

01-058
Maine Forest Service
Chapter 26
Forest Operations Notification
Standards

MAINE DEPARTMENT OF AGRICULTURE,
CONSERVATION, AND FORESTRY
BUREAU OF FORESTRY

EFFECTIVE DATE: TO BE DETERMINED

TABLE OF CONTENTS

SECTION 1. SCOPE & APPLICABILITY.....	pg. 1
A. Scope.....	pg. 1
B. Applicability.....	pg. 1
SECTION 2. DEFINITIONS	pg. 1
SECTION 3. NOTIFICATION PROCESS FOR LANDOWNERS INTENDING TO HARVEST FOREST PRODUCTSpg. 4
A. Notification Form and Process	pg. 4
B. Landowner’s/Agent’s Requirementspg. 4
C. Notification Requirements for Persons Certified in Erosion Control Practices by the Department of Environmental Protectionpg. 5
D. Notification Requirements for Landowners Intending to Conduct Timber Harvesting and Related Activities and/or to Construct Land Management Roads and/or Gravel Pits for Road Construction in Protection Subdistricts Designated by the Land Use Planning Commissionpg. 6
E. Notification Requirements for Landowners Intending to Place Wood in Streams to Enhance Cold-Water Fishery Habitatpg. 6
F. Exemption From Notification Requirementpg. 7
G. Completed Notificationpg. 7
H. Landowner/Agent Requirements After Notification is Acknowledged ..	.pg. 7
SECTION 4. EFFECTIVE DATE.....	pg. 7

01 DEPARTMENT OF AGRICULTURE, CONSERVATION, AND FORESTRY
058 BUREAU OF FORESTRY

Chapter 26: FOREST OPERATIONS NOTIFICATION STANDARDS

AUTHORITY: 12 M.R.S., §8883-B

Summary: This rule establishes the procedures for notifying the Department of Agriculture, Conservation, and Forestry, Bureau of Forestry, of proposed commercial timber harvesting activities. In general, landowners are required to notify the Bureau of Forestry, in writing, before timber is cut or removed, when the primary purpose of the harvest is to sell or use the timber as forest products.

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.

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. 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.

SECTION 2. DEFINITIONS

A. For the purpose of 12 M.R.S., Chapter 805, sub-chapter 5 and for these rules, the following terms have the following meanings unless the context otherwise requires:

1. 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.

2. 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.
3. 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.
4. Director means the Director of the Bureau of Forestry.
5. Forest Land means land primarily covered with trees, and where commercial timber harvesting is not precluded by legal requirement.
6. 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.
7. Forest Management Plan: See "Harvest Plan."
8. 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.
9. Harvester means a person, company, or other entity who harvests, or contracts to harvest, a forest product.
10. 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.

11. Landing: See "Yard."
12. Landowner means a person, company, or other entity which holds title to land, including joint ownership or tenants in common. Where the ownership of the timber located on a parcel is different than the fee ownership of the land, the owners of the timber are deemed to be 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 to be the same landowner.
13. 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 forest management activities, including associated log yards, but not including skid trails or skid roads.
14. Licensed Forester means a forester licensed under 32 M.R.S. c. 76.
15. Management Plan: see "Harvest Plan."
16. 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.
17. Public Road or Roadway means any roadway that is owned or leased by a governmental unit or public entity.
18. Timber harvesting means the cutting or removing of timber for the primary purpose of selling or processing forest products.
19. 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.
20. 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. NOTIFICATION PROCESS FOR LANDOWNERS INTENDING TO CONDUCT TIMBER HARVESTING ACTIVITIES.

- A. NOTIFICATION FORM AND PROCESS: Prior to conducting timber harvesting activities, a landowner or designated agent must notify the Bureau in writing. The landowner or designated agent must submit a "Forest Operations Notification" on a form specified by the Bureau.
1. Signature required: All parties named by a landowner or designated agent on a notification (landowner, designated agent, forester, and harvester) must sign the notification. A notification submitted without one or more signatures of named parties will be considered incomplete.

Exception: A landowner with a licensed forester in its employ is exempt from the requirement for landowner signature, provided the landowner maintains with the Bureau a list of licensed foresters authorized to sign for the landowner.
 2. Designated Agent requirement: Unless exempted under Sec. 3. A.1, a notification that names a designated agent must include a clause, signed by the designated agent and landowner, stating that the designated agent has the authority to act on behalf of the landowner to harvest forest products on the landowner's property.
- B. NOTIFICATION REQUIREMENT FOR CATEGORY 3 CLEARCUTS (CLEARCUTS LARGER THAN 75 ACRES).
1. Prior to conducting a timber harvest that creates a Category 3 clearcut (larger than 75 acres), the landowner or designated agent must submit to the Bureau a Forest Operations Notification at least 60 days prior to commencing the timber harvest.
 2. Every notification for a timber harvest that results in a Category 3 clearcut must also include a harvest plan. The harvest plan must include the information specified in MFS Chapter 20 Rule, Forest Regeneration and Clearcutting Standards.
 3. The Bureau will review each notification and harvest plan submitted under this provision for completeness. Either shall be deemed incomplete if the Bureau finds that the required information is missing, inadequate, or inaccurate.

