

ALASKA WILDLAND FIRE PROTECTION STATUTES AND REGULATIONS BOOKLET June 2019



DIVISION OF FORESTRY Department of Natural Resources

This booklet includes various sections of Alaska Statutes (AS 41.15 and AS 41.17) and regulations (11 AAC 95 and 96) relevant to the conduct of Division of Forestry wildland fire suppression and protection activities. It does not include the history notes of the statutes and regulations. For the official published version of the regulations, and for any changes to the regulations since May 2019, please refer to the Alaska Statutes and Alaska Administrative Code.

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READING ALASKA STATUTES

Alaska Statutes are Alaska law. Statutes are passed by the Legislature. Regulations (contained within the Alaska Administrative Code, AAC) are considered legally binding rules and are administratively adopted by agencies.

The organizational structure and hierarchy for reading statutes is shown in the example below.

| <u>Level</u> | <u>Citation</u> | <u>Name</u> |
|---------------------|-----------------|--|
| Alaska Statutes | AS | |
| Title | 41 | Public resources |
| Chapter | .15 | Forests |
| Article | [1] | Protection of Forest Land |
| Section | .045 | Civil immunity |
| Subsection | (a) | <i>[no civil action for damages against]</i> |
| Subsubsection | (3) | <i>[state or its officers]</i> |
| Subsubsubsection | (A) | [] |
| Subsubsubsubsection | (i) | [] |

ALASKA STATUTES

Title 41. Public Resources

Chapter 15. Forests

Article 1. Protection of forested land

Sec. 41.15.010. Intent. It is the intent of AS 41.15.010 - 41.15.170 to provide protection from wildland fire and other destructive agents, commensurate with the values at risk, on forested land that is owned privately, by the state, or by a municipality. (§ 1 ch 138 SLA 1961; am § 1 ch 88 SLA 1984; am § 3 ch 22 SLA 2008; am § 2 ch 63 SLA 2018)

Sec. 41.15.020. Regulations. The commissioner shall, by regulation, make provision for the protection of forested land in the state from fire and other destructive agents. (§ 2 ch 138 SLA 1961)

Sec. 41.15.025. Fire protection on mental health trust land. Land that is in the mental health trust is, for the purpose of wild fire suppression, land owned by the state. (§ 14 ch 66 SLA 1991)

Sec. 41.15.030. Contracts for forest protection; emergency firefighters. (a) The commissioner may enter into necessary protection contracts.

(b) The commissioner may hire emergency firefighting personnel, and shall establish classifications and rates of pay for the emergency firefighting personnel consistent with the compensation paid by other fire-fighting agencies. The commissioner may adjust the classifications and rates based on findings of the federal Bureau of Land Management for Alaska. The commissioner may assign emergency firefighting personnel to conduct fire suppression, hazard reduction, fire prevention, habitat restoration or improvement, and other related activities in emergency and nonemergency circumstances. The assignment of emergency firefighting personnel to nonemergency activities may not be used to replace permanent or seasonal state employees. The commissioner may not use appropriations to the department from state general funds for emergency firefighting personnel engaged in nonemergency activities under this section. (§ 2 ch 138 SLA 1961; am § 1 ch 100 SLA 1976; am § 2 ch 88 SLA 1984; am § 2 ch 121 SLA 1996)

Sec. 41.15.040. Right of entry to control and suppress fires. (a) Upon approval by the commissioner or an authorized agent, an employee of the division of forestry, or of any organization authorized to prevent, control, or suppress a fire or a destructive agent, and others assisting in the control or suppression of a fire upon request of an officer or employee of the United States or the state may, when responding to a wildland fire or suspected wildland fire or administering the provisions of this chapter, enter upon any land, whether publicly or privately owned, for the purpose of preventing, investigating, suppressing, or controlling a

wildland fire or a destructive agent.

(b) A person may not interfere with or prohibit the access authorized under (a) of this section. (§ 2 ch 138 SLA 1961; am § 4 ch 22 SLA 2008; am §§ 3, 4 ch 63 SLA 2018)

Sec. 41.15.045. Civil immunity. (a) Notwithstanding other provisions of law, a person may not bring a civil action for damages for death, personal injury, or property damage that results from an act or omission in performing or failing to perform activities or duties arising out of prevention, monitoring, control, or suppression of fires authorized to be performed under

AS 41.15.010 - 41.15.170 against

- (1) the state or its officers, agents, and employees;
- (2) a political subdivision of the state or its officers, agents, and employees;
- (3) any organization authorized to prevent, control, or suppress fires; or
- (4) others assisting in the control or suppression of fires at the request of an officer or employee of the United States or the state.

