

# MAINE

## Forest Practices Act

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### Forest Service

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Subchapter 3-A: FOREST PRACTICES HEADING: PL 1989, C. 555, §10 (NEW)

**12 §8866. PURPOSE**

The Legislature finds and declares 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. Liquidation harvesting is a serious and direct threat to forest management, forest industries and rural communities over the landscape of Maine. Liquidation harvesting produces significant adverse economic and environmental effects and threatens the health, safety and general welfare of the citizens of the State. Liquidation harvesting is incompatible with responsible forest stewardship and must be substantially eliminated. [2003, c. 422, Pt. A, §1 (NEW).]

SECTION HISTORY

2003, c. 422, §A1 (NEW).

**12 §8867. RULEMAKING**

*(REPEALED)*

SECTION HISTORY

1989, c. 555, §10 (NEW). 1991, c. 528, §G8 (AMD). 1991, c. 528, §RRR (AFF). 1991, c. 591, §G8 (AMD). 1991, c. 722, §11 (AFF). 1991, c. 722, §2 (AMD). 1991, c. 722, §3 (AMD). 1991, c. 722, §4 (AMD). 1997, c. 720, §1 (RP).

**12 §8867-A. RULEMAKING**

No later than November 1, 1998, the Commissioner of Conservation shall provisionally adopt rules in accordance with Title 5, chapter 375 to implement this subchapter. Rules adopted pursuant to this subchapter are major substantive rules as defined in Title 5, chapter 375, subchapter II-A and must be submitted to the Legislature no later than January 1, 1999 for review. [1997, c. 720, §2 (NEW).]

The Commissioner of Conservation shall consult with the Commissioner of Environmental Protection and the Commissioner of Inland Fisheries and Wildlife to ensure that bureau rules are consistent with wildlife habitat and environmental protection. [1997, c. 720, §2 (NEW).]

SECTION HISTORY

1997, c. 720, §2 (NEW).

**12 §8867-B. REGULATION OF TIMBER HARVESTING ACTIVITIES IN AREAS ADJACENT TO RIVERS, STREAMS, PONDS, WETLANDS AND TIDAL WATERS**

In accordance with the purposes of chapter 206-A and Title 38, chapter 3 and no later than October 1, 2003, the Commissioner of Conservation shall adopt rules in accordance with Title 5, chapter 375 to establish performance standards for timber harvesting activities in areas adjacent to rivers, streams, ponds, wetlands and tidal waters. The rules must provide the maximum opportunity for flexibility that achieves the goal of protecting the public resources while minimizing the impact on private resources. The initial rules adopted pursuant to this section are routine

technical rules as defined in Title 5, chapter 375, subchapter 2-A. Subsequent amendments to those rules are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A. [2003, c. 335, §2 (AMD).]

SECTION HISTORY

1999, c. 695, §1 (NEW). 2001, c. 566, §1 (AMD). 2003, c. 335, §2 (AMD).

## 12 §8867-C. ENHANCEMENT OF COLD WATER FISHERIES HABITAT

By November 1, 2012, the Commissioner of Agriculture, Conservation and Forestry shall adopt rules to allow activities that enhance cold water fishery habitat without a permit or fee. The rules must establish standards for the placement of wood in stream channels and specify that only a licensed forester trained by the bureau in cooperation with the Department of Inland Fisheries and Wildlife in techniques to enhance fisheries habitat may implement these techniques. [2011, c. 599, §3 (NEW); 2011, c. 657, Pt. W, §6 (REV).]

In developing standards to enhance brook trout habitat and the training required to implement habitat enhancement, the Commissioner of Agriculture, Conservation and Forestry shall consult with the Department of Inland Fisheries and Wildlife, the Department of Marine Resources and the Department of Environmental Protection. The bureau shall notify the departments of habitat enhancement activities conducted under this section. [2011, c. 599, §3 (NEW); 2011, c. 657, Pt. W, §6 (REV).]

A permit is not required for activities conducted in accordance with the rules adopted under this section in stream segments that have been identified by the Department of Inland Fisheries and Wildlife as lacking desired habitat features. The Department of Marine Resources must be consulted and approve of any habitat enhancement under this section on a stream that is identified as Atlantic salmon habitat. [2011, c. 599, §3 (NEW).]

The initial rules adopted under this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. Subsequent amendments to those rules are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A. This section does not relieve a person from meeting the requirements of section 8867-B or Title 38, chapter 3, subchapter 1, article 2-B. [2011, c. 599, §3 (NEW).]

SECTION HISTORY

2011, c. 599, §3 (NEW). 2011, c. 657, Pt. W, §6 (REV).

## 12 §8867-D. REGULATION OF TIMBER HARVESTING AND TIMBER HARVESTING ACTIVITIES WITHIN THE UNORGANIZED AND DEORGANIZED AREAS OF THE STATE

Beginning November 1, 2012, the director of the division shall administer and enforce the regulation of timber harvesting and timber harvesting activities in areas classified as protection districts and management districts by the commission in accordance with section 685-A. The Commissioner of Agriculture, Conservation and Forestry shall establish standards in rule to implement this section. [2011, c. 599, §4 (NEW); 2011, c. 657, Pt. W, §§6, 7 (REV).]

The initial rules adopted under this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. Subsequent amendments to those rules are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A. [2011, c. 599, §4 (NEW).]

SECTION HISTORY

2011, c. 599, §4 (NEW). 2011, c. 657, Pt. W, §§6, 7 (REV).

## **12 §8867-E. REGULATION OF LAND MANAGEMENT ROADS, GRAVEL PITS AND WATER CROSSINGS WITHIN THE UNORGANIZED AND DEORGANIZED AREAS OF THE STATE**

**1. Regulation.** In accordance with section 685-A, subsection 14, beginning November 1, 2012, the director of the division shall administer and enforce the regulation of construction, maintenance and repair of land management roads, water crossings and gravel pits of less than 5 acres in areas designated as protection districts and management districts by the commission.

[ 2011, c. 599, §5 (NEW); 2011, c. 657, Pt. W, §7 (REV) .]

