

**01-669**  
**Maine Forest Service**  
**Chapter 20**  
**Forest Regeneration &**  
**Clearcutting Standards**

MAINE DEPARTMENT OF AGRICULTURE,  
CONSERVATION, AND FORESTRY  
MAINE FOREST SERVICE

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May 1, 2014

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**01 DEPARTMENT OF AGRICULTURE, CONSERVATION, AND FORESTRY****669 BUREAU OF FORESTRY****Chapter 20: FOREST REGENERATION AND CLEARCUTTING STANDARDS**

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**AUTHORITY:** 12 M.R.S. c. 805, sub-c. 3-A

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**Summary:** This rule establishes standards for clearcutting and for forest regeneration following timber harvesting. In general, if timber harvesting activities result in a clearcut larger than five acres, there must be a separation zone between clearcuts and regeneration standards must be met. No clearcut can be larger than 250 acres.

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**SECTION 1. SCOPE AND APPLICABILITY****A. Scope**

This rule governs all forest lands within Maine, including those owned by state and local governmental units, nonprofit organizations, and private forest lands. It does not govern federal forest lands, or research forests exempted by the Department of Agriculture, Conservation, and Forestry under Section 1.C. of this rule.

**B. Applicability**

1. Unless specifically exempted in these rules, this rule applies to any timber harvesting when the primary purpose is to sell the timber or the timber is processed into forest products for sale.
2. The clearcutting standards of this rule apply to clearcuts larger than five acres in size.
3. All timber harvesting activities must comply with other applicable laws, rules, and standards, including but not limited to: *The Natural Resource Protection Act* [38 M.R.S. §480 A to 480-Z], the *Shoreland Zoning Act* [38 M.R.S. §435 to 449], and *Maine Land Use Planning Commission Law* [12 M.R.S. §681 *et seq.*] and Standards, Chapter 10.

**C. Research Forests:** Owners or managers of research forests may make application for exemption to the Bureau of Forestry.

1. Applications shall contain a description of the property; a map showing the location or locations of the research area to be exempted; a

demonstration of Right, Title or Interest in the property; and a statement certifying the purposes, uses and restriction to research of the property.

2. Bureau of Forestry staff shall make a recommendation, including recommended terms and conditions, to the Director concerning the conformance of the proposed research with generally accepted research practices and the standards of these rules.
  3. The exemption shall remain in effect for the term stated in the exemption, or until such time as there is a change in use of the property that is inconsistent with the terms and conditions of the exemption, whichever is sooner; at such time the normal rules shall apply.
  4. Failure to comply with the terms and conditions of the written exemption shall render it null and void; at which time all normal rules shall apply.
- D. **Municipal Ordinances:** Municipalities regulating timber harvesting must adopt definitions that are consistent with those contained in these rules.

## SECTION 2. DEFINITIONS

- A. For the purpose of 12 M.R.S., Chapter 805, sub-chapter 3-A and for these rules, the following terms have the following meanings unless the context otherwise requires:
1. **Acceptable growing stock** means live trees of commercially valuable species that are not culls, are capable of developing into trees suitable for producing merchantable products, and which:
    - A. Have survived at least two full growing seasons (April 1 through October 1);
    - B. Do not lean more than 30 degrees from vertical;
    - C. Do not have a broken, dead, or missing main stem;
    - D. For trees 8 inches DBH or larger, have not suffered scrapes from timber harvesting that penetrate the cambium on more than one half of the stem circumference at any point on the tree;
    - E. For trees less than 8 inches DBH, have not suffered scrapes from timber harvesting that penetrate the cambium on more than one third of the stem circumference at any point on the tree; and