(b) This section does not apply to a civil action for damages as a result of intentional misconduct within the course and scope of employment or agency and with complete disregard for the safety and property of others. (§ 11 ch 43 SLA 2003)

Sec. 41.15.050. Fire season. The period from April 1 to August 31, inclusive, of each year is designated the fire season. The commissioner may, at any time, proclaim an additional period for all or any portion of the state when weather or other conditions require action for the protection of forested land. The commissioner may also, at any time, prohibit, or allow only by permit, the setting of fires, smoking, entry, or other use on the land, when, in the judgment of the commissioner, the activities would unduly increase the fire danger. (§ 3 ch 138 SLA 1961; am § 1 ch 27 SLA 1973; am § 1 ch 21 SLA 2006; am § 5 ch 63 SLA 2018)

Sec. 41.15.060. Permits. (a) The commissioner shall, by regulation, prescribe the conditions of and the manner for obtaining a permit for the setting of fires, use of burning devices, and other activities and uses of land that increase fire danger.

(b) A person may not set fires, use burning devices, or conduct other activities or use land that increases fire danger without a permit as prescribed by the commissioner in regulation under (a) of this section. (§ 3 ch 138 SLA 1961; am § 1 ch 179 SLA 1970; am §§ 6, 7 ch 63 SLA 2018)

Sec. 41.15.070. Disposal of burning materials. During the fire season, a burn closure, or restriction established under AS 41.15.050, a person may not discard any lighted tobacco, cigar, cigarette, match, firecracker, or other burning material on forested land. (§ 4 ch 138 SLA 1961; am § 8 ch 63 SLA 2018)

Sec. 41.15.090. Building or leaving fires. (a) A person may not start a fire in or near forested land without first clearing the ground immediately around it free from materials that will carry fire.

(b) A person who starts a fire in or near forested land may not leave the fire before totally extinguishing the fire. (§ 6 ch 138 SLA 1961; am §§ 9, 10 ch 63 SLA 2018)

Sec. 41.15.100. Setting fires without consent. A person may not set on fire forested land, or other inflammable material located or growing on land that is not owned, possessed, or controlled by the person, without the consent of the owner or lawful occupant of the land. (§ 7 ch 138 SLA 1961; am § 11 ch 63 SLA 2018)

Sec. 41.15.110. Uncontrolled spread of fire; leaving fire unattended. (a) A person who knows of a fire or sets a fire on forested land owned, possessed, or controlled by the person, shall exercise due care to prevent the uncontrolled spread of the fire.

(b) A person shall make every effort possible to extinguish a fire the person knowingly sets on forested land and may not leave a fire unattended.

(c) In a criminal action brought under this section, the escape of the fire may be considered by a court as evidence that the person responsible for starting the fire acted knowingly. (§ 8 ch 138 SLA 1961; am § 2 ch 179 SLA 1970; am § 12 ch 63 SLA 2018)

Sec. 41.15.120. Failure to assist in preventing or suppressing fires. If an officer or employee of the United States or the state who is authorized to prevent, investigate, or suppress fires requests a person to assist in the prevention or suppression of a fire and informs the person of the officer or employee's official status, the person shall assist the officer or employee. (§ 9 ch 138 SLA 1961; am § 13 ch 63 SLA 2018)

Sec. 41.15.130. Backfires and burnouts excluded. AS 41.15.010 - 41.15.040 and 41.15.050 - 41.15.170 do not apply to the setting of backfires, burnouts, and other burning or clearing of land under the direction of an officer or employee of the United States or the state who is authorized to prevent or suppress fires. (§ 9 ch 138 SLA 1961; am § 14 ch 63 SLA 2018)

Sec. 41.15.140. Penalty. Except as provided in AS 41.15.150, a person who (1) knowingly violates a provision of AS 41.15.040 - 41.15.130 is guilty of a Class A misdemeanor punishable as provided in AS 12.55; (2) without any culpable mental state, violates a provision of AS 41.15.040 - 41.15.130 or a regulation adopted under AS 41.15.040 - 41.15.130 is guilty of a violation and upon conviction is punishable by a fine under AS 12.55. (§ 10 ch 138 SLA 1961; am § 15 ch 63 SLA 2018)

Sec. 41.15.150. Criminal burning of forested land in the first degree. (a) A person commits the crime of criminal burning of forested land in the first degree if

- (1) the person violates AS 41.15.155; and
- (2) the person's actions or conduct violate a provision of AS 41.15.010 - 41.15.130 or a regulation adopted under AS 41.15.010 - 41.15.130.