**2. Rules.** The Commissioner of Agriculture, Conservation and Forestry shall adopt rules to implement this section. Initial rules adopted under this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. Subsequent amendments to those rules are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A. Rules adopted under this subsection must be adopted in consultation with the commission. The rules must:

A. Require a permit from the division for activities located within areas of special flood hazard as defined in the commission's rules; [2011, c. 599, §5 (NEW); 2011, c. 657, Pt. W, §7 (REV) .]

B. Include standards to protect outstanding river segments, historic, scenic, scientific, recreational and aesthetic resources in districts classified by the commission for special protection and delineated on land use maps adopted under section 685-A, subsection 7-A; and [2011, c. 599, §5 (NEW) .]

C. Require review by and approval from the commission for any activity in a protection district described in paragraph B that requires a permit. [2011, c. 599, §5 (NEW) .]

[ 2011, c. 599, §5 (NEW); 2011, c. 657, Pt. W, §§6, 7 (REV) .]

### SECTION HISTORY

2011, c. 599, §5 (NEW). 2011, c. 657, Pt. W, §§6, 7 (REV).

## **12 §8867-F. FEE SCHEDULE**

The bureau shall establish a schedule of fees through rulemaking for the administration of sections 8867-D and 8867-E. Notwithstanding Title 5, section 8071, subsection 2, paragraph A, rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. The bureau may not issue an approval, certificate, special exception or variance until the required fee has been paid. [2011, c. 599, §6 (NEW) .]

### SECTION HISTORY

2011, c. 599, §6 (NEW).

## **12 §8868. DEFINITIONS**

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings. [1989, c. 555, §10 (NEW) .]

**1. Clear-cut.** "Clear-cut" means any timber harvesting on a forested site greater than 5 acres in size that results

in a residual basal area of trees over 4 1/2 inches in diameter measured at 4 1/2 feet above the ground of less than 30 square feet per acre, unless, after harvesting, the site has a well-distributed stand of acceptable growing stock, as defined by rule, of at least 3 feet in height for softwood trees and 5 feet in height for hardwood trees that meets the regeneration standards defined under section 8869, subsection 1.

A. [1997, c. 720, §3 (RP).]

B. [1999, c. 361, §1 (RP).]

[ 1999, c. 361, §1 (RPR) .]

**1-A. Commission.** "Commission" means the Maine Land Use Regulation Commission established under section 683.

[ 2011, c. 599, §7 (NEW) .]

**2. Forest management plan.** "Forest management plan" means a site-specific document signed by a professional forester outlining proposed activities to ensure compliance with performance standards and regeneration requirements established pursuant to this subchapter.

[ 1989, c. 555, §10 (NEW) .]

**2-A. Parcel.** "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 for the purposes of this subchapter.

[ 1997, c. 720, §4 (NEW) .]

**2-B. Outcome-based forest policy.** "Outcome-based forest policy" means a science-based, voluntary process to achieve agreed-upon economic, environmental and social outcomes in the State's forest, as an alternative to prescriptive regulation, demonstrating measurable progress towards achieving statewide sustainability goals and allowing landowners to use creativity and flexibility to achieve objectives, while providing for the conservation of public trust resources and the public values of forests.

[ 2011, c. 488, §2 (AMD) .]

**3. Professional forester.** "Professional forester" means a person licensed pursuant to Title 32, chapter 76.

[ 2001, c. 261, §2 (AMD) .]

**3-A. Separation zone.** "Separation zone" means an area that surrounds a clear-cut and separates it from other clear-cuts.

[ 1997, c. 720, §5 (NEW) .]

**4. Timber harvesting.** "Timber harvesting" means the cutting or removal of timber for the primary purpose of selling or processing forest products.

[ 1997, c. 720, §6 (AMD) .]

**5. Timber harvesting activities.** "Timber harvesting activities" means timber harvesting, the construction and maintenance of roads used primarily for timber harvesting, the mining of gravel used for the construction and

maintenance of roads used primarily for timber harvesting and other activities conducted to facilitate timber harvesting.

[ 2011, c. 599, §8 (AMD) .]

**6. Liquidation harvesting.** "Liquidation harvesting" means the purchase of timberland followed by a harvest that removes most or all commercial value in standing timber, without regard for long-term forest management principles, and the subsequent sale or attempted resale of the harvested land within 5 years.

[ 2003, c. 422, Pt. A, §2 (NEW) .]

**7. Land management road.** "Land management road" means a road constructed and used primarily for agricultural or forest management activities.

[ 2011, c. 599, §9 (NEW) .]

#### SECTION HISTORY

1989, c. 555, §10 (NEW). 1997, c. 720, §§3-6 (AMD). 1999, c. 361, §1 (AMD).  
1999, c. 695, §2 (AMD). 2001, c. 261, §2 (AMD). 2001, c. 339, §2 (AMD).  
2003, c. 422, §A2 (AMD). 2005, c. 550, §3 (AMD). 2007, c. 271, §2 (AMD).  
2011, c. 488, §2 (AMD). 2011, c. 599, §§7-9 (AMD).

## 12 §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. [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.

[ 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.

[ 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.

[ 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 division until adequate regeneration in accordance with the standards set forth in subsection 1 is established.

[ 1999, c. 361, §3 (AMD); 2011, c. 657, Pt. W, §7 (REV) .]

**3-A. Plans for experimental areas.** Practices applied on an experimental 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 principles must address:

- A. Soil productivity; [2001, c. 339, §3 (NEW).]
- B. Water quality, wetlands and riparian zones; [2001, c. 339, §3 (NEW).]
- C. Timber supply and quality; [2001, c. 339, §3 (NEW).]
- D. Aesthetic impacts of timber harvesting; [2001, c. 339, §3 (NEW).]
- E. Biological diversity; and [2001, c. 339, §3 (NEW).]
- F. Public accountability. [2001, c. 339, §3 (NEW).]

The Governor shall appoint a panel of technical experts to work with the director to implement, monitor and assess tests of outcome-based forestry principles. In order to participate in the outcome-based forestry experiment, the landowner, director and technical panel must develop agreed-upon desired outcomes for the experimental area and develop a method for determining if the outcomes have been attained and a system for reporting results to the public.

[ 2011, c. 488, §3 (AMD) .]

**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.

[ 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.

[ 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.

[ 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.

[ 2001, c. 339, §4 (AMD) . ]

**7-A. Exemption for outcome-based forest policy experimental areas.** Outcome-based forest policy experimental areas designated under section 8003, subsection 3, paragraph Q are exempt from the requirements of this subchapter and rules adopted pursuant to this subchapter.

