§8869. Forest harvest regulations

To promote a healthy and sustainable forest that contains a balance of age classes necessary for a sustainable timber supply and spatial and compositional diversity, forest harvesting and liquidation harvesting are regulated pursuant to this subchapter. [PL 2003, c. 422, Pt. A, §3 (AMD).]

1. Standards for regeneration after harvests. The commissioner shall adopt rules to ensure adequate regeneration of commercial tree species on a site within 5 years of completion of any timber harvest. Rules to implement this requirement shall include identification of commercial tree species, minimum stocking standards and methods to mitigate inadequate regeneration. In developing regeneration standards, the commissioner shall take into consideration regional differences in forest types, tree species and physiographic conditions.
[PL 1989, c. 555, §10 (NEW).]

2. Performance standards for clear-cuts. The commissioner shall establish, by rule, performance standards for clear-cuts, including limitations on size. These standards shall protect water quality, minimize soil erosion, ensure adequate regeneration, address adverse impacts on wildlife habitat and provide for a healthy and sustainable forest. The commissioner shall incorporate regional variations in developing performance standards that consider growing conditions, tree species and site quality.
[PL 1989, c. 555, §10 (NEW).]

2-A. Separation zones. A clear-cut must be separated from any other clear-cut by at least 250 feet except where a property line is closer than 250 feet from the edge of the clear-cut. Unless an exemption is provided in rules adopted pursuant to section 8867-A, a separation zone must be equal to or greater than the area clear-cut.
[PL 1999, c. 361, §2 (AMD).]

3. Forest management plans for clear-cuts over 20 acres. For a clear-cut of 20 acres or more, the landowner, or agent of the landowner, shall develop, prior to harvest, a forest management plan for that clear-cut signed by a professional forester that conforms to the standards set forth in subsections 1 and 2. The plan must state the purpose of the clear-cut. This plan must be kept on file by the landowner or agent of the landowner and be available for inspection by the bureau until adequate regeneration in accordance with the standards set forth in subsection 1 is established.
[PL 1999, c. 361, §3 (AMD); PL 2011, c. 657, Pt. W, §7 (REV); PL 2013, c. 405, Pt. A, §23 (REV).]

3-A. Plans for outcome-based forestry areas. Practices applied on an area created pursuant to section 8003, subsection 3, paragraph Q must provide at least the equivalent forest and environmental protection as provided by existing rules and any applicable local regulations. At a minimum, tests of outcome-based forestry principles must address:

A. Soil productivity; [PL 2001, c. 339, §3 (NEW).]

B. Water quality, wetlands and riparian zones; [PL 2001, c. 339, §3 (NEW).]

C. Timber supply and quality; [PL 2001, c. 339, §3 (NEW).]

D. Aesthetic impacts of timber harvesting; [PL 2001, c. 339, §3 (NEW).]

E. Biological diversity; [PL 2013, c. 542, §3 (AMD).]

F. Public accountability; [PL 2013, c. 542, §3 (AMD).]

G. Economic considerations; [PL 2013, c. 542, §3 (NEW).]

H. Social considerations; and [PL 2013, c. 542, §3 (NEW).]

I. Forest health. [PL 2013, c. 542, §3 (NEW).]

The Governor shall appoint a panel of at least 6 technical experts to work with the director to implement, monitor and assess tests of outcome-based forestry principles. The panel of technical experts must have expertise in all of the principles listed in paragraphs A to I. In order to participate in an outcome-based forestry project, the landowner, director and technical panel must develop agreed-upon desired outcomes for the outcome-based forestry area and develop a method for determining if the outcomes have been attained and a system for reporting results to the public. The technical panel shall assess whether the practices applied on the outcome-based forestry area provide at least the equivalent forest and environmental protection as provided by rules and regulations otherwise applicable to that outcome-based forestry area. The technical panel may not delegate this assessment to any other person, except that the technical panel may consider information provided by the bureau, the landowner or a 3rd-party forest certification program auditor.
[PL 2013, c. 542, §3 (AMD).]

3-B. Reporting and notification; outcome-based forestry projects. The director, in consultation with the technical panel under subsection 3-A, shall report to the joint standing committee of the Legislature having jurisdiction over forestry matters as follows.