(b) Criminal burning of forested land in the first degree is a class B felony punishable as provided in AS 12.55. (§ 11 ch 138 SLA 1961; am § 16 ch 63 SLA 2018)

Sec. 41.15.155. Criminal burning of forested land in the second degree. (a) A person commits the crime of criminal burning of forested land in the second degree if

- (1) the person knowingly sets a fire;
- (2) with criminal negligence, the person
 - (A) permits the fire to spread beyond the person's control; or
 - (B) fails to prevent the fire from spreading to forested land or other flammable material; and
- (3) as a result, the fire burns forested land or other flammable material located or growing on land that is not owned, possessed, or controlled by the person.

(b) Criminal burning of forested land in the second degree is a class C felony punishable as provided in AS 12.55. (§ 17 ch 63 SLA 2018)

Sec. 41.15.160. Double damages in civil actions. In addition to the criminal punishment provided for by AS 11.46.400 - 11.46.450, AS 41.15.140, 41.15.150, and 41.15.155, the United States, the state, a municipality, or any person may recover in a civil action double the amount of damages sustained as a consequence of a violation of AS 11.46.400 - 11.46.450, AS 41.15.010 - 41.15.155. In a civil action brought under AS 41.15.010 - 41.15.170 or any other law relating to the subject matter of AS 41.15.010 - 41.15.170, the escape of a fire is presumptive evidence of negligence by the person responsible for starting the fire and unless rebutted is sufficient to sustain the recovery. (§ 12 ch 138 SLA 1961; am § 18 ch 63 SLA 2018)

Sec. 41.15.170. Definitions. In AS 41.15.010 - 41.15.170,

- (1) "damages" includes costs incurred in suppressing, controlling, or extinguishing a fire;
- (2) "destructive agent" means an insect, pathogen, or other environmental agent that causes damage to a forest resource;
- (3) "forested land" includes all land on which grass, brush, timber, and other natural vegetative material grows;
- (4) "wildland fire" includes the uncontrolled burning of grass, brush, timber, and other natural vegetative material.
- (5) "criminal negligence" has the meaning given in AS 11.81.900;

(6) "knowingly" has the meaning given in AS 11.81.900. (§ 1 ch 138 SLA 1961; am § 3 ch 179 SLA 1970; am § 43 ch 85 SLA 1988; am § 5 ch 22 SLA 2008; am § 19 ch 63 SLA 2018)

Article 3. Fire Suppression Fund.

Sec. 41.15.200. Statement of purpose. The purpose of AS 41.15.200 - 41.15.230 is to provide a readily available fund for the payment of expenses incurred by the department in suppressing fires. (§ 1 ch 10 SLA 1978)

Sec. 41.15.210. Fire suppression fund. A fire suppression fund is established in the state treasury for the use of the department. The fund shall be used for actual expenses incurred in the suppression of fires. The fund may not be used

- (1) for capital expenditures; or
- (2) to fund nonemergency activities of emergency fire-fighting personnel under AS 41.15.030. (§ 1 ch 10 SLA 1978; am § 1 ch 30 SLA 1982; am § 3 ch 121 SLA 1996)

Sec. 41.15.220. Composition of fund. The legislature may appropriate from the following sources to the fire suppression fund:

- (1) money received in settlement of a claim or loss caused by damage as a consequence of a violation of AS 41.15.010 - 41.15.170;
- (2) money received from federal, state, or other governmental unit, or from a private donor for actual fire suppression work;
- (3) money received from other sources as the legislature may consider appropriate and necessary to satisfy the purpose of the fund. (§ 1 ch 10 SLA 1978)

Sec. 41.15.230. Disbursement. Upon authorization of the governor, disbursements from the fire suppression fund shall be paid by the proper state officer on presentation of vouchers signed by the governor or the governor's authorized representative. (§ 1 ch 10 SLA 1978)

Sec. 41.15.240. Records of fire suppression fund. The department shall maintain accounting records showing the income and expenses of the fire suppression fund. (§ 1 ch 10 SLA 1978; am § 16 ch 126 SLA 1994)

Article 6. General Provisions.

Sec. 41.15.950. Enforcement authority. (a) The following persons are peace officers of the state and they shall enforce the provisions of this chapter and the regulations adopted under this chapter:

- (1) solely for the purpose of enforcing this chapter, an employee of the department, or other person, authorized by the commissioner;
- (2) a police officer in the state.