[ 2011, c. 488, §4 (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 harvesting, except that municipalities regulating timber harvesting 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, 2001.

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 unless the process set out in this subsection is followed in the development and review of the ordinance.

A. A licensed professional forester must participate in the development or amendment of the ordinance.

[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.

[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. [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. [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. [1999, c. 263, §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. [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. [1999, c. 263, §1 (NEW).]

[ 2003, c. 335, §3 (AMD) .]

**9. Centralized listing of municipal ordinances.** The division shall maintain for informational purposes a statewide centralized listing of municipal ordinances that specifically apply to forest practices.

A. Within 30 days after the legislative body of the municipality votes on a timber harvesting ordinance developed according to the procedures of subsection 8, the clerk shall notify the division of the outcome and shall file a copy of the ordinance with the division. [1999, c. 263, §2 (RPR); 2011, c. 657, Pt. W, §7 (REV).]

B. [1999, c. 263, §2 (RP).]

[ 1999, c. 263, §2 (RPR); 2011, c. 657, Pt. W, §7 (REV) .]

**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 division and wardens of the Department of Inland Fisheries and Wildlife.

[ 1989, c. 555, §10 (NEW); 2011, c. 657, Pt. W, §7 (REV) .]

**11. Right of entry.** Agents of the division 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.

[ 1997, c. 694, §1 (AMD); 2011, c. 657, Pt. W, §7 (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.

[ 1993, c. 217, §1 (NEW) .]

**13. Confidential information.** Information provided to the division voluntarily or to fulfill reporting requirements for the purposes of establishing and monitoring outcome-based forest policy experimental 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 division 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 division, 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.

[ 2011, c. 488, §5 (AMD); 2011, c. 657, Pt. W, §7 (REV) .]

**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.

[ 2003, c. 422, Pt. A, §4 (NEW) .]

#### SECTION HISTORY

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

## 12 §8870. PENALTIES

**1. Civil violation.** A person who violates a rule adopted pursuant to section 8869, subsection 14 or a condition or term of a permit, variance or decision issued by the director or the commissioner in accordance with rules adopted pursuant to section 8869, subsection 14 commits a civil violation.

[ 2003, c. 694, §1 (NEW) .]

**2. Penalty.** Except as provided in subsection 3, the following penalties apply to violations of this section.

A. A person who violates this section commits a civil violation for which a fine of not less than \$100 and not more than \$1,000 may be adjudged for each day of that violation. [2003, c. 694, §1 (NEW).]

B. A person who violates this section after having previously been adjudicated of a violation of this section within the previous 5-year period commits a civil violation for which a fine of not less than \$1,000 but not more than \$2,000 may be adjudged for each day of that violation. [2003, c. 694, §1 (NEW).]

[ 2003, c. 694, §1 (NEW) .]

**3. Economic benefit.** If the economic benefit resulting from the violation exceeds the applicable penalties under subsection 2, the maximum fines may be increased. The maximum fine may not exceed an amount equal to twice the economic benefit resulting from the violation. The division shall consider as economic benefit, without limitation, the costs avoided or the enhanced value accrued at the time of the violation by the violator as a result of not complying with the applicable legal requirements.

[ 2003, c. 694, §1 (NEW); 2011, c. 657, Pt. W, §7 (REV) .]

**4. Effective date.**

[ 2005, c. 514, §1 (RP) .]

**5. Supplemental environmental projects.** In settling a civil enforcement action for any violation of this subchapter or any rule adopted under this subchapter, the parties may agree to a supplemental environmental project that mitigates not more than 80% of the assessed penalty. "Supplemental environmental project" means an environmentally beneficial project primarily benefiting the public health or the environment that a violator is not otherwise required or likely to perform.

A. An eligible supplemental environmental project is limited to the following categories:

(1) Environmental enhancement projects in the same ecosystem or geographic area of the violation that significantly improve an area beyond what is required to remediate any damage caused by the violation that is the subject of the enforcement action;

(2) Community forestry projects in the same ecosystem or geographic area of the violation that are conducted in accordance with the purposes of section 8705;

(3) Environmental awareness projects substantially related to the violation that provide training, publications or technical support to members of the public and that are regulated by the Department of Agriculture, Conservation and Forestry; or

(4) Scientific research and data collection projects that advance the scientific basis on which regulatory decisions are made. [2005, c. 514, §2 (NEW); 2011, c. 657, Pt. W, §5 (REV).]

B. A supplemental environmental project may not be used in the following situations:

(1) Repeat violations of the same or a substantially similar law administered by the Department of Agriculture, Conservation and Forestry by the same person;

(2) When a project is required by law;

(3) If the violator had previously planned and budgeted for the project;

(4) To offset any calculable economic benefit of noncompliance;

(5) If the violation is the result of reckless or intentional conduct; or

(6) If the project primarily benefits the violator. [2005, c. 2, §11 (COR); 2011, c. 657, Pt. W, §5 (REV).]

Any settlement that includes a supplemental environmental project must provide that expenditures are not tax deductible.

[ 2005, c. 2, §11 (COR); 2011, c. 657, Pt. W, §5 (REV) .]

**6. Costs permitted.** In any action or proceeding brought by the Attorney General under this section, the court may award litigation costs, including court costs, reasonable attorney's fees and reasonable expert witness fees, to be deposited in the General Fund of the State if the State or any of its officers or agencies is a prevailing party in the action or proceeding and the defendant's defense was not substantially justified. For the purposes of this subsection, a defense is "substantially justified" if the defense had a reasonable basis in law or fact at the time it was raised.

[ 2009, c. 536, §1 (NEW) .]

#### SECTION HISTORY

2003, c. 694, §1 (NEW). RR 2005, c. 2, §11 (COR). 2005, c. 514, §§1,2 (AMD). 2009, c. 536, §1 (AMD). 2011, c. 657, Pt. W, §§5, 7 (REV).

### Subchapter 4: ASSESSMENT OF FOREST RESOURCES HEADING: PL 1989, C. 555, §11 (RP)

## 12 §8871. MAINE'S FORESTS

*(REPEALED)*

#### SECTION HISTORY

1979, c. 545, §3 (NEW). 1989, c. 555, §11 (RP). 1989, c. 600, §B11 (AMD).