- F. Have not suffered visible severing, mutilation, or exposure from timber harvesting of more than one third of the root spread.
2. **Basal area** means the area of cross-section of a tree stem at Diameter Breast Height (4.5 feet above the ground) and includes bark.
  3. **Bureau** means the Bureau of Forestry, Department of Agriculture, Conservation, and Forestry.
  4. **Change of Land Use** means that following timber harvesting the subsequent use for a particular area does not include growing forest products. Change of land use may include, but is not limited to, conversion to farm pasture, site for growing agricultural crops, residential dwelling unit, development site, or gravel pit. The division of forest land into smaller units does not by itself automatically constitute a change of land use.
  5. **Clearcut** means any timber harvesting on a forested site greater than 5 acres in size that results in a residual basal area of acceptable growing stock trees over 4.5 inches DBH of less than 30 square feet per acre unless the following condition exists: after harvesting, the site has a well-distributed stand of acceptable growing stock as defined in these rules of at least 3 feet in height for softwood trees and 5 feet in height for hardwood trees.
  6. **Commercially Valuable Species** means any tree species capable of growing as a tree in Maine, and which is not listed below:

Acer pensylvanicum	striped maple, moosewood
Acer spicatum	mountain maple
Salix spp.	willow
Cornus florida	flowering dogwood
Betula populifolia	grey birch
Prunus pennsylvanica	pin cherry, fire cherry
  7. **Coniferous (Softwood) Type** means a forest type of which pine, spruce, fir, hemlock, cedar, larch and other softwood species, singularly or in combination, comprise 75% or more of the stocking.
  8. **Cord** means a unit of measure of wood products 4 feet wide, 4 feet high and 8 feet long, or its equivalent, containing 128 cubic feet when the wood is ranked and well stacked. Any voids that will accommodate a stick, log or bolt of average dimensions to those in that pile shall be deducted from the measured volume.

9. **Cull** means a tree where 50% or more by volume fails to meet pulpwood grades.
10. **Development Site** means the ground area where any significant earth moving, grading, dredging, filling, building, construction, mining operation, or deposition of refuse, solid or liquid waste other than agricultural waste will occur. It does not include forest land areas where bioash or sludge are spread as a soil additive or fertilizer.
11. **Designated Agent** means a person, company or other entity that is authorized by the landowner to act on the landowner's behalf for timber harvesting and related activities on the landowner's property.
12. **Diameter Breast Height (DBH)** means the diameter of a standing tree measured 4.5 feet from ground level.
13. **Director** means the Director of the Bureau of Forestry.
14. **Essential Wildlife Habitat** means areas identified by the Commissioner, Maine Department of Inland Fisheries and Wildlife in accordance with the provisions of 12 M.R.S., Chapter 925, subchapter 3, and any Department of Inland Fisheries and Wildlife rules implementing that subchapter.
15. **Forest Land** means land primarily covered with trees, and where commercial timber harvesting is not precluded by legal requirement.
16. **Forest Management Activities** include cruising and other forest resource evaluation activities, pesticide or fertilizer application, timber stand improvement, pruning, timber harvesting and other forest harvesting, regeneration of forest stands, and other similar or associated activities, but not the construction, creation, or maintenance of land management roads.
17. **Forest Plantation:** See "Plantation."
18. **Forest Management Plan:** See "Harvest Plan."
19. **Forest Products** means logs, pulpwood, veneer, boltwood, wood chips, stud wood, poles, pilings, biomass fuel wood, fuel wood or other products commonly known as forest products. It does not include Christmas trees, maple syrup, nursery products used for ornamental purposes, wreaths, bough material, cones or other seed crops.
20. **Forest Stand** means a contiguous group of trees sufficiently uniform in age class, distribution, composition, and structure, and growing on a site of sufficiently uniform quality, to be a distinguishable unit.