(b) A person designated in (a) of this section may, when enforcing the provisions of

this chapter or a regulation adopted under this chapter,

- (1) execute a warrant or other process issued by an officer or court of competent jurisdiction;
- (2) administer or take an oath, affirmation, or affidavit;
- (3) arrest a person who violates a provision of this chapter or a regulation adopted under this chapter; and
- (4) issue a citation to a person who violates a provision of AS 41.15.010 - 41.15.170 or a regulation adopted under this chapter.

(c) A person is not required under this section to disclose a deadly weapon under AS 11.61.220(a)(1)(A) to a peace officer described under (a)(1) of this section. (§ 4 ch 179 SLA 1970; am §§ 20, 21 ch 63 SLA 2018)

Sec. 41.15.960. Bail schedules. The supreme court shall establish by rule or order a schedule of bail amounts for offenses under this chapter or under regulations adopted under this chapter that allow the disposition of a citation without a court appearance. The bail amount may not exceed the maximum fine authorized by law for that offense (§ 22 ch 63 SLA 2018)

Chapter 17. Forest Resources and Practices

Article 1. Administration and Management

Sec. 41.17.010. Declaration of intent. The legislature declares that

- (1) the forest resources of Alaska are among the most valuable natural resources of the state, and furnish timber and wood products, fish and wildlife, tourism, outdoor recreation, water, soil, air, minerals, and general health and welfare;
- (2) economic enterprises and other activities and pursuits derived from forest resources warrant the continuing recognition and support of the state;
- (3) the state has a fundamental obligation to ensure that management of forest resources guarantees perpetual supplies of renewable resources, provides nonrenewable resources in a manner consistent with that obligation, and serves the needs of all Alaska for the many products, benefits, and services obtained from them;
- (4) government administration of forest resources should combine professional management services, regulatory measures, and economic incentives in a complementary fashion, and should draw upon the expertise of professional foresters in conjunction with other disciplines; [...] (§ 1 ch 108 SLA 1978; am § 2 ch 34 SLA 1990; am E.O. No. 107, § 6 (2003); am E.O. No. 114 § 7 (2008))

Sec. 41.17.055. Powers and duties of the commissioner. [...]

(c) The commissioner is authorized to undertake cooperative forestry programs, extension services and education programs, and to otherwise offer a full range of professional management services to the interested public. When the commissioner considers it beneficial, the commissioner may participate in federal assistance programs by accepting assistance in whatever form offered. [...]

(e) In the administration of this chapter, the commissioner shall consult with and draw upon the expertise of interested organizations, enterprises, individuals, government agencies, educational institutions, and landowners. The commissioner may enter into cooperative agreements and contracts with them to carry out this chapter.

(f) The commissioner shall locate department personnel with forestry expertise throughout the state to facilitate public access to professional management services and other forest resources programs.

(g) The commissioner may take other actions necessary and proper for the administration of this chapter, including the adoption of regulations under the Administrative Procedure Act (AS 44.62) and AS 41.17.047. (§1 ch 108 SLA 1978; am §5 ch 34 SLA 1990; am E.O. No. 107 §10 (2003); am EO 114 § 11 (2008))

Sec. 41.17.083. Clearing of forest land for non-timber purposes. A state agency, municipality, or public utility shall determine whether the timber to be removed has significant salvage value before approving or conducting clearing of forest land for purposes other than timber harvest. If the timber has significant salvage value, the agency or utility shall salvage the timber as part of the clearing process. (§10 ch 34 SLA 1990)

REGULATIONS (Alaska Administrative Code, or AAC)

TITLE 11. NATURAL RESOURCES

CHAPTER 95.

Article 6. Forest fire protection

11 AAC 95.400. Purpose. It is the purpose of 11 AAC 95.400 – 11 AAC 95.495 to provide for the protection of forested land from fire. (Eff. 2/15/81, Register 77; am 6/2/2019, Register 230)

Authority: AS 41.15.020 AS 41.17.020 AS 41.17.080

11 AAC 95.412. Permit required. (a) Except as provided in (d) of this section, before engaging in burning activity a person must obtain a small scale burn permit or a large scale burn permit during the fire season and at other times designated by the commissioner under AS 41.15.050.

(b) While engaged in burning activity, the permittee must

- (1) possess the permit at the burn site; and
- (2) display the permit immediately upon request to
 - (A) an authorized employee of the Division of Forestry;
 - (B) a peace officer; or
 - (C) a member of the local fire department.

(c) A person must be 18 years of age or older to obtain a permit.

