

**PETITION FOR VARIANCE FROM PERFORMANCE STANDARDS
UNDER MAINE FOREST SERVICE RULES (Chapters 20, 21, 23, 27)
pursuant to 12 M.R.S. §8867-8869**

Maine Forest Service, Department of Agriculture, Conservation & Forestry
22 SHS, Augusta, Maine 04333-0022 | (207) 287-2791 or forestinfo@maine.gov

| | | | |
|---|---------------|---|-------------------|
| Petition Number (MFS use only): | | | |
| LANDOWNER | | | |
| | | Name/Post Office mailing address & ZIP/daytime phone/email | |
| DESIGNATED AGENT | | | |
| | | Name/Post Office mailing address & ZIP/daytime phone/email | |
| LICENSED FORESTER | | | |
| License # _____ (if applicable) | | | |
| | | Name/Post Office mailing address & ZIP/daytime phone/email/License number | |
| Who prepared this petition? | | | |
| FOREST OPERATIONS NOTIFICATION number: | | | |
| LOCATION of HARVEST SITE: | | | |
| Nearest road | Town/Township | County | Tax Map and Lot # |
| LOCATION: | Latitude: | Longitude: | |
| | | | |

Instructions for Completing Variance Petitions:

Attach additional sheets as necessary to answer all questions completely.

If using additional sheets, please be sure to key your answers to the appropriate question(s).

To facilitate MFS review, please avoid lumping responses to multiple/different questions into a single paragraph or narrative.

NOTE: If the requested variance area will exceed 5 acres or 500 feet of regulated shoreline, the variance information should describe conditions/prescriptions for any concurrent or planned harvesting within 1000 feet of the variance area, and any harvesting adjacent to or within the variance area within the past 10 years. Include these harvest areas on maps.

Submitting Petitions for MFS review:

Please send variance petitions to MFS's Augusta office (address above). Petitions will be forwarded to the appropriate MFS Regional Enforcement Coordinator for review.

Variances may be submitted anytime. However, please allow 30-60 days for processing of most requests.

The Burden of Proof rests with the landowner to demonstrate the need for the variance. The more information and evidence provided with the petition, the better the MFS can act on your request.

Please note that incomplete or unsigned variance petitions will be denied.

MFS staff will schedule a site visit at their discretion.

Variance requests for winter operations that are submitted after October 1st may be delayed until ground conditions allow MFS field review free of snow-cover.

Variances may be issued only for standards as set forth in MFS rules. If a variance is issued, the landowner must still comply with all other applicable state and federal regulations as well as municipal ordinances.

1. Specific section(s) and standard(s) for which a variance is requested:

- MFS Rules, Chapter 20: Forest Regeneration & Clearcutting Standards.
- MFS Rules, Chapter 21: Statewide Standards for Timber Harvesting and Related Activities in Shoreland Areas (Sections 5-11).
- MFS Rules, Chapter 23 Timber Harvesting Standards to Substantially Eliminate Liquidation Harvesting
- MFS Rules, Chapter 27: Standards for Timber Harvesting and Timber Harvesting Related Activities within Unorganized and Deorganized Areas of the State (Sections 4-7)

*Cite **each** specific standard(s) from the rule for which you are seeking a variance, such as "Section 5C, Category 2 and Category 3 Clear cuts number 2.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)".*

2. What is the total area (in acres), length of shoreline (in feet), or other dimensions (if applicable), of the area for which you are requesting a variance?