21. **Forest Type** means a stand of trees characterized by the predominance of one or more groups of key species which make up 75 percent or more of the sawlog volume of sawlog stands, or cordwood in pole timber stands, or of the number of trees in seedling and sapling stands.
22. **Forested Wetland** means a freshwater wetland dominated by woody vegetation that is at least 20 feet tall.
23. **Freshwater Wetland** means ponds, freshwater swamps, marshes, bogs and similar areas that are:
  - A. Inundated or saturated by surface or groundwater at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils; and,
  - B. Not part of a Great Pond, coastal wetland, stream, or river.
24. **Great Pond** means any inland body of water which in a natural state has a surface area in excess of 10 acres, and any inland body of water artificially formed or increased which has a surface area in excess of 30 acres.
25. **Hardwood Type** means a forest type in which maple, birch, beech, oak, elm, basswood, poplar, ash or other broadleaf species of trees, singularly or in combination, comprise 75% or more of the stocking.
26. **Harvest Area** means an area of forest land where timber harvesting has occurred or is occurring.
27. **Harvester** means a person, company, or other entity who harvests, or contracts to harvest, a forest product.
28. **Harvest Plan** means a site specific document signed by a Licensed Forester outlining proposed activities to ensure compliance with performance standards and regeneration requirements of 12 M.R.S. c. 805, sub-c. 3-A and this rule.
29. **Landing:** See "Yard."
30. **Landowner** means a person, company, or other legal entity which holds title to land, including as a joint ownership or as tenants in common. Where the ownership of the timber located on the land is different than the fee ownership of the land itself, the owners of the timber are deemed a landowner and are jointly and severally responsible with the fee



landowner to comply with this rule. Where a corporate landowner is a wholly owned subsidiary of another corporation, both parent and subsidiary are deemed the same landowner.

31. **Land Management Road** means a route or track consisting of a bed of exposed mineral soil, gravel, or other surfacing materials constructed for, or created by, the passage of motorized vehicles and used primarily for timber harvesting and related activities, including associated log yards, but not including skid trails or skid roads.
32. **Licensed Forester** means a forester licensed under 32 M.R.S. c.76.
33. **Management Plan**: see “Harvest Plan.”
34. **Mixedwood Type** means a forest type in which neither hardwoods nor softwood comprise 75% or more of the stocking.
35. **Overstory Removal** means a timber harvest that is not a clearcut, that removes the overstory component of a stand, leaving a stand of advanced regeneration that is stocked with at least 450 trees per acre, well distributed on the harvest area, that meet the acceptable growing stock standards, as defined in these rules, and which are at least 3 feet in height for softwood trees and 5 feet in height for hardwood trees.
36. **Parcel** means a contiguous tract or plot of forest land owned by a landowner. Multiple contiguous tracts, plots or parcels of forest land owned by the same landowner are considered a single parcel. Contiguous tracts completely separated by a public road or roadway are considered to be separate parcels under these rules. Tracts of land joined only at a single point are not contiguous.
37. **Pesticide** means any substance or mixture of substances intended for preventing, destroying, repelling or mitigating any pests, and any substance or mixture of substances intended for use as a plant regulator, defoliant or desiccant.
38. **Plantation** means a stand of commercially valuable tree species predominately artificially seeded or planted. It does not include supplemental or “fill” plantings within an otherwise natural stand unless the artificially established trees total 50% or more of the stand.
39. **Poletimber** means a live tree of commercially valuable species meeting regional specifications of soundness and form and at least 4.5 inches DBH, but smaller than a sawtimber tree.

40. **Precommercial Silvicultural Activities** means chemical or mechanical thinning treatments, planting, stand conversion or timber stand improvement activities provided that no forest products are removed.
41. **Public Road or Roadway** means any roadway that is owned or leased by a governmental unit or public entity.
42. **Regeneration** means the renewal of a tree crop of acceptable growing stock, whether by natural or artificial means.
43. **Residential Dwelling Unit** means a room or group of rooms designed and equipped exclusively to use as permanent, seasonal, or temporary living quarters for one or more families. It includes mobile homes, but not recreational vehicles.
44. **Residual Basal Area** means the average of the basal area of trees remaining on a harvested area.
45. **Residual Stand** means a stand of trees remaining in the forest following timber harvesting and related activities.
46. **Sapling** means a live tree of commercially valuable species between 1.0 and 4.4 inches DBH.
47. **Sawtimber** means a live tree of commercially valuable species, suitable in size and quality for yielding sawlogs under current mill specifications.
48. **Seedling** means a live tree of commercially valuable species less than 1.0 inch DBH and at least 6 inches tall.
49. **Separation Zone** means an area that immediately surrounds a clearcut and separates it from any other clearcut. A separation zone must consist of forest land, and must meet the standards and requirements of this rule. The separation zone may include forested wetlands, and skid roads or skid trails, provided these skid roads or skid trails are not immediately adjacent to a clearcut. A separation zone does not include other non-forest areas such as non-forested wetlands, public and private roads, land management roads, winter haul roads, driveways, utility lines, development sites, pipelines or railroad rights-of-way.
50. **Significant wildlife habitat** is defined by 38 M.R.S., chapter 3, article 5-A.
51. **Skid Road or Skid Trail** means a route repeatedly used by forwarding machinery or animal to haul or drag forest products from the stump to the yard or landing, the construction of which requires minimal excavation.

