§438-B. Timber harvesting and timber harvesting activities in shoreland areas; authority of Director of the Bureau of Forestry in the Department of Agriculture, Conservation and Forestry

Except as provided in subsection 4, beginning on the effective date established under subsection 5, rules adopted by the Commissioner of Conservation under Title 12, section 8867-B apply statewide for the purpose of regulating timber harvesting and timber harvesting activities in shoreland areas. [PL 2005, c. 226, §3 (AMD).]

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Director" means the Director of the Bureau of Forestry within the Department of Agriculture, Conservation and Forestry. [PL 2003, c. 335, §5 (NEW); PL 2011, c. 657, Pt. W, §5, 7 (REV); PL 2013, c. 405, Pt. A, §23 (REV).]

B. "Statewide standards" means the performance standards for timber harvesting activities adopted pursuant to Title 12, section 8867-B. [PL 2003, c. 335, §5 (NEW).]

C. "Timber harvesting" has the same meaning as in Title 12, section 8868, subsection 4. [PL 2021, c. 30, §7 (AMD).]

D. "Timber harvesting activities" means the construction and maintenance of roads used primarily for timber harvesting and other activities conducted to facilitate timber harvesting. [PL 2003, c. 335, §5 (NEW).]

[PL 2021, c. 30, §7 (AMD).]

2. Municipal acceptance of statewide standards. A municipality may choose to have the statewide standards apply to timber harvesting and timber harvesting activities in that municipality by authorizing the repeal of all provisions within the municipal shoreland zoning ordinance that regulate timber harvesting and timber harvesting activities in shoreland areas and notifying the director of the repeal. The authorization must specify a repeal date. When a municipality accepts the statewide standards in accordance with this subsection, the director shall administer and enforce the statewide standards within that municipality beginning on the effective date established under subsection 5 or the municipal repeal date specified in the notification received under this subsection.

[PL 2011, c. 599, §10 (AMD).]

3. Municipal adoption of ordinance identical to statewide standards. A municipality may adopt an ordinance to regulate timber harvesting and timber harvesting activities that is identical to the statewide standards. A municipality that adopts an ordinance under this subsection may request the director to administer and enforce the ordinance or to participate in joint administration and enforcement of the ordinance with the municipality beginning on the effective date established under subsection 5 or within 60 days of the director's receiving a request. When a municipality requests joint responsibilities, the director and the municipality shall enter into an agreement that delineates the administrative and enforcement duties of each. To continue to receive administrative and enforcement assistance from the director under this subsection, a municipality must amend its ordinance as necessary to maintain identical provisions with the statewide standards.

[PL 2011, c. 599, §10 (AMD).]

4. Municipal ordinances that are not identical to statewide standards. A municipal ordinance regulating timber harvesting and timber harvesting activities that is in effect and consistent with state laws and rules in effect on December 31, 2005 continues in effect unless action is taken in accordance with subsection 2 or 3. A municipality that retains an ordinance with provisions that differ from the statewide standards shall administer and enforce that ordinance unless the municipality requests that the director administer and enforce the ordinance and the director agrees with the request after

reviewing the ordinance. The director may not administer or enforce any ordinance that is more stringent than or significantly different from the requirements of section 438-A. A municipality may not amend a municipal ordinance regulating timber harvesting and timber harvesting activities unless the process established in Title 12, section 8869, subsection 8 is followed. Beginning on the effective date established under subsection 5, a municipality may not amend an ordinance regulating timber harvesting and timber harvesting activities in a manner that results in standards that are less stringent than or otherwise conflict with the statewide standards.
[PL 2011, c. 599, §10 (AMD).]

5. Effective date for statewide standards. Except as provided in subsection 4, rules adopted by the Commissioner of Conservation under Title 12, section 8867-B apply statewide beginning on the first day of January of the 2nd year following the year in which the Commissioner of Agriculture, Conservation and Forestry determines that at least 252 of the 336 municipalities identified by the Commissioner of Agriculture, Conservation and Forestry as the municipalities with the highest acreage of timber harvesting activity on an annual basis for the period 1999-2003 have either accepted the statewide standards in accordance with subsection 2 or have adopted an ordinance identical to the statewide standards in accordance with subsection 3. Within 30 days of making the determination that the 252-municipality threshold has been met, the Commissioner of Agriculture, Conservation and Forestry shall notify the Secretary of State in writing and advise the secretary of the effective date for the statewide standards.
[PL 2005, c. 397, Pt. C, §23 (AMD); PL 2005, c. 397, Pt. C, §24 (AFF); PL 2011, c. 657, Pt. W, §6 (REV).]

6. Effective date for statewide standards in certain municipalities. Notwithstanding any provision in a local ordinance to the contrary, beginning January 1, 2013 rules adopted by the Commissioner of Conservation under Title 12, section 8867-B apply in all municipalities that have either accepted the statewide standards in accordance with subsection 2 or have adopted an ordinance identical to the statewide standards in accordance with subsection 3.
[PL 2011, c. 599, §10 (NEW).]

SECTION HISTORY

PL 2003, c. 335, §5 (NEW). PL 2005, c. 226, §§3-5 (AMD). PL 2005, c. 397, §C23 (AMD). PL 2005, c. 397, §C24 (AFF). PL 2011, c. 599, §10 (AMD). PL 2011, c. 657, Pt. W, §5-7 (REV). PL 2013, c. 405, Pt. A, §23 (REV). PL 2021, c. 30, §7 (AMD).

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