3. How will your proposed activities vary from the prescribed standards? *Explain what you propose to do, specifically as relates to the standard(s) for which you are requesting a variance. Use specific quantitative descriptions, e.g. percent removal, setbacks, harvest area, opening sizes, etc. to show how/how much you will deviate from standards. For multiple locations, provide this information for each location. Identify what measures you propose to mitigate the impact of your proposed activities.*

4. **Describe the specific conditions that make it necessary to exceed the performance standards.** *Please check the appropriate box(es). Note: A variance petition should only include those specific areas that meet the criteria for unique characteristics, unusual hardship, and/or extraordinary difficulties. Including areas that do not meet these criteria may result in the entire petition being rejected/returned for revision.*

Unique characteristics of site. *Explain how information supplied in Question 5 demonstrates that conditions/characteristics are “unique”.*

Unusual hardship or extraordinary difficulties. *Provide any relevant data that will support your variance petition based on unusual hardship or extraordinary difficulties. (Note that tree mortality by itself does not necessarily constitute a hardship.)*

Economic hardship. *If this petition is based in part on grounds of economic hardship, provide any relevant financial data that will support the claim. Document the kind and extent of economic hardship, showing calculations and specific amounts. Any economic hardship should be over and above the ordinary course of business and such that one could not reasonably expect a landowner to do what is required in the regulation.*

5. **Variance Information:** Is the variance requested for (check either or both):

- Timber harvesting rules**
- Skid trail, Land Management Road or Water Crossing rules**

The petition must provide (on additional sheets) a detailed description of

- a. **the present condition of the site and**
- b. **the expected future condition of the site after implementation of all requested activities if the variance is approved.**

NOTE: If the requested variance area will exceed 5 acres or 500 feet of regulated shoreline, the variance information should describe conditions/prescriptions for any concurrent or planned harvesting within 1000 feet of the variance area, and any harvesting adjacent to or within the variance area within the past 10 years. Include these harvest areas on maps.

The variance information must be sufficient for MFS to evaluate the petition without additional documentation. Please avoid lumping unrelated topics into a single paragraph. Information should include all data related to the activity, including but not limited to:

- Pre-harvest conditions (describe separately for each stand involved)
 - o acres affected,
 - o stand type, estimated age/age structure
 - o species, basal area (total and by major species),
 - o stand structure and stocking data (including dbh average and range)
 - o condition of trees by species (insect and disease, decay, growth, windfirmness including LCR (live crown ratio) and h/d (height to diameter ratio); if appropriate, describe quality of growing stock and/or quantify current/ongoing mortality by species)
 - o existing regeneration
- Silvicultural justification for the harvest (identify based on regeneration/stand improvement measures within a silvicultural system).
- Expected post-harvest stand conditions
 - o acres affected (if different),
 - o residual species, basal area (total and by major species),
 - o stand structure and stocking data (incl dbh average and range)
 - o condition of trees by species (insect and disease, decay, growth, windfirmness incl LCR and h/d ratio)
 - o residual regeneration (how will existing regeneration be protected, how much will survive the harvest? if limited/none, explain how regeneration will be assured. How will regeneration meet the criterion of “well-distributed”?)
- Soils information). Include specific relevant characteristics such as soil texture/type (dry, wet, ledge, clay, silt, sand, etc.), rooting depth, depth to bedrock/parent material, depth to water table, rutting/erosion risk, windthrow risk. For areas >5 acres, provide a site-specific soil survey report available from USGS WebSoilSurvey; note any local/site-specific discrepancies from published information.
- Terrain (steep, flat, erosion potential), slopes in variance area.
- Harvest techniques and type of equipment (felling/yarding, construction) to be

utilized; season of operation; location of log landings/roads serving the immediate variance area.

- Best Management Practices to be installed (before, during and after the harvest),
 - Identify all water bodies/wetlands and practices used to protect them,
- Effects on wildlife and fisheries habitat, and on identified natural communities. Identify any specific habitat management agreements/constraints in the variance area. Provide relevant information from Beginning with Habitat or similar information from Maine Natural Areas Program and/or Maine Department of Inland Fisheries and Wildlife.
- If in an unorganized town/township, identify all applicable LUPC subdistrict(s).
- Skid trails, land management roads, and crossings of water bodies:
 - Provide sufficient design information pre- and post-installation to determine how the proposed activities will adhere to or deviate from standards.
- Identify any other permits that are required.