52. **Softwood Type** means a forest type in which pine, spruce, fir, hemlock, cedar and larch, singly or in combination, comprise 75% or more of the stocking.
53. **Stand:** see "Forest Stand."
54. **Timber harvesting** means the cutting or removing of timber for the primary purpose of selling or processing forest products.
55. **Winter Haul Road** means a route or track across frozen ground or compacted snow and ice used primarily for access to a yard or landing. It does not include a road with a gravel surface.
56. **Wood** means the severed but unprocessed fibrous derivative of trees, or the chipped fibrous derivative of trees, regardless of quality or grade.
57. **Yard, Log Yard, Landing** means the area where forest products are hauled by forwarding machinery or animals for deposition or storage before transfer to trucks or other means of conveyance.

### SECTION 3. REGENERATION STANDARDS

#### A. Overstory Removal Standards

To qualify as an overstory removal, a harvest area must be stocked with at least 450 trees per acre, well distributed on the harvest area, of acceptable growing stock trees that are at least 3 feet in height for softwood trees and 5 feet in height for hardwood trees. The Bureau may verify that the harvest area qualifies as an overstory removal through a field procedure that uses sample plots that are randomly or systematically located to provide a fair representation of the entire harvest area.

#### B. Clearcut Regeneration Standards

Within five years of completing a timber harvest that creates a clearcut, the harvest area must be stocked with at least 450 trees per acre of acceptable growing stock trees. The harvest area may not contain any contiguous area larger than 5 acres that does not meet this condition.

#### C. Exemptions from Regeneration Standards

1. **Natural Disaster:** Regeneration standards do not apply to a harvested area if the regeneration is destroyed by fire, disease, insect infestation or other

natural disaster provided the landowner promptly thereafter notifies the Bureau in writing of the location, size, approximate date, and cause of the disaster. The regeneration requirement does not apply to the area affected by the disaster. Vegetative cover sufficient to prevent accelerated erosion must be established on the affected area as soon as possible.

2. **Change of Land Use:** Regeneration standards do not apply to the portion of a harvested area where there is a change of land use, provided:
  - a. The change of land use must be completed by the end of the second full calendar year following the year of the timber harvest.
  - b. The intent to change land use must be stated on the Forest Operations Notification form submitted to the Bureau of Forestry or other format approved by the Bureau.
  - c. If the change of land use is to residential dwelling units, the exemption from regeneration standards is limited to the actual size of the residential lot or five acres, whichever is smaller.

#### D. **Mitigation for Inadequate Regeneration**

1. **Certified Plan:** In the event of a failure to meet regeneration standards, in addition to being potentially liable for civil penalties and other remedial action, the landowner shall, within 30 days of notification by the Bureau, submit to the Bureau a mitigation plan certified by a Licensed Forester that will enable the landowner to attain compliance with the regeneration standards as soon thereafter as possible. At a minimum, the mitigation plan shall include:
  - a. Specification of commercial tree species to be planted or regenerated;
  - b. Consideration of the site physiographic conditions;
  - c. Specific procedures to insure satisfactory growth and survival of specified commercial tree species; and
  - d. An action plan outlining all necessary actions and an expeditious timetable to complete the mitigation measures.
2. **Landowner Responsibility:** Following approval of the mitigation plan by the Bureau, the land owner shall ensure that the mitigation plan and its actions are implemented.