A. Beginning March 1, 2015 and annually thereafter, the director shall submit a report detailing the progress on each outcome-based forestry agreement under section 8003, subsection 3, paragraph Q. The report must include an assessment of the landowner's progress toward attaining the outcomes under subsection 3-A. The report must be presented to the joint standing committee of the Legislature having jurisdiction over forestry matters at a public meeting no sooner than 30 days after submission of the report to the committee. [PL 2013, c. 542, §4 (NEW).]

B. When an initial outcome-based forestry agreement is approved by the director as provided by section 8003, subsection 3, paragraph Q, the director shall notify the joint standing committee of the Legislature having jurisdiction over forestry matters within 15 days. In the notification, the director shall address how the proposed agreement will provide at least the equivalent forest and environmental protection as provided by rules and regulations that otherwise would apply to that outcome-based forestry area. [PL 2013, c. 542, §4 (NEW).]

C. When an outcome-based forestry agreement under this section is renewed as provided by section 8003, subsection 3, paragraph Q, the director shall notify the joint standing committee of the Legislature having jurisdiction over forestry matters no later than 15 days after the agreement is renewed. [PL 2013, c. 542, §4 (NEW).]

A report, notification or any information concerning outcome-based forestry projects under this subsection must be placed on the Department of Agriculture, Conservation and Forestry's publicly accessible website.
[PL 2013, c. 542, §4 (NEW).]

4. Exemption for natural disaster. If the regeneration on a harvested clear-cut, or portion thereof, is destroyed by fire, disease, insect infestation or other natural disaster, the regeneration requirement does not apply. Vegetative cover sufficient to prevent accelerated erosion must be established on the site.
[PL 1989, c. 555, §10 (NEW).]

5. Variance. The commissioner shall establish, by rule, standards to permit activities that exceed the standards set forth under subsection 2. In developing standards, the commissioner shall consider the unique characteristics of a site and any related economic hardship which would result from noncompliance with these standards.
[PL 1989, c. 555, §10 (NEW).]

6. Transfer or sale of property. Upon sale or other transfer of ownership of land that has been harvested, the transferee becomes responsible for the regeneration requirements on the site. The transferor shall disclose in writing to the transferee the regeneration requirements of this section at, or

prior to, the time of sale or transfer. Failure of the transferor to comply with the disclosure requirement shall result in the transferor being responsible for compliance with the regeneration requirements of subsection 1.
[PL 1989, c. 555, §10 (NEW).]

7. Application. This section applies to all forest lands within the State, including land in municipal and state ownership. Except as provided in subsection 7-A, only state-owned or operated research forests or industrially owned research forests certified by the commissioner are exempt from these requirements.
[PL 2001, c. 339, §4 (AMD).]

7-A. Exemption for outcome-based forestry areas. An outcome-based forestry area designated under section 8003, subsection 3, paragraph Q is exempt from the requirements of this section if specifically exempted in the agreement establishing the outcome-based forestry area.
[PL 2013, c. 542, §5 (AMD).]

8. Relationship to municipal rules and regulations. Nothing in this subchapter may be construed to preempt or otherwise limit the existing authority of municipalities to regulate timber harvesting activities, except that municipalities regulating timber harvesting activities shall adopt definitions for forestry terms used in their ordinances that are consistent with definitions in section 8868 and with forestry terms adopted by the commissioner pursuant to this subchapter. Municipal timber harvesting ordinances adopted before September 1, 1990 must meet this standard of compliance with definitions no later than January 1, 2028.

A municipality may not adopt an ordinance that is less stringent than the minimum standards established in this section and in rules adopted by the commissioner to implement this section and section 8867-B. A municipality may not adopt or amend an ordinance that regulates timber harvesting activities unless the process set out in this subsection is followed in the development and review of the ordinance. Municipal ordinances subject to review by the bureau are limited to ordinances that regulate timber harvesting activities.

A municipal timber harvesting ordinance adopted on or after January 1, 2026 must meet the process requirements of this subsection.

A. A licensed professional forester must participate in the development or amendment of the ordinance. [PL 1999, c. 263, §1 (AMD).]