## 12 §8872. ASSESSMENT OF FOREST RESOURCES

*(REPEALED)*

#### SECTION HISTORY

1979, c. 545, §3 (NEW). 1989, c. 555, §11 (RP). 1989, c. 600, §B11 (AMD).

## 12 §8873. ANNUAL REPORT

*(REPEALED)*

#### SECTION HISTORY

1979, c. 545, §3 (NEW). 1989, c. 555, §11 (RP). 1989, c. 600, §B11 (AMD).

## 12 §8874. COOPERATION

*(REPEALED)*

SECTION HISTORY

1979, c. 545, §3 (NEW). 1989, c. 555, §11 (RP). 1989, c. 600, §B11 (AMD).

## 12 §8875. AUTHORITY

*(REPEALED)*

SECTION HISTORY

1979, c. 545, §3 (NEW). 1989, c. 555, §11 (RP). 1989, c. 600, §B11 (AMD).

Subchapter 4-A: FOREST RESOURCE ASSESSMENT PROGRAM HEADING: PL  
1989, C. 875, PT. J, §10 (NEW)

## 12 §8876. FOREST RESOURCE ASSESSMENT PROGRAM

There is established in the Division of Forestry a Forest Resource Assessment Program. The purpose of the Forest Resource Assessment Program is to systematically and continually assess the ability of the State's forests to provide sustainable forest resources and socioeconomic benefits for the people of this State. The Director of the Division of Forestry, referred to in this subchapter as "the director," shall implement this program to: [1997, c. 720, §9 (AMD); 2011, c. 657, Pt. W, §7 (REV).]

**1. Current status.** Assess the current status of forest resources, using standards of forest sustainability developed in accordance with section 8876-A;

[ 1997, c. 720, §9 (AMD) .]

**2. Future demand.** Project future demand for forest resources based on a common economic forecast developed by the Governor's Office of Policy and Management and on other appropriate economic projections;

[ 2011, c. 655, Pt. DD, §24 (AFF); 2011, c. 655, Pt. DD, §9 (AMD) .]

**3. Trends.** Identify trends in resource utilization and forecast supply available to meet the projected demands; and

[ 1997, c. 720, §9 (AMD) .]

**4. Potential shortfalls.** Identify potential shortfalls in forest resources and the management and policy actions necessary in the public and private sector to avoid shortfalls.

[ 1997, c. 720, §9 (AMD) .]

**5. Recommendations.**

[ 1997, c. 720, §9 (RP) .]

The director shall coordinate the efforts of this program fully with ongoing division and federal forestry program planning efforts and with the efforts of the Maine Economic Growth Council to develop a long-term plan for the State's economy pursuant to Title 10, section 929-B. [1997, c. 720, §9 (AMD); 2011, c. 657, Pt. W, §7 (REV).]

SECTION HISTORY

1989, c. 875, §J10 (NEW). 1997, c. 720, §9 (AMD). 2011, c. 655, Pt. DD, §24 (AFF). 2011, c. 655, Pt. DD, §9 (AMD). 2011, c. 657, Pt. W, §7 (REV).

## 12 §8876-A. FOREST SUSTAINABILITY

The director shall establish a process to assess forest sustainability. In developing this process, the director shall build on the principles of sustainability developed by the Northern Forest Lands Council established by Congress in 1990 and the criteria developed by the Maine Council on Sustainable Forest Management pursuant to Executive Order #11 dated April 25, 1995. [1997, c. 720, §10 (NEW).]

**1. Standards.** Standards must be established to assess each of the criteria listed in this subsection by January 1st of the year indicated. The following standards must be specific, measurable and understandable by both forest managers and the general public:

- A. Soil productivity by 2001; [1997, c. 720, §10 (NEW).]
- B. Water quality, wetlands and riparian zones by 1999; [1997, c. 720, §10 (NEW).]
- C. Timber supply and quality by 1999; [1997, c. 720, §10 (NEW).]
- D. Aesthetic impacts of timber harvesting by 2003; [1997, c. 720, §10 (NEW).]
- E. Biological diversity by 2002; [1997, c. 720, §10 (NEW).]
- F. Public accountability of forest owners and managers by 1999; and [1997, c. 720, §10 (NEW).]
- G. Traditional recreation by 2003. [1997, c. 720, §10 (NEW).]

[ 1997, c. 720, §10 (NEW) .]

**2. Process.** The director shall identify individuals with scientific background and practical experience in each of the criteria areas listed in subsection 1 and convene technical working groups. In the development of standards pursuant to subsection 1, the director and working groups shall assess current status and trends, the desired objectives and actions to reach the objectives. Each working group shall identify a range of alternative standards and recommend a set of standards based on a comprehensive review of available information and an assessment of the economic impacts of implementing the standards. The director shall coordinate the efforts of each working group and provide an opportunity for public comment on the recommended standards prior to final adoption.

[ 1997, c. 720, §10 (NEW) .]

**3. Report.** The director shall report to the joint standing committee of the Legislature having jurisdiction over forestry matters with a recommendation for each set of standards and an articulated goal for each criterion by the date specified in subsection 1. At the time of the report, the director shall indicate the recommended timetable for revisiting the particular criterion and standards.

[ 1997, c. 720, §10 (NEW) .]

**4. Monitoring.** As each set of standards is adopted, the director shall develop a system to monitor statewide progress in achieving those standards and begin monitoring. Standards and monitoring systems must be in place for all criteria by July 1, 2004.

[ 1997, c. 720, §10 (NEW) .]

SECTION HISTORY

1997, c. 720, §§10,11 (NEW).

## 12 §8877. REVIEW AND COORDINATION

*(REPEALED)*

SECTION HISTORY

1989, c. 875, §J10 (NEW). 1991, c. 528, §G9 (RP). 1991, c. 528, §RRR (AFF).  
1991, c. 591, §G9 (RP).

## 12 §8877-A. DETERMINATION OF SUPPLY AND DEMAND FOR TIMBER RESOURCES

The director shall use a variety of methods, including those specified in this section, to assess the status of timber resources, project future demand for these resources and forecast the supply available to meet the projected demands. [1997, c. 720, §11 (NEW).]