(d) A burn permit is not required for burning activity

- (1) that is contained within an approved burning device;
- (2) of natural materials limited to paper and untreated wood products
 - (A) in a continuously attended outdoor fire;
 - (B) used for cooking, warming, or signaling; and
 - (C) with a total fuel area of less than three feet in diameter and less than two feet in height;
- (3) that is conducted by state or federal fire officials; or
- (4) in accordance with a valid burn permit issued by a local government.

(e) A person burning a fire under (d)(2) of this section

- (1) must clear the ground immediately around the fire free from materials that will carry fire;
- (2) may not set the fire on land not owned, possessed, or controlled by the person, without the consent of the owner or lawful occupant of the land; and
- (3) may not leave the fire before extinguishing it completely.

(f) A person burning a fire under (d)(4) of this section also must comply with 11 AAC 95.450 and AS 41.15.040, 41.15.050, and 41.15.070 – 41.15.120. (Eff. 6/2/2019, Register 230)

Authority: AS 41.15.020 AS 41.15.950 AS 41.17.080
AS 41.15.060

11 AAC 95.414. Small scale burn permits. (a) A person must obtain a small scale burn permit before burning

AAC 95.422. Permit conditions. (a) Small scale and large scale burning permits will include the following minimum requirements:

- (1) the period the permit is valid;
- (2) the legal, physical, or street address of the location where the burn will occur;
- (3) the permittee's signature, before burning, documenting
 - (A) the permittee's understanding of the permit terms and conditions;
 - (B) the permittee's agreement to comply with them; and
 - (C) acknowledgement of any other terms or conditions determined necessary by an authorized employee of the Division of Forestry.

(b) A permittee must

- (1) sign and date the permit before beginning the burn; and
- (2) comply with any status and limitations requirements, including
 - (A) temporary burn suspensions or restrictions;
 - (B) emergency burn closures or restrictions; and
 - (C) burn limits in the area for that day.

(c) Division of Forestry area offices may be contacted by telephone or through the Division of Forestry's Internet website.

(d) Burning conducted under 11 AAC 95.400 – 11 AAC 95.430 may be subject to other local laws and regulations that are more restrictive. The permittee is responsible for determining and complying with any federal, state, municipal, or local laws or regulations that apply. (Eff. 6/2/2019, Register 230)

Authority: AS 41.15.020 AS 41.15.950 AS 41.17.080
AS 41.15.060

Editor's note: The Department of Natural Resources, Division of Forestry website is: <https://dnr.alaska.gov/burn> .

11 AAC 95.430. Denial, suspension, or revocation of permit. (a) A burn permit may be denied, suspended, or revoked by an authorized employee of the Division of Forestry if

- (1) a permittee denies access to an authorized employee of the Division of Forestry for the purpose of inspecting the area and material to be burned or that is being burned; or
- (2) in the authorized employee's discretion, denial, suspension, or revocation of the permit is necessary to protect life or property.

(e) A person may not engage in burning activities if the department has denied or revoked a permit until the department determines that the basis for the denial or revocation of the permit is corrected and has issued a new permit. (Eff. 2/15/81, Register 77; am 6/2/2019, Register 230)

Authority: AS 41.15.020 AS 41.15.060 AS 41.15.950
AS 41.15.050 AS 41.15.090 AS 41.17.080

11 AAC 95.445. Temporary burn suspension. (a) During the fire season, the commissioner may suspend all burn permits in an area when the commissioner

determines that high temperature, low humidity, wind, existing fire activity, or any combination of these or other conditions increase the fire danger.

(b) Burning conducted under 11 AAC 95.412(d)(4) must comply with burn suspensions imposed by the local government that issued the permit.

(c) A person may not burn when burn permits are suspended. (Eff. 6/2/2019, Register 230)

Authority: AS 41.15.020 AS 41.15.060 AS 41.15.950
AS 41.15.050 AS 41.15.070 AS 41.17.080

11 AAC 95.450. Emergency burn closure. (a) The commissioner may immediately close an area to the setting of fires, smoking, use of specified approved burning devices, entry, or other use on the land when the commissioner determines that these activities would significantly increase the fire danger.

(b) An emergency burn closure applies to all activities and on all state, municipal, and private land identified in the closure, including burning conducted under 11 AAC 95.412(d)(4).

(c) A person may not conduct prohibited activities during an emergency burn closure. (Eff. 2/15/81, Register 77; am 6/2/2019, Register 230)

Authority: AS 41.15.020 AS 41.15.950 AS 41.17.080
AS 41.15.050

11 AAC 95.460. Public notice. (a) The Division of Forestry will announce an emergency burn closure by notice on the Division of Forestry's Internet website, local radio, and local print media if any exist. Notice will specify the area closed, the activities restricted, and the effective dates of closure.