3. **Certification by Landowner:** When the plan has been implemented, the land owner shall submit to the Bureau certification by a Licensed Forester that the plan has been completed and that the regeneration standards have been met.

#### SECTION 4. CLEARCUT STANDARDS

If a landowner's timber harvesting activities on a parcel result in a clearcut, the following standards apply.

A. **Maximum Size of Clearcut:** No clearcut shall be larger than 250 acres in size.

B. **Category 1 Clearcut:** A Category 1 clearcut is any clearcut that is larger than 5 acres and less than or equal to 20 acres.

##### 1. Separation Zone Standards - Category 1 Clearcuts

- a. A Category 1 clearcut must have a separation zone of at least 250 feet from any other clearcut (separation zones may be shared).

**Exception:** A Category 1 clearcut may be created adjacent to a property line between two or more different landowners. The landowner must comply with all other requirements for a Category 1 clearcut.

- b. A separation zone for a Category 1 clearcut must meet one of the following requirements:
  - (1) The separation zone shall contain an average basal area greater than 30 square feet per acre of acceptable growing stock, well distributed on the separation zone;

OR,

  - (2) The separation zone shall contain at least 450 trees per acre of acceptable growing stock, well distributed on the separation zone; softwood trees must be at least 3 feet in height and hardwood trees must be at least 5 feet in height.
- c. Separation zones must be maintained to meet the standards of Sec.4.B.1.a and Sec.4.B.1.b until one of the following conditions is met:

- (1) The regenerated clearcut contains a minimum of 300 trees per acre of acceptable growing stock trees, well distributed on the harvest area; softwood trees must be at least 10 feet in height and hardwood trees must be at least 20 feet in height;

OR

- (2) At least 10 years have elapsed from the date the clearcut was completed.

### C. **Category 2 and Category 3 Clearcuts**

A Category 2 clearcut is any clearcut larger than 20 acres but less than or equal to 75 acres in size.

A Category 3 clearcut is any clearcut larger than 75 acres but less than or equal to 250 acres in size.

#### 1. **Harvest Plans for Category 2 and Category 3 Clearcuts**

- a. For all Category 2 and Category 3 clearcuts, the landowner shall develop, prior to harvest, a site specific harvest plan signed by a Licensed Forester that demonstrates compliance with the standards of Section 3 (Regeneration Standards) and Section 4 (Clearcut Standards) of this rule.
- b. **Minimum Elements of Harvest Plan:** The following minimum elements are required in the harvest plan for each Category 2 and Category 3 clearcut:
  - (1) Landowner's name, address, and telephone number.
  - (2) If applicable, designated agent's name, address and telephone number.
  - (3) Signature of Licensed Forester preparing the plan.
  - (4) Date and Intent to Harvest Notification Number.
  - (5) Anticipated dates of harvest(s).
  - (6) A certification signed by a Licensed Forester or, if required under this section, a certified wildlife professional, attesting that the clearcutting is needed to improve the health, productivity or wildlife habitat of the forest.

- (7) An explanation of how the standards of Section 3 (Regeneration Standards) and Section 4 (Clearcut Standards) of this rule will be met.
- (8) The reason for the creation of the clearcut, which must be one of the following four reasons:
  - (a) Removal of poor quality, intolerant, understocked, short lived or mature overstories where the retention of the residual overstory trees is not justified for further increase in value, as a source of seed, or for protection of the new stand;
  - (b) Ecologically appropriate improvement or creation of wildlife habitat, with accompanying prescription and justification from a certified wildlife professional;
  - (c) Removal of timber stands that, if partially harvested according to accepted silvicultural practice, are at high risk for windthrow due to factors such as soils, rooting depth, crown ratio or stem quality; or,
  - (d) Harvesting of an existing plantation or other forest stands established by or previously treated with precommercial silvicultural activities.
- (9) An assessment of the soil erosion potential of the harvest area, and any actions that will be taken to protect riparian zones and minimize erosion into water bodies.
- (10) An assessment of the windfirmness of the separation zone associated with the clearcut and the steps that will be taken so that the standards for separation zones will be maintained.
- (11) A certification, from the Licensed Forester or certified wildlife professional preparing the plan, that the proposed harvest does not occur within significant or essential wildlife habitats, or if the harvest does occur within such areas, a certification that all appropriate approvals, permits or variances have been obtained.
- (12) A map showing the location of the clearcut and the separation zone associated with the clearcut. The map