**1. Forest inventory.** The director, in cooperation with the United States Forest Service, shall conduct a forest inventory and analysis program. The inventory must be based on plot data collected annually in a manner that provides for the entire State to be inventoried on a cycle of not more than 5 years. Plot data must be collected and compiled to provide for analysis by ownership class and geographic region. The director shall provide for collection of supplemental plot data when needed to assess the impact of catastrophic events on the State's forests or significant changes in harvesting levels or methods.

[ 1997, c. 720, §11 (NEW) .]

**2. Remote sensing data.** The director shall review data collected using remote sensing technology to determine the area of forest types and gross changes in forest types.

[ 1997, c. 720, §11 (NEW) .]

**3. Timber supply modeling.** The director shall coordinate efforts to project future timber supply using forest models based on growth, harvest and other dynamic factors affecting the forest. The models must allow for statewide projections and projections for geographic regions and landowner classes.

[ 1997, c. 720, §11 (NEW) .]

## 12 §8878. REPORTS

*(REPEALED)*

SECTION HISTORY

1989, c. 875, §J10 (NEW). 1997, c. 720, §12 (RP).

## 12 §8878-A. ANNUAL REPORT ON CLEARCUTTING

**(REPEALED)**

SECTION HISTORY

1997, c. 720, §13 (NEW). 2011, c. 532, §1 (RP).

## 12 §8879. REPORT ON THE STATE OF THE STATE'S FORESTS

The director shall publish a report on the state of the State's forests every 5 years. The director must submit a copy of the report to the joint standing committee of the Legislature having jurisdiction over forestry matters by January 1st every 5 years beginning January 1, 2016. [2011, c. 532, §2 (AMD).]

**1. Content.** The report must describe the condition of the State's forests based on historical information and information collected and analyzed by the division for the 5-year period. The report must provide an assessment at the state level of progress in achieving the standards developed pursuant to section 8876-A, including progress of the outcome-based forestry experiment authorized under section 8003, subsection 3, paragraph Q. The director shall also provide observations on differences in achieving standards by landowner class. The report must summarize importing and exporting of forest products for foreign and interstate activities. The director shall obtain public input during the preparation of the report through appropriate methods.

[ 2011, c. 532, §2 (AMD); 2011, c. 657, Pt. W, §7 (REV) .]

**1-A. Report on changes in ownership of forest land.** Using information received under Title 36, section 581-G, the director shall monitor changes in ownership of parcels of forest land that are 1,000 acres or greater in area within the municipalities of the State and classified under the Maine Tree Growth Tax Law. Using information received under Title 36, sections 581-F and 581-G, the director shall monitor the number of parcels classified under the Maine Tree Growth Tax Law and the distribution of parcels by size. The report must include information on the number of parcels, classified by size categories, for the organized and unorganized territories of the State. The information must be presented in a manner that facilitates comparison from year to year.

In assessing changes in forest land ownership, the director shall also consider information reported pursuant to Title 36, sections 305 and 2728. The director shall provide a summary of changes in ownership of forest land in the report.

[ 2011, c. 532, §2 (AMD) .]

**2. Recommendations.** The report must include recommendations for state and private actions designed to address the needs identified in the assessment.

A. State action recommendations must be defined in terms of necessary policies, programs, staff and budgetary requirements to achieve specific goals. [1997, c. 720, §13 (NEW).]

B. Recommendations for actions on privately held forest lands may be developed separately for large, industrial ownerships and small, nonindustrial ownerships. These recommendations must be defined in terms of actions needed to achieve specific goals. [1997, c. 720, §13 (NEW).]

[ 1997, c. 720, §13 (NEW) .]

SECTION HISTORY

1997, c. 720, §13 (NEW). 2001, c. 339, §7 (AMD). 2001, c. 564, §2 (AMD). 2005, c. 683, §A15 (AMD). 2011, c. 532, §2 (AMD). 2011, c. 657, Pt. W, §7 (REV).

Subchapter 5: FOREST LANDOWNER AND WOOD PROCESSOR REPORTING  
REQUIREMENTS HEADING: PL 1989, C. 555, §12 (NEW)

**12 §8881. DEFINITIONS**

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings. [1989, c. 555, §12 (NEW); 1989, c. 600, Pt. B, §11 (AFF).]

**1. All-weather road.** "All-weather road" means a public or private road that may be traversed during all seasons of the year.

[ 1989, c. 555, §12 (NEW); 1989, c. 600, Pt. B, §11 (AFF) .]

**2. Designated agent.** "Designated agent" means a person, firm, company, corporation or other legal entity representing the landowner in timber sales or land management.

[ 1989, c. 555, §12 (NEW); 1989, c. 600, Pt. B, §11 (AFF) .]

**3. Forest products.** "Forest products" means logs, pulpwood, veneer, bolt wood, wood chips, stud wood, poles, pilings, biomass fuel wood, fuel wood or other products commonly known as forest products, but does not include Christmas trees, maple syrup, nursery products used for ornamental purposes, wreaths, bough material, cones or other seed crops.

[ 1989, c. 555, §12 (NEW); 1989, c. 600, Pt. B, §11 (AFF) .]

**4. Harvester.** "Harvester" means a person, firm, company, corporation or other legal entity which harvests or contracts to harvest a forest product.

[ 1989, c. 555, §12 (NEW); 1989, c. 600, Pt. B, §11 (AFF) .]

**5. Harvest operation.** "Harvest operation" means a harvest of forest products on land in a single municipality or township. Land harvested need not be contiguous and more than one harvester may work a harvest operation.

[ 1989, c. 555, §12 (NEW); 1989, c. 600, Pt. B, §11 (AFF) .]

**5-A. Landowner.** "Landowner" means a person, company or other entity that holds title to land, including joint owners or tenants in common. If the ownership of the timber located on the land is different from the fee ownership of the land, the owner of the timber is deemed to be a landowner and is jointly and severally responsible with the fee landowner for compliance with this subchapter. If a corporate landowner is a wholly owned subsidiary of another corporation, both parent and subsidiary are deemed to be the same landowner.

[ 2001, c. 603, §1 (NEW) .]

**6. Lump-sum sale.** "Lump-sum sale" means a sale in which the owner of standing timber sells the timber for one price and that price is not broken down by species or product.

[ 1989, c. 555, §12 (NEW); 1989, c. 600, Pt. B, §11 (AFF) .]