4. 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.
5. 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.
6. 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.

C. NOTIFICATION REQUIREMENTS FOR PERSONS CERTIFIED IN EROSION CONTROL PRACTICES BY THE DEPARTMENT OF ENVIRONMENTAL PROTECTION.

1. This subsection applies only to persons certified in erosion control practices by the Department of Environmental Protection pursuant to 38 M.R.S. §439-B.
2. Notifications filed by such persons are valid:
 - a. for individual harvests covering a footprint of 10 acres or less; and,
 - b. solely for a change of land use; and,
 - c. only if the person filing the notification is responsible for management of erosion and sedimentation control at the harvest site.
3. Notifications filed pursuant to this subsection may be used in multiple municipalities provided that the person filing the notification maintains a separate record of:
 - a. each landowner's name;
 - b. the name of the municipality;

- c. the acreage harvested; and,
- d. the volume harvested.

This information must be filed annually with the Bureau as required by 12 M.R.S. §8885.

D. NOTIFICATION REQUIREMENTS FOR LANDOWNERS INTENDING TO CONDUCT TIMBER HARVESTING AND RELATED ACTIVITIES AND/OR TO CONSTRUCT LAND MANAGEMENT ROADS AND/OR GRAVEL PITS FOR ROAD CONSTRUCTION IN PROTECTION SUBDISTRICTS DESIGNATED BY THE LAND USE PLANNING COMMISSION

- 1. Landowners intending to conduct timber harvesting and related activities and/or to construct land management roads and/or gravel pits for road construction in protection subdistricts designated by the Land Use Planning Commission must provide additional information on the Forest Operations Notification form as supplied by the Bureau.

E. NOTIFICATION REQUIREMENTS FOR LANDOWNERS INTENDING TO PLACE WOOD IN STREAMS TO ENHANCE COLD-WATER FISHERY HABITAT

- 1. Prior to implementing a wood addition project a licensed forester must submit a Forest Operations Notification form to the Bureau. This submission must:
 - a. Have the appropriate box checked indicating that an in-stream wood addition project will be taking place;
 - b. Include a map showing the location of the treatment area. The map shall have sufficient detail for a person unfamiliar with the site to locate the treatment area; and,
 - c. Include a copy of the treatment plan previously prepared and signed by by the Department of Inland Fisheries and Wildlife, Department of Marine Resources, or their designee and the landowner or their agent, for the designated stream reach. The Department of Marine Resources must sign the form if the reach is in an Atlantic salmon area.
- 2. The Bureau will provide copies of the Forest Operations Notification form, map and treatment plan to the Department of Inland Fisheries

and Wildlife and the Department of Marine Resources if the project is in an Atlantic salmon Area.

- F. **EXEMPTION FROM NOTIFICATION REQUIREMENT:** The following types of timber harvests are exempt from the notification requirements of this rule, even if the forest products harvested are sold commercially:
1. Removal of single trees or small groups of trees from residential yards, roadsides, and similar urban or suburban settings where the tree removal occurs on an area two acres in size or less, and is conducted for the purposes of hazard tree removal, right of way and driveway clearance, and lot clearance for the construction of residential dwelling units. This exemption applies only to land on which a person resides, or for lot clearing operations for a landowner who possesses a building permit, or where such lot clearance does not exceed the necessary construction footprint.
 2. Timber harvests where the forest products harvested or processed are for personal use by the landowner.
- G. **COMPLETED NOTIFICATION:** The Bureau will acknowledge receipt of a complete notification by returning a copy of the notification in a format suitable for posting.
- H. **LANDOWNER/AGENT REQUIREMENTS AFTER NOTIFICATION IS ACKNOWLEDGED:** The landowner or designated agent is responsible for complying with the following notification standards:
1. The returned notification, a copy of the original notification, or the notification number shall be posted and maintained in a conspicuous location at or near the principal landing or yard associated with the timber harvest.
 2. Where a parcel is accessed by a private road system, a single notification may be posted in a conspicuous location at the parcel boundary on the principal access road leading into the parcel.
 3. Notifications shall remain posted at the timber harvest site until the harvest is completed, at which time the notification may be removed.
 4. The Bureau will provide replacement forms upon written request stating the need and reason for needing a replacement.

SECTION 4. EFFECTIVE DATE

- A. EFFECTIVE DATE: The effective date of these rules shall be January 1, 2014? [TO BE DETERMINED].

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 then in effect.

STATUTORY AUTHORITY: 12 M.R.S. c. 805, sub-c. 5

EFFECTIVE DATE: [TO BE DETERMINED]