should be on the current edition of the United State Geological Survey topographic map or other format as approved by the Bureau. The landowner shall promptly update the map as needed.

- (13) Certification by a Licensed Forester that the landowner has a plan to manage the regeneration consistent with the regeneration standards of this rule. The plan shall indicate what measures the landowner will take and a time frame for carrying out those measures in order to meet the stocking and other regeneration standards.
- (14) **Additional Requirement for Category 3 Clearcut Harvest Plan:** For all Category 3 clearcuts, the harvest plan must include a summary of how the proposed clearcut and other adjacent harvest activities collectively provide for water quality protection and wildlife habitat needs.

c. **Harvest Plan Kept on File**

For all Category 2 and Category 3 clearcuts, the harvest plan must be kept on file by the landowner and be made available for on-site inspection by the Bureau until regeneration standards are achieved.

d. **Category 3 Clearcuts - Harvest Plan Filed with Bureau and On-Site Harvest Plan Review**

For all Category 3 clearcuts, the harvest plan must be submitted to the Bureau with the Forest Operations Notification at least 60 days prior to commencing the timber harvest, as specified in MFS Chapter 26 Rule.

A Bureau Forester and the landowner or the landowner's representative must have a meeting at the proposed harvest site to review the harvest plan. This meeting must take place during normal working hours and within the 60 day notification period, unless extended by agreement of the parties.

Following this meeting, a Bureau Forester will have 10 working days to make a written determination whether the notification and harvest plan comply with requirements of this rule. If a Bureau Forester finds that the harvest plan does not comply, the Bureau Forester shall identify in writing any inadequacies in the harvest plan or Notification and/or, as appropriate, request more information.



A landowner must provide the information requested or address any inadequacies and receive written confirmation from the Bureau that the Notification and harvest plan are in compliance prior to commencing the harvest.

- e. **Landowner Responsibility:** The landowner is responsible for ensuring that the harvest plan and its recommended actions are implemented.

## 2. Separation Zone Standards - Category 2 and Category 3 Clearcuts

- a. A Category 2 or Category 3 clearcut must have a separation zone of at least 250 feet from any other clearcut (separation zones may be shared).

**Exception:** A Category 2 or Category 3 clearcut may be created adjacent to a property line between two or more different landowners. The landowner must comply with all other requirements for Category 2 and Category 3 clearcuts, including but not limited to the requirement that the area of the separation zone be at least equal to the area of the clearcut [Section 4.C.2.b].

- b. The area of the separation zone must be equal to or greater than the area of the clearcut.

- c. The separation zone must meet one of the following requirements:

- (1) Contain at least 60 square feet basal area per acre of trees 1.0 inches DBH or larger, well distributed on the separation zone. A minimum of 40 square feet basal area per acre must be comprised of acceptable growing stock trees, and a minimum of 40 square feet basal area per acre must be comprised of trees 4.5 inches DBH or larger;

**Exception:** Areas not capable of growing at least 60 square feet basal area per acre due to poor soils or other site conditions may be used as part or all of a separation zone, provided this condition is documented and mapped by a Licensed Forester in a harvest plan available for inspection by agents of the Bureau.

OR,

- (2) Contain at least 300 trees per acre of acceptable growing stock trees, well distributed on the separation zone;

softwood trees must be at least 10 feet in height and  
hardwood trees must be at least 20 feet in height.