**7. Precommercial silvicultural activities.** "Precommercial silvicultural activities" means chemical or mechanical thinning operations, planting, stand conversion or timber stand improvement activities where no forest

products are sold.

[ 1989, c. 555, §12 (NEW); 1989, c. 600, Pt. B, §11 (AFF) .]

**8. Residue.** "Residue" means by-products of a processed log, including, but not limited to bark, woodchips or sawdust.

[ 1989, c. 555, §12 (NEW); 1989, c. 600, Pt. B, §11 (AFF) .]

**9. Roundwood.** "Roundwood" means logs, bolts and other round sections of wood as they are cut from a tree.

[ 1989, c. 555, §12 (NEW); 1989, c. 600, Pt. B, §11 (AFF) .]

**10. Roundwood processing operation.** "Roundwood processing operation" means sawmills; bolter mills; shingle mills; veneer mills; fence pole and piling making operations; pulp and paper mills; wafer board, particle board and plywood mills; whole tree chippers; commercial fuel wood processors; and custom processing mills of these products.

[ 1989, c. 555, §12 (NEW); 1989, c. 600, Pt. B, §11 (AFF) .]

**11. Stumpage.** "Stumpage" means standing timber.

[ 1989, c. 555, §12 (NEW); 1989, c. 600, Pt. B, §11 (AFF) .]

**12. Timber harvesting.** "Timber harvesting" has the same meaning as in section 8868, subsection 4.

[ 2011, c. 532, §3 (NEW) .]

#### SECTION HISTORY

1989, c. 555, §12 (NEW). 1989, c. 600, §B11 (AMD). 2001, c. 603, §1 (AMD).  
2011, c. 532, §3 (AMD).

## 12 §8882. FORMS

Forms required under this subchapter must be provided by the division and must be written in an easily understandable format. In addition to the information required under section 8883-B, the division may request information regarding business practices and workers' compensation coverage. [2003, c. 452, Pt. F, §42 (AMD); 2003, c. 452, Pt. X, §2 (AFF); 2011, c. 657, Pt. W, §7 (REV).]

#### SECTION HISTORY

1989, c. 555, §12 (NEW). 1989, c. 600, §B11 (AMD). 1997, c. 648, §3 (AMD).  
2003, c. 452, §F42 (AMD). 2003, c. 452, §X2 (AFF). 2011, c. 657, Pt. W, §7 (REV).

## 12 §8883. NOTIFICATION

*(REPEALED)*

#### SECTION HISTORY

Department of Agriculture, Conservation and Forestry  
Updated through the first regular session of the 126<sup>th</sup> Maine Legislature

Maine Forest Service

1989, c. 555, §12 (NEW). 1989, c. 600, §B11 (AMD). 1997, c. 648, §§4-6 (AMD). 1999, c. 361, §§4-7 (AMD). 2001, c. 603, §2 (AMD). 2003, c. 345, §1 (AMD). 2003, c. 452, §F43 (RP). 2003, c. 452, §X2 (AFF).

## 12 §8883-A. NOTIFICATION OF IMPORTING OR EXPORTING

*(REPEALED)*

### SECTION HISTORY

1995, c. 242, §1 (NEW). 2005, c. 133, §3 (RP).

## 12 §8883-B. NOTIFICATION

**1. Notification required prior to harvest.** Unless exempted under subsection 6 or by rule, a landowner or designated agent shall notify the division prior to beginning timber harvesting.

A. [2011, c. 532, §4 (RP).]

B. [2011, c. 532, §4 (RP).]

When the timber harvesting is occurring within a municipality, the division shall send a copy of the notification form to the municipal clerk.

[ 2011, c. 532, §4 (AMD); 2011, c. 657, Pt. W, §7 (REV) .]

**2. Notification form.** Unless an alternate form or method of reporting is provided in rule, notification must be on forms supplied by the division and must include the following information:

A. The name, address and phone number of the landowner, any designated agent and, if known, any harvester or harvesters; [2003, c. 452, Pt. F, §44 (NEW); 2003, c. 452, Pt. X, §2 (AFF).]

B. The name and address of any licensed professional forester consulting the landowner on forest management or harvesting practices; [2003, c. 452, Pt. F, §44 (NEW); 2003, c. 452, Pt. X, §2 (AFF).]

C. The municipality or township and county of harvest; [2003, c. 452, Pt. F, §44 (NEW); 2003, c. 452, Pt. X, §2 (AFF).]

D. The name of the nearest public or private all-weather road; [2003, c. 452, Pt. F, §44 (NEW); 2003, c. 452, Pt. X, §2 (AFF).]

E. The approximate dates the harvest will begin and finish; [2003, c. 452, Pt. F, §44 (NEW); 2003, c. 452, Pt. X, §2 (AFF).]

F. The anticipated acreage to be harvested; [2003, c. 452, Pt. F, §44 (NEW); 2003, c. 452, Pt. X, §2 (AFF).]

G. An indication whether the land being harvested is taxed under the Maine Tree Growth Tax Law; [2011, c. 532, §5 (AMD).]

H. Whether the land is being harvested to convert to another use within 2 years and, if so, what that use is to be; [2011, c. 532, §6 (AMD).]

Forest Practices Act (Revised to include changes through June 30, 2013)

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Printed (online) November 14, 2013

by Department of Agriculture, Conservation and Forestry - Maine Forest Service.

Official copy may be obtained from the Office of the Revisor of Statutes.

I. The signatures of the harvester when listed on the form in accordance with paragraph A and the licensed professional forester when listed on the form in accordance with paragraph B; [2003, c. 452, Pt. F, §44 (NEW); 2003, c. 452, Pt. X, §2 (AFF).]

J. The signature of the landowner and the signature of the designated agent when a designated agent is listed in accordance with paragraph A. If the designated agent is a licensed professional forester who has a fiduciary responsibility to the landowner, the signature of the landowner is not required; [2003, c. 452, Pt. F, §44 (NEW); 2003, c. 452, Pt. X, §2 (AFF).]

K. A map locating the harvest site in relation to known or easily identifiable terrain features such as a road junction or a stream and road junction. The map must be a copy of a 7.5 or 15 minute series topographical map produced by the United States Geological Survey or a map of equivalent or superior detail in the location of roads; and [2003, c. 452, Pt. F, §44 (NEW); 2003, c. 452, Pt. X, §2 (AFF).]