(b) The Division of Forestry will announce temporary burn suspensions by notice on the Division of Forestry's Internet website and by recorded telephone message at local Division of Forestry offices. The announcement will specify the area closed and the effective dates and time period of the suspension. (Eff. 2/15/81, Register 77; am 6/2/2019, Register 230)

Authority: AS 41.15.020 AS 41.15.060 AS 41.17.080
AS 41.15.050

Editor's note. The Department of Natural Resources, Division of Forestry website is: <https://dnr.alaska.gov/burn> .

11 AAC 95.470. Environmental control. Any burning for which a permit is required under this chapter must be conducted in the manner required by 18 AAC 50.065(b), (c), and (d), Air Quality Control Regulations. (Eff. 2/15/81, Register 77; am 6/2/2019, Register 230)

Authority: AS 41.15.020 AS 41.15.060 AS 41.17.080
AS 41.15.050

11 AAC 95.495. Definitions. In 11 AAC 95.400 – 11 AAC 95.495,

- (1) “approved burning device” means any propane, charcoal, or pellet grill; outdoor stove; fireplace; incinerator; hydronic heater; or similar device that
 - (A) is of commercial or standard manufacture;
 - (B) contains burning material;
 - (C) is equipped with safeguards to prevent escapement of fire, such as spark arrestors or other devices; and
 - (D) is not a burn barrel;
- (2) “authorized employee of the Division of Forestry” means a person authorized by the commissioner under AS 41.15.950(a)(1) to enforce the provisions of AS 41.15;
- (3) “burn barrel” means an outdoor circular metal drum of up to 55 gallons capacity that contains burning material;
- (4) “burn closure” means any period of time or geographical area during or within which the commissioner has determined that setting of fires, smoking, entry, or other use of the land would significantly increase fire danger;
- (5) “burning material” means any ignited material;
- (6) “fire season” means the period from April 1 through August 31 annually, and other times designated by the commissioner under AS 41.15.050, including burn closures;
- (7) “forested land” means all land on which grass, brush, timber, and other natural vegetative material grows;
- (8) “lawn” means an area of short, maintained, mown grass in a yard, garden, or park;
- (9) “material” means any organic or inorganic substance capable of burning;
- (10) “natural” means materials composed of any recently living plant matter, including stumps; branches; logs; leaf, needle, and branch litter; grass; untreated lumber; paper; and cardboard. (Eff. 6/10/93, Register 126; am 6/2/2019, Register 230)

Authority: AS 41.15.020 AS 41.17.080

Article 7. General Provisions

11 AAC 95.900. Definitions

In this chapter, unless the context specifically states otherwise: [...]

- (8) "burning" includes setting fires and excludes smoking; [...]
- (12) "commissioner" means the commissioner of natural resources or the commissioner's authorized designee; [...]
- (20) "department" means the Department of Natural Resources;

Authority: AS 41.15.050 AS 41.17.010 AS 41.17.080
AS 41.15.060 AS 41.17.055 AS 41.17.090
AS 41.15.090 AS 41.17.060 AS 41.17.900

CHAPTER 96. Miscellaneous Land Use.

Article 1. Provisions for General Land Use Activity

11 AAC 96.016. Designated public use areas. [...]

(c) Within the Knik River public use area as described in AS 41.23.230, [...]

(5) a person may not have an open fire larger than three feet in diameter and two feet in height except on open and non-vegetated areas at least 100 feet from forested land without prior written authorization from the department; an open fire is subject to the requirements of 11 AAC 95.412 – 11 AAC 95.450; (Eff. 11/9/2008, Register 188; am 12/27/2012, Register 204; am 10/8/2017, Register 224; am 6/2/2019, Register 230)

| | | |
|--------------------------------|--------------|--------------|
| Authority: AS 38.04.200 | AS 41.23.030 | AS 41.23.160 |
| AS 38.05.020 | AS 41.23.060 | AS 41.23.190 |
| AS 38.05.035 | AS 41.23.070 | AS 41.23.200 |
| AS 38.05.300 | AS 41.23.110 | AS 41.23.210 |
| AS 38.05.850 | AS 41.23.120 | AS 41.23.220 |
| AS 41.23.020 | AS 41.23.150 | |

11 AAC 96.020. Generally allowed uses. (a) A permit or other written authorization is required for uses and activities not appearing on the list in this subsection. Unless otherwise provided in (b) of this section, in a special use land requirement in 11 AAC 96.014, or in a public use area land requirement under 11 AAC 96.016, the following land uses and activities, alone or in combination, are generally allowed uses on state-owned public domain land without any permit or other written authorization from the department, except that a land use or activity for a commercial recreation purpose requires prior registration under 11 AAC 96.018: [...]

