been convicted of a felony under Chapter X - Arson and Burning of the Michigan Penal Code, MCL 750.71 to 750.80 or under section 51510 of Part 515 of the Natural Resources and Environmental Protection Act, MCL 324.51510, shall not be recertified as a prescribed burn manager.

History: 2007 AACCS.

**R 281.428 Decertification; point assessment; decertification and recertification process.**

Rule 8. (1) A certified prescribed burn manager who has been convicted of a felony under Chapter X - Arson and Burning of the Michigan Penal Code, MCL 750.71 to 750.80, or under section 51510 of Part 515 of the Natural Resources and Environmental Protection Act, MCL 324.51510, shall be immediately decertified and will be ineligible for recertification.

(2) The director may decertify a certified prescribed burn manager's certification for a period of not less than 1 year in either of the following situations:

(a) The manager's practices and procedures violate Michigan law or department rules, or constitute a threat to public health, safety, or property.

(b) The manager accumulates more than 15 points during any 2 year period. Points shall be assessed according to Table 1 and may be assessed for more than 1 infraction per incident.

(3) A manager who has had been decertified by the director under subrule

(2) of this rule may be recertified 1 time by completing all of the requirements for original certification contained in R 281.426.

(4) A manager who has been decertified twice by the director under subrule (2) of this rule is not eligible to be recertified as a prescribed burn manager.

History: 2007 AACCS.

**R 281.429 Decertification; right to hearing.**

Rule 9. (1) If a prescribed burn manager has been decertified by the department, that person shall be afforded both of the following:

(a) An opportunity to show compliance with all lawful requirements for retention of the certification.

(b) A right to request a hearing in accordance with chapter 4 of the administrative procedures act of 1969, MCL 24.271 to 24.292.

(2) If a person does not request a hearing, the department may decertify the person's certification based on the findings of its investigation.

(3) Upon notification of a final decision of decertification, the person shall return the certification immediately to the department.

(4) A person who is decertified under this rule shall include the information related to the decertification in his or her application for recertification.

(5) A hearing provided for in this rule shall comply with chapter 4 of the administrative procedures act of 1969, MCL 24.271 to 24.292.

**Violations & Point Assessment Table 1**

<b>CERTIFIED BURNER VIOLATIONS</b>		<b>POINT</b>
<u>1</u>	<u>Certified burner burns without a permit when a permit is required.</u>	<u>15</u>
<u>2</u>	<u>Certified burner obtains a permit knowingly using false information (i.e. location, certified burn number, equipment on site, personnel).</u>	<u>15</u>
<u>3</u>	<u>Fire escapes from prescribed area, causing injury or damage to property or improvements.</u>	<u>10</u>
<u>4</u>	<u>Any burn initiated outside of prescription parameters based upon morning forecast and on-site weather observations (i.e. wind speed, wind direction, RH, temperature, etc).</u>	<u>10</u>
<u>5</u>	<u>Any burn initiated without the equipment and/or personnel specified in the prescription.</u>	<u>10</u>
<u>6</u>	Improper smoke screening, failure to properly mitigate smoke impacts, or burning that does not conform to the state's smoke management plan.	10
<u>7</u>	<u>Fire escapes from the prescribed area, but does not cause injury or damage to property or improvements.</u>	<u>5</u>

<u>CERTIFIED BURNER VIOLATIONS</u>		<u>POINT</u>
<u>8</u>	<u>The department or other emergency fire response agency is required to take suppression action.</u>	<u>5</u>
<u>9</u>	<u>Failure to pay suppression costs on an escaped burn within 60 days of receipt of a bill for suppression costs.</u>	<u>5</u>
<u>10</u>	<u>Failure to attempt to shut down burn after notification by the department, or the fire department having jurisdiction.</u>	<u>5</u>
<u>11</u>	<u>Certified burner who attempts to burn without a written prescription at the site of the burn while burn is being conducted.</u>	<u>5</u>

History: 2007 AACCS.