B. A meeting must take place in the municipality during the development or amendment of the ordinance between representatives of the department and municipal officers and officials involved in developing the ordinance. Discussion at the meeting must include, but is not limited to, the forest practices goals of the municipality. At this meeting and subsequently, the department shall provide guidance to the municipality on how the municipality may use sound forestry practices to achieve the municipality's forest practices goals. [PL 1999, c. 263, §1 (AMD).]

C. The municipality shall hold a public hearing to review a proposed ordinance or ordinance amendment at least 45 days before a vote is held on the ordinance. The municipality shall post and publish public notice of the public hearing according to the same general requirements of posted and published notice for zoning ordinance public hearings as provided by Title 30-A, section 4352, subsection 9.

In addition, when a municipality proposes to adopt or amend a timber harvesting ordinance pursuant to its home rule authority as provided by Title 30-A, section 3001, the municipality shall mail notice of the hearing by first-class mail at least 14 days before the hearing to all landowners in the municipality at the last known address of the person on whom a property tax on each parcel is assessed. In the case of a timber harvesting ordinance or amendment that applies only to certain zones or land use districts in the municipality, the municipality may meet the requirements of this

paragraph by mailing notice only to those landowners whose land is in a zone or land use district or immediately abutting the affected zone or land use district.

Mailed notice to individual landowners is not required under this subsection for any type of amendment to an existing local land use ordinance merely to conform that ordinance to the minimum timber harvesting guidelines required by Title 38, section 439-A, as those guidelines may be subsequently amended, or to conform any timber harvesting ordinance to the requirements of this section for conformity of definitions when the proposed amendments do not substantially change any previously established timber harvesting standards adopted pursuant to home rule authority.

The municipal officers shall prepare and file with the municipal clerk a written certificate indicating those landowners to whom the notice was mailed and at what addresses, when it was mailed, by whom it was mailed and from what location it was mailed. The certificate constitutes prima facie evidence that notice was sent to those landowners named in the certificate.

Any action challenging the validity of the adoption or amendment of a municipal timber harvesting ordinance based on the municipality's alleged failure to comply with the landowner notice requirement must be brought in Superior Court within 90 days after the adoption of the ordinance or amendment. The Superior Court may invalidate an ordinance or amendment only if the landowner demonstrates that the landowner was entitled to receive a notice under this section, that the municipality failed to send the notice as required, that the landowner had no knowledge of the proposed ordinance or amendment and that the landowner was materially harmed by that lack of knowledge. [PL 1999, c. 263, §1 (AMD).]

D. The municipal clerk shall notify the department of the time, place and date of the public hearing and provide the department with a copy of the proposed ordinance that will be reviewed at the hearing at least 30 days before the date of the hearing. [PL 1999, c. 263, §1 (AMD).]

E. At the public hearing, representatives of the department must be provided an opportunity to present and discuss for the municipality's information any reports, articles, treatises or similar materials published by acknowledged experts in the field of sound forestry or silvicultural management to the extent such information is relevant to the proposed ordinance or ordinance amendment.

The proposed ordinance or ordinance amendment may be revised after the public hearing. The ordinance or amendment must be submitted to the legislative body of the municipality in accordance with the procedures the municipality uses for adopting ordinances. [PL 1999, c. 263, §1 (NEW).]

E-1. A municipal timber harvesting ordinance adopted after January 1, 2026 takes effect only after certification by the bureau that the municipality adopted the timber harvesting ordinance in accordance with the process requirements of this subsection. [PL 2025, c. 274, §1 (NEW).]

F. Municipal timber harvesting ordinances may not be unreasonable, arbitrary or capricious and must employ means appropriate to the protection of public health, safety and welfare. [PL 1999, c. 263, §1 (NEW).]

G. All direct costs incurred by a municipality associated with landowner notification requirements and other required public notice must be paid to the municipality in accordance with a distribution schedule established under Title 30-A, section 5685, subsection 5. All direct costs incurred by a municipality in order to comply with this subsection for the amendment of ordinances adopted before September 1, 1990 must be paid to the municipality in accordance with a distribution schedule established under Title 30-A, section 5685, subsection 5. [PL 1999, c. 263, §1 (NEW).]

[PL 2025, c. 274, §1 (AMD).]

9. Centralized listing of municipal ordinances. The bureau shall maintain for informational purposes a statewide centralized listing of municipal ordinances that specifically apply to timber harvesting activities.