L. The date of notification. [2003, c. 452, Pt. F, §44 (NEW); 2003, c. 452, Pt. X, §2 (AFF).]

[ 2011, c. 532, §§5, 6 (AMD); 2011, c. 657, Pt. W, §7 (REV) .]

**3. Harvest reporting forms.** Upon receipt by the division of the form required under subsection 2, the division shall mail forms to the landowner or designated agent for reporting harvest information pursuant to this subchapter.

[ 2003, c. 452, Pt. F, §44 (NEW); 2003, c. 452, Pt. X, §2 (AFF); 2011, c. 657, Pt. W, §7 (REV) .]

**4. Notification form on file; posted.** The landowner or designated agent shall retain a copy of the notification form and produce it upon request of agents as specified in section 8888. The landowner or designated agent shall post the notification number at the harvest site in a clearly visible location.

[ 2003, c. 452, Pt. F, §44 (NEW); 2003, c. 452, Pt. X, §2 (AFF) .]

**5. Duration.** A notification shall remain valid for 2 years from the date of issue or upon completion of the harvest, whichever occurs first. If the harvest extends beyond 2 years, a new notice under this section must be filed.

[ 2003, c. 452, Pt. F, §44 (NEW); 2003, c. 452, Pt. X, §2 (AFF) .]

**6. Notification exemption.** The following activities are exempt from the notification requirement under this section:

A. Activities when forest products are harvested for an owner's own use and are not sold or offered for sale or used in the owner's primary wood-using plants; [2011, c. 532, §7 (AMD).]

B. Precommercial silvicultural forestry activities; and [2003, c. 452, Pt. F, §44 (NEW); 2003, c. 452, Pt. X, §2 (AFF).]

C. Harvesting performed by the landowner within a 12-month period when the total area harvested on land owned by that landowner does not exceed 2 acres.

[2011, c. 532, §7 (AMD).]

[ 2011, c. 532, §7 (AMD) .]

**6-A. Alternative notifications.** The bureau may develop alternative notification forms and methods for

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reporting:

A. A timber harvesting operation 10 acres or less in area; and [2011, c. 532, §8 (NEW).]

B. Timber harvesting for the purpose of converting the land to another use when a person certified in erosion control practices by the Department of Environmental Protection is responsible for management of erosion and sedimentation control at the harvest site. [2011, c. 532, §8 (NEW).]

[2011, c. 532, §8 (NEW) .]

**7. Penalties.** The following penalties apply to the failure to notify the division pursuant to this section. Each day of failure to notify is a separate offense.

A. [2011, c. 532, §9 (RP).]

B. [2011, c. 532, §9 (RP).]

C. Failure to notify the division of a timber harvesting operation constitutes a civil violation for which a fine not to exceed \$1,000 for each occurrence may be adjudged and for which immediate cessation of the operation may be ordered by the court. Continued operation after receiving an order to cease operation constitutes a civil violation for which a fine not to exceed \$1,000 for each day the operation continues may be adjudged. [2011, c. 532, §9 (AMD); 2011, c. 657, Pt. W, §7 (REV).]

D. Providing inaccurate information on a notification form for a timber harvesting operation is a civil violation for which a fine of not more than \$1,000 for each occurrence may be adjudged. [2011, c. 532, §9 (AMD).]

[2011, c. 532, §9 (AMD); 2011, c. 657, Pt. W, §7 (REV) .]

**8. Confidentiality.** The addresses, telephone numbers and electronic mail addresses of forest landowners owning less than 1,000 acres statewide contained in notifications filed under this section are confidential and may be disclosed only in accordance with section 8005.

[2005, c. 358, §3 (NEW) .]

**9. Rulemaking.** No later than November 1, 2012, the bureau shall adopt rules to implement this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[2011, c. 532, §10 (NEW) .]

#### SECTION HISTORY

2003, c. 452, §F44 (NEW). 2003, c. 452, §X2 (AFF). 2005, c. 358, §3 (AMD). 2011, c. 532, §§4-10 (AMD). 2011, c. 657, Pt. W, §7 (REV).

## 12 §8884. ANNUAL WOOD PROCESSING REPORTS

**1. Wood processor reports.** Owners or operators of all roundwood processing operations shall submit an annual report to the director of the division during the month of January for the roundwood used or processed by the operation during the preceding year. The report shall specify the amount of roundwood processed by species and county where cut from the stump.

[1989, c. 555, §12 (NEW); 1989, c. 600, Pt. B, §11 (AFF); 2011, c. 657,

Pt. W, §7 (REV) .]

**1-A. Reclaimed waste wood and cedar waste report.** A taxpayer claiming a credit under Title 36, section 5219-F shall submit an annual report to the Director of the Division of Forestry, initially by July 1, 1994, and during the month of January thereafter, specifying the source, volume and location of reclaimed wood waste or cedar waste for which a credit has been claimed.

[ 1991, c. 528, Pt. G, §10 (AMD); 1991, c. 528, Pt. RRR, (AFF); 1991, c. 591, Pt. G, §10 (AMD); 2011, c. 657, Pt. W, §7 (REV) .]

**2. Imports and exports.** Persons, firms, corporations or companies selling forest products out of the State or buying forest products to bring into the State shall submit an annual report to the director of the division during the month of January for the forest products sold out of the State or brought into the State. The report must also identify the origin of imported forest products by state or country, the county in the State in which exported forest products were harvested and the destination of exported forest products by state or country.

[ 2005, c. 133, §4 (AMD); 2011, c. 657, Pt. W, §7 (REV) .]

**3. Confidentiality.** Volume information contained in these reports is confidential and shall not be made public except that summary reports may be published that use aggregated data which do not reveal the activities of an individual person or firm.

[ 1989, c. 555, §12 (NEW); 1989, c. 600, Pt. B, §11 (AFF) .]

**4. Failure to submit report; penalty.** Failure to submit reports pursuant to this section constitutes a civil violation for which a fine not to exceed \$1,000 for each failure may be adjudged.

[ 2003, c. 452, Pt. F, §45 (NEW); 2003, c. 452, Pt. X, §2 (AFF) .]