(3) removing or using state resources, as follows: [...]

(C) using dead and down wood for a cooking or warming fire, unless the department has closed the area to fires during the fire season; [...]
(Eff. 1/1/70, Register 31; am 12/7/2002, Register 164; am 11/9/2008, Register 188; am 7/1/2018, Register 227)

| | | |
|--------------------------------|--------------|--------------|
| Authority: AS 38.05.020 | AS 38.05.035 | AS 38.05.850 |
|--------------------------------|--------------|--------------|

11 AAC 96.025. Conditions for generally allowed uses. A generally allowed use listed in 11 AAC 96.020 is subject to the following conditions: [...]

(5) trails and campsites must be kept clean; garbage and foreign debris must be removed; combustibles may be burned on site unless the department has closed the area to fires during the fire season; [...]

(7) every reasonable effort must be made to prevent, control, and suppress any fire in the operating area; uncontrolled fires must be immediately reported; (Eff. 12/7/2002, Register 164)

| | | |
|--------------------------------|--------------|--------------|
| Authority: AS 38.05.020 | AS 38.05.130 | AS 38.05.133 |
| AS 38.05.035 | AS 38.05.131 | AS 38.05.850 |

TITLE 18. ENVIRONMENTAL CONSERVATION

Chapter 50. Air Quality Control.

Article 1. Ambient Air Quality Management

18 AAC 50.065. Open burning. [...]

(b) Black smoke prohibited. Except for firefighter training conducted under (h) or (i) of this section, open burning of asphalts, rubber products, plastics, tars, oils, oily wastes, contaminated oil cleanup materials, or other materials in a way that gives off black smoke is prohibited without written department approval. Department approval of open burning as an oil spill response countermeasure is subject to the department's In Situ Burning Guidelines for Alaska, adopted by reference in 18 AAC 50.035. Open burning approved under this subsection is subject to the following limitations:

- (1) open burning of liquid hydrocarbons produced during oil or gas well flow tests may occur only when there are no practical means available to recycle, reuse, or dispose of the fluids in a more environmentally acceptable manner;
- (2) the person who conducts open burning shall establish reasonable procedures to minimize adverse environmental effects and limit the amount of smoke generated; and
- (3) the department will, in its discretion, as a condition of approval issued under this subsection, require public notice as described in (j) of this section.

(c) Toxic and acid gases and particulate matter prohibited. Open burning or incineration of pesticides, halogenated organic compounds, cyanic compounds, or polyurethane products in a way that gives off toxic or acidic gases or particulate matter is prohibited.

(d) Adverse effects prohibited. Open burning of putrescible garbage, animal carcasses, or petroleum-based materials, including materials contaminated with petroleum or petroleum derivatives, is prohibited if it causes odor or black smoke that has an adverse effect on nearby persons or property. (Eff. 1/18/97, Register 141; am 2/28/2015, Register 213; am 3/2/2016, Register 217)

Authority: AS 46.03.020 AS 46.14.010 AS 46.14.030
AS 46.03.710 AS 46.14.020

BAIL SCHEDULE

IN THE SUPREME COURT OF THE STATE OF ALASKA ORDER NO. 1946

Adding new Administrative Rule 43.13
concerning Wildland Fire Bail Forfeiture Schedule.

IT IS ORDERED:

New Administrative Rule 43.13 is adopted to read as follows:

Rule 43.13. Wildland Fire Bail Forfeiture Schedule

Pursuant to AS 41.15.960 and 41.15.140(2), when committed without any culpable mental state, the following offenses may be disposed of without court appearance upon payment and forfeiture of the bail amounts listed. If a person charged with one of these offenses appears in court and is convicted, the penalty imposed for the offense may not exceed the bail amount for that offense listed below.

| Statute/Regulation | Description of Offense | Bail |
|---------------------------|--|-------------|
| AS 41.15.070 | Discarding burning materials on forested land | \$300 |
| AS 41.15.090(a) | Failure to clear ground of flammable materials before starting a fire | \$100 |
| AS 41.15.090(b) | After starting a fire in or near forested land, failure to totally extinguish the fire | \$500 |
| AS 41.15.100 | Setting a fire on forested land without the consent of the owner or lawful occupant | \$250 |
| 11 AAC 95.412(a) | Failure to obtain burn permit | \$100 |
| 11 AAC 95.412(b)(1)&(2) | Failure to possess/display permit at burn site | \$100 |

| | | |
|------------------|--|-------|
| 11 AAC 95.414 | Failure to comply with small scale burn permit | \$100 |
| 11 AAC 95.416 | Failure to comply with large scale burn permit | \$250 |
| 11 AAC 95.450(c) | Burning during emergency burn closure | \$500 |
| 11 AAC 95.470 | Burning materials that produce black, obnoxious, or toxic smoke. | \$250 |