A. [PL 2025, c. 274, §2 (RP).]

B. [PL 1999, c. 263, §2 (RP).]

C. The clerk of a municipality that has a timber harvesting ordinance on January 1, 2026 shall provide the bureau with notice and a copy of the ordinance by April 30, 2026. [PL 2025, c. 274, §2 (NEW).]

D. The clerk of a municipality that is developing a timber harvesting ordinance on or after January 1, 2026 shall provide the bureau with notice and a copy of the ordinance at least 7 days prior to the meeting of the legislative body of the municipality or the public hearing at which adoption of the ordinance will be considered. The clerk shall notify the bureau within 30 days after adoption of the ordinance. [PL 2025, c. 274, §2 (NEW).]

E. A provision of an ordinance that specifically applies to timber harvesting activities does not take effect unless properly adopted in accordance with subsection 8 and filed with the bureau in accordance with this subsection. [PL 2025, c. 274, §2 (NEW).]

[PL 2025, c. 274, §2 (AMD).]

10. Right of enforcement. Enforcement of this subchapter shall be by any state, county or municipal law enforcement officer, including forest rangers and field foresters of the bureau and wardens of the Department of Inland Fisheries and Wildlife.

[PL 1989, c. 555, §10 (NEW); PL 2011, c. 657, Pt. W, §7 (REV); PL 2013, c. 405, Pt. A, §23 (REV).]

11. Right of entry. Agents of the bureau have rights of access to all lands within the State to carry out the duties they are authorized by law to administer and enforce. This subsection does not authorize entry into any building or structure.

[PL 1997, c. 694, §1 (AMD); PL 2011, c. 657, Pt. W, §7 (REV); PL 2013, c. 405, Pt. A, §23 (REV).]

12. Right of action. A landowner found in violation of this section and penalized under section 9701 as a result of actions of a harvester has a right of action to recover the penalty against the harvester who undertook the harvest operation found in violation. In addition to all other defenses permitted by law, it is a defense that the harvester operated under the landowner's instructions. For the purposes of this subsection, the terms "harvester" and "harvest operation" have the same meanings as in section 8881.

[PL 1993, c. 217, §1 (NEW).]

13. Confidential information. Information provided to the bureau voluntarily or to fulfill reporting requirements for the purposes of establishing and monitoring outcome-based forestry areas, as created pursuant to section 8003, subsection 3, paragraph Q, is public unless the person to whom the information belongs or pertains requests that it be designated as confidential and the bureau has determined it contains proprietary information. For the purposes of this subsection, "proprietary information" means information that is a trade secret or production, commercial or financial information the disclosure of which would impair the competitive position of the person submitting the information and would make available information not otherwise publicly available. The bureau, working with the landowner and the panel of technical experts appointed under subsection 3-A, may publish reports as long as those reports do not reveal confidential information.

[PL 2013, c. 542, §6 (AMD).]

14. Substantial elimination of liquidation harvesting. The commissioner shall adopt rules to substantially eliminate liquidation harvesting. Rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.
[PL 2003, c. 422, Pt. A, §4 (NEW).]

SECTION HISTORY

PL 1989, c. 555, §10 (NEW). PL 1991, c. 863, §1 (AMD). PL 1993, c. 217, §1 (AMD). PL 1995, c. 122, §1 (AMD). PL 1995, c. 122, §2 (AFF). PL 1997, c. 694, §1 (AMD). PL 1997, c. 720, §§7,8 (AMD). PL 1999, c. 263, §§1,2 (AMD). PL 1999, c. 361, §§2,3 (AMD). PL 2001, c. 339, §§3-6 (AMD). PL 2003, c. 335, §3 (AMD). PL 2003, c. 422, §§A3,4 (AMD). PL 2005, c. 550, §§4-6 (AMD). PL 2007, c. 271, §§3-5 (AMD). PL 2009, c. 567, §9 (AMD). PL 2011, c. 488, §§3-5 (AMD). PL 2011, c. 657, Pt. W, §7 (REV). PL 2013, c. 405, Pt. A, §23 (REV). PL 2013, c. 542, §§3-6 (AMD). PL 2025, c. 274, §§1, 2 (AMD).

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