#### SECTION HISTORY

1989, c. 555, §12 (NEW). 1989, c. 600, §B11 (AMD). 1989, c. 935, §1 (AMD). 1991, c. 528, §G10 (AMD). 1991, c. 528, §RRR (AFF). 1991, c. 591, §G10 (AMD). 1995, c. 242, §2 (AMD). 2003, c. 452, §F45 (AMD). 2003, c. 452, §X2 (AFF). 2005, c. 133, §4 (AMD). 2011, c. 657, Pt. W, §7 (REV).

## 12 §8885. REPORTS BY FOREST LANDOWNERS

**1. Harvest report.** Except as provided in subsection 1-A, an owner of forest land who sells forest products or harvests forest products for that owner's commercial use shall submit a report to the director stating the species, volume and stumpage price per unit of measure for each transaction, the municipality or township where the stumpage was located, the estimated acreage of the harvest, the harvest method employed and the extent of whole-tree harvesting of both solid and chipped wood. For lump-sum sales, the purchaser shall be responsible for submitting the report.

[ 1997, c. 720, §14 (AMD) .]

**1-A. Alternate harvest report.** The director may develop alternate forms for or methods of collecting harvest information from landowners who do not harvest timber on a regular basis. The director shall define landowners subject to the provisions of this subsection and provide report forms pursuant to section 8883-B, subsection 3.

[ 2003, c. 452, Pt. F, §46 (AMD); 2003, c. 452, Pt. X, §2 (AFF) .]

**2. Precommercial silvicultural practices report.** Owners of forest land on which precommercial silvicultural practices have been performed on more than 10 acres in any year shall report these practices to the director.

[ 1989, c. 555, §12 (NEW); 1989, c. 600, Pt. B, §11 (AFF) .]

**2-A. Report on clear-cuts.** When timber harvesting produces a clear-cut as defined in section 8868, the landowner shall report to the director the acreage of the clear-cut and the purpose of the clear-cut.

[ 1997, c. 720, §16 (NEW) .]

**3. Reports.** Reports required under subsections 1 and 2 are due during the month of January. If the period of cutting under subsection 1 or 2 extends beyond December 31st of any calendar year, a report must be submitted during the month of January for the preceding year. A person filing a harvest notification form pursuant to section 8883-B must complete and return to the division a harvest report whether or not the landowner has harvested that year.

[ 2003, c. 452, Pt. F, §47 (AMD); 2003, c. 452, Pt. X, §2 (AFF); 2011, c. 657, Pt. W, §7 (REV) .]

**4. Confidentiality.** Information contained in reports filed under this section may not be made public, except that summary reports may be published that use aggregated data that do not reveal the activities of an individual person or firm. Forms submitted pursuant to this section must be available for the use of the State Tax Assessor for the administration of Title 36.

[ 2009, c. 568, §1 (AMD) .]

**5. Disclosure.** Nothing in this section may be construed to prevent the disclosure of information to duly authorized officers of the United States and of other states, districts and territories of the United States and of the provinces and Dominion of Canada. The information shall be given only on the written request of the duly authorized officer when that officer's government permits the exchange of similar information with the taxing officials of this State and when that officer agrees that the information shall be used only for tax collection purposes.

[ 1989, c. 555, §12 (NEW); 1989, c. 600, Pt. B, §11 (AFF) .]

**6. Failure to submit report; penalty.** Failure to submit reports pursuant to this section constitutes a civil violation for which a fine not to exceed \$1,000 for each failure may be adjudged.

[ 2003, c. 452, Pt. F, §48 (NEW); 2003, c. 452, Pt. X, §2 (AFF) .]

#### SECTION HISTORY

1989, c. 555, §12 (NEW). 1989, c. 600, §B11 (AFF). 1997, c. 720, §§14-17 (AMD). 2003, c. 452, §§F46-48 (AMD). 2003, c. 452, §X2 (AFF). 2009, c. 568, §1 (AMD). 2011, c. 657, Pt. W, §7 (REV).

## 12 §8886. REPORTS

The director shall produce the following reports. [1989, c. 555, §12 (NEW); 1989, c. 600,

Pt. B, §11 (AFF).]

**1. Harvesting practices.** Utilizing a sample of forest landowner reports and any other appropriate survey methods, the director shall tabulate an annual survey of the methods of harvesting and the harvest practices employed. The information on harvesting must include, but is not limited to, the silvicultural prescriptions employed, the estimated acreage of various harvest methods, including clear-cutting, the extent of whole-tree harvesting of both solid and chipped wood, the number of clear-cuts over 75 acres in size, the total acres planted and the total acres precommercially thinned.

[ 2011, c. 532, §11 (AMD) .]

**2. Annual price reports.** The division shall publish, annually, a report on prices as specified below. These reports must be reported by zones as determined by the director and must include a statewide average of all zones.

A. The reports must include stumpage prices paid for forest tree species of the State as reported pursuant to section 8885. Prices for other forest products may be collected using acceptable survey techniques. [1997, c. 720, §18 (AMD).]

B. [2005, c. 133, §5 (RP).]

[ 2005, c. 133, §5 (AMD); 2011, c. 657, Pt. W, §7 (REV) .]

#### SECTION HISTORY

1989, c. 555, §12 (NEW). 1989, c. 600, §B11 (AMD). 1997, c. 720, §18 (AMD). 2005, c. 133, §5 (AMD). 2011, c. 532, §11 (AMD). 2011, c. 657, Pt. W, §7 (REV).

## 12 §8887. PENALTIES

*(REPEALED)*

#### SECTION HISTORY

1989, c. 555, §12 (NEW). 1989, c. 600, §B11 (AMD). 2001, c. 603, §3 (AMD). 2003, c. 452, §F49 (RP). 2003, c. 452, §X2 (AFF).

## 12 §8888. ENFORCEMENT

Enforcement of this subchapter shall be by any state, county or municipal law enforcement officer, including forest rangers and field foresters of the Division of Forestry and wardens of the Department of Inland Fisheries and Wildlife. [1989, c. 555, §12 (NEW); 1989, c. 600, Pt. B, §11 (AFF); 2011, c. 657, Pt. W, §7 (REV).]

#### SECTION HISTORY

1989, c. 555, §12 (NEW). 1989, c. 600, §B11 (AMD). 2011, c. 657, Pt. W, §7 (REV).