6. **Cause of the issue, if any.** *Variances will not be issued if conditions claimed as grounds for the variance were created by the owner or a predecessor in title. Identify past management history and ownership history; include harvesting and/or absence of management over multiple decades; identify any specific natural/nonnatural events that may have affected silvicultural planning. The Department will give serious consideration to legitimate situations that the law or regulations did not foresee. Address how past or proposed harvesting in areas adjacent to the variance area affect the need for the variance. Explain how conditions justifying the variance were not caused by the current owner or a predecessor in title.*
7. **List alternative courses of action that were considered and reason(s) they were rejected.** *Describe possible alternatives to the proposed variance in detail; include at a minimum 1) no harvest; 2) maximum harvest under current standards, and 3) harvesting less than current standards permit. Identify economic/silvicultural/wildlife pros and cons to these alternatives, as well as your preferred/proposed alternative. How will the proposed alternative promote future forest management/long-term silvicultural options of the site? There may be more than one possible solution to the problem but identify good reasons why you chose the one you propose. Use this section to document your thought process in arriving at the proposed activity.*

8. Please explain how the proposed use meets the purpose and intent of 12 M.R.S. c. 805, which supports the Legislature’s finding that:

“the State’s forests are resources of great significance to the people of the State. These resources have great economic value, environmental value, scenic beauty and unique characteristics and unsurpassed recreational, cultural and historical values of present and future benefit to the citizens of the State. The well-being of communities of the State depends upon sustainable forest management.”

9. Please explain how the proposed use serves the public interest.

10. List names, addresses and phone numbers of landowners of all property adjoining the area of activity and show their location on your map (item 12).

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|--|
| Abutter: |
| Name/Post Office mailing address & ZIP |
| Abutter: |
| Name/Post Office mailing address & ZIP |
| Abutter: |
| Name/Post Office mailing address & ZIP |
| Abutter: |
| Name/Post Office mailing address & ZIP |

11. What is the approximate time period planned to perform the activities requested in this variance petition? Your start date should allow at least 30 days following submission of your petition.

| Begin | End |
|----------------|----------------|
| month/day/year | month/day/year |

12. Attach a map or maps of sufficient detail showing the proposed activity related to the variance request and where it is located. Identify harvest areas by type of harvest (clearcut, overstory removal, thinning/partial harvest, etc.). Show roads, streams, zoned wildlife habitat, any other protection zones, stand types, and any other information applicable to this request. Acceptable base maps include full size LUPC zoning maps or forest type maps at scale of 1" = 1/4 mile or less, vertical aerial photographs or readable copies of same at a scale of 1" = 1/4 mile or less or other accurate map with scale, title, legend, and north arrow.

The map must identify the specific area(s) of activity for the variance request. Please ensure that the map shows both the entire variance area and specific locations where standards will be exceeded (e.g. areas of cleared openings, setbacks, shoreland areas, separation zones, etc.) The map should show where the lot is, what is around it in ownership, natural features, stand types, and any other pertinent information. The map should explicitly correspond to and support other elements of this petition. In some instances, you may have a forest management plan that will have a map that will supply most, if not all the detail required for this section. For variances involving more than 5 harvested acres, the map(s) must show the entire harvest area associated with the FON.

13. Photos, diagrams, etc., while not required, can be helpful, especially when documenting stand conditions (e.g. breakage, live crown ratios, etc.), ground conditions, or trail/road/crossing design considerations.

CERTIFICATION. I hereby certify that the information contained herein is true, correct, and complete to the best of my knowledge and belief.

Signature of Landowner or/designated agent

Date Submitted

(print name)

Maine Forester License Number (if applicable)

Mail completed petition and all supporting attachments to:

**Maine Forest Service
22 State House Station
Augusta, Maine 04330-0022
Attention: Variance Petition**