- d. Separation zones must be maintained to meet the standards of Sec.4.C.2.a through Sec.4.C.2.c until one of the following conditions is met:
  - (1) The regenerated clearcut contains a minimum of 300 trees per acre of acceptable growing stock trees, well distributed on the harvest area; softwood trees must be at least 10 feet in height and hardwood trees must be at least 20 feet in height;
  - OR,
  - (2) At least 10 years have elapsed from the date the clearcut was completed.

#### D. **Exemption from Clearcut Standards**

1. Landowners who own 100 acres or less, total ownership statewide, are exempt from the clearcut standards Sec.4.A through Sec.4.C.
2. **Change of Land Use:** Clearcut standards do not apply to the portion of a harvested area where there is a change of land use, provided:
  - a. The change of land use must be completed by the end of the second full calendar year following the year of the timber harvest.
  - b. The intent to change land use must be properly indicated on the "Forest Operations Notification" form submitted to the Bureau or other format approved by the Bureau.
  - c. If the change of land use is to residential dwelling units, the exemption from clearcut standards is limited to the actual size of the lot or five acres, whichever is smaller.

### SECTION 5. VARIANCE

- A. **Petition:** Any forest landowner may petition the Director for permission to operate in a manner inconsistent with these rules.

**B. Burden of Proof:** The burden of proof is on the petitioner to demonstrate that:

1. Strict compliance with the regulations or standards would, because of unique conditions of topography, access, location, shape, size, or other physical features of the site or forest condition, cause unusual hardship or extraordinary difficulties;
2. The unusual hardship or extraordinary difficulties claimed as a ground for variance have not been created by the owner or a predecessor in title;
3. The proposed use meets the purpose and intent of 12 M.R.S. c. 805; and
4. The public interest is otherwise served.

**C. Public Input on Variance Requests**

1. The Bureau maintains a list of persons interested in being notified of variance petitions (Forest Practices Variance List). Persons interested in being notified of variance petitions must request such notification from the Bureau in writing.
2. When the Bureau receives a petition for variance the Bureau will notify all persons on the Forest Practices Variance List and all landowners within 1,000 feet of the parcel or parcels for which the variance is being requested, as shown on municipal or state tax maps. The notice will include the name of the petitioner, the location of the proposed harvest area, and the section(s) of this rule for which the petitioner requests a variance. Such notice generally will be sent by regular mail within five working days from the date the Bureau receives the petition for variance.
3. The petition for variance, including all supporting information supplied by the petitioner, will be available for examination by appointment during regular business hours at the offices of the Bureau in Augusta. Copies of the full variance petition and supporting documents will be made available upon request at a cost as determined by Bureau policy in effect at the time of the request.
4. Any person may submit written comments regarding the variance petition to the Bureau. Unless otherwise indicated by the Bureau, in order to be considered, written comments must be received no later than 15 calendar days after the Bureau mails the notification of petition for variance.

**D. Bureau Recommendations:** Bureau staff shall make a recommendation to the Director indicating such facts, findings, terms and/or conditions as may be appropriate.

- E. **Findings:** The Director may issue a variance only after making written findings of fact and conclusions supporting the determination that the petitioner has met the burden of proof. The variance may be issued upon such terms and conditions as the Director deems appropriate and the landowner shall comply with the terms and conditions. If the variance is not issued as requested, the Director shall provide the petitioner with written notice of the reasons for denial. The variance or denial shall be issued in a timely fashion.

## **SECTION 6. EFFECTIVE DATE**

- A. **Effective Date:** The effective date of these rules shall be May 1, 2014.

Timber harvests for which notification has been filed and timber harvesting has begun prior to the effective date are not subject to these rules, but are subject to the rules currently in place.

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STATUTORY AUTHORITY: 12 MRSA c. 805, sub-c. III-A

EFFECTIVE DATE:

January 1, 1991

EFFECTIVE DATE (ELECTRONIC CONVERSION):

May 4, 1996

NON-SUBSTANTIVE CORRECTIONS:

August 7, 1997 - minor spelling and formatting.

REPEALED AND REPLACED:

October 1, 1999

CORRECTIONS:

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AMENDED:

May 1, 2014 – filing 2014-042