POLICY AND GUIDANCE

Policies are formal guidance and direction for an organization. Policies can set out requirements in addition to those detailed in statute and regulation, provide guidance or clarification to implement laws, formulate a standard approach by an organization, and provide direction to clarify a process. Below are several types of policies, and examples with summary of purpose.

Department Orders (DO) – Issued by the DNR Commissioner when necessary to establish policy on a department-wide basis. Department Orders can cover standard operation and management procedures, statements of DNR policy on substantive issues, and guidance of department activities.

A complete list of DNR Department orders can be found here:

<http://int.dnr.alaska.gov/commis/dos.htm>

Example: “Department Order #113: Fire Management Policy” (1985)
DO #113 establishes Division of Forestry responsibility for the Alaska Interagency Wildland Fire Management Plan and other roles in wildland fire management.

<http://int.dnr.alaska.gov/commis/dos/active/do113.pdf>

Example: “Department Order #3: DNR Commissioner’s Office Delegation of Authority” (revised 2016)

Department Order #3 lists natural resource statutes vested to the DNR Commissioner. DO #3 further delegates some authority for those to select Division Directors.

<http://int.dnr.alaska.gov/commis/dos/active/do003.pdf>

Memoranda of Understanding (MOU) – Agreements which bind DNR to certain commitments with other state, federal, or local agencies. MOUs contain general statements of mutual understanding that provide for basic conditions or arrangements.

Example: “Alaska Interagency Wildland Fire Management Plan” (updated 2016)
The AIWFMP is a multi-organization agreement which in its original version consolidated common elements of multiple fire management plans. A cooperative planning effort, the AIWFMP specifies direction for wildland fire response based on management option designations. The purpose of the plan is to promote a cooperative, consistent, cost-effective interagency approach to wildland fire management.

<https://fire.ak.blm.gov/content/admin/awfcg/C.%20Documents/Alaska%20Interagency%20Wildland%20Fire%20Management%20Plan/2019%20AIWFMP.pdf>

Alternatively, go to: <https://fire.ak.blm.gov/administration/awfcg.php> and

click on: Alaska Interagency Wildland Fire Management Plan: 2019 AIWFMP.

Policy memos – Guidance or direction to coordinate activity in an organization, usually established by a division or a program.

Example: “Inventory & Site Protection Criteria in Modified & Limited Protection Options” (2011)

This guidance memo establishes criteria for protection of values at risk and sites in Modified and Limited protection options.

[https://fire.ak.blm.gov/content/admin/agencyadministratorguide/Appendices/DOF Site Protection Criteria.pdf](https://fire.ak.blm.gov/content/admin/agencyadministratorguide/Appendices/DOF%20Site%20Protection%20Criteria.pdf)

Other – Examples of other policy documents could include delegations and policy and procedural manuals.

Example: “Statutory Delegation Commissioner & DOF”(2001)

When Department Order #3, discussed earlier, delegated some authority to select Division Directors, the State Forest subsequently sub-delegated certain authority to Forestry regions and to areas. (For illustration, the Regional Forester has been delegated with authority to authorize standard master agreements with structure and volunteer fire departments, and Area Foresters have been delegated with authority to authorize standardized SFD/VFD annual operating plans.

<http://int.dnr.alaska.gov/forestry/Assets/uploads/DNRIntranet/forestry/docs/management/historicpolicy/delegations%20&%20redelegations%204-16-01.pdf>

Alternatively, go to:

<http://int.dnr.alaska.gov/forestry/management/historicpolicy> and click on: Miscellaneous Memos: Statutory Delegations Commissioner & DOF 4-16-0.

Note: This booklet is not inclusive of other statutes and regulations that may apply to fire program management. (Examples might include DEC’s Smoke Management Plan or DNR Parks’ Alaska Historic Preservation Act). Links to statutes and regulations are shown below.

Alaska Statutes: www.akleg.gov/basis/statutes.asp

Alaska Administrative Code (Regulations): www.legis.state.ak.us/basis/aac.asp

DNR Department Orders: <http://int.dnr.alaska.gov/commis/dos.htm>