



MASSACHUSETTS Forest Cutting Practices Act

revised February, 1998

This bulletin is designed to help Massachusetts forest landowners understand the purpose and content of the Massachusetts Forest Cutting Practices Act, M.G.L. Ch. 132, sections 40-46, and their obligations in accordance with the law.



IMPLEMENTATION

Purpose

The Forest Cutting Practices Act (referred to here as the Act) was created to ensure that harvested land will remain in a condition that will not jeopardize the public interest. It states that public welfare requires the rehabilitation, maintenance, and protection of forestlands for the purposes of conserving water, preventing floods and soil erosion, improving the conditions for wildlife and recreation, and insuring a continuous supply of wood products.

Administration

The Department of Environmental Management (DEM), Division of Forests and Parks administers the Act. DEM Service Foresters are responsible for the permitting process, inspection and approval of the technical, silvicultural and logging engineering aspects, and the implementation of approved practices. Locations of DEM regional offices are shown on page 5 of this bulletin.

Regulated Harvesting Activities

Applicable to timber harvesting on both public and private forestland, the Act regulates any commercial timber cutting of a volume of wood products greater than 25 thousand board feet (MBF) or 50 cords on any parcel of land at any one time. Activities exempt under the Act include harvesting for:

- rights-of-way for public utilities and public highways;
- cultivation, pasture or pasture maintenance;
- non-commercial use of the landowner or tenant;
- changing land use when permitted by town or city; and
- small commercial harvests.

Table 1: FILING REQUIREMENTS based on volume, cutting area and use of timber products.

Volume harvested	Cutting in wetland resource area	Type of use	What to do
any volume	no	personal	no action--exempt from regs
less than 5 MBF or 10 cords	yes	personal	no action--exempt from regs
greater than 5 MBF or 10 cords, but less than 10 MBF or 20 cords	yes	personal	file Forest Cutting Plan
greater than 10 MBF or 20 cords, but less than 25 MBF or 50 cords	yes	personal	Limited Project approval
greater than 25 MBF or 50 cords	yes or no	commercial	file Forest Cutting Plan
less than 25 MBF or 50 cords	no	commercial	no action--exempt from regs
less than 25 MBF or 50 cords	yes	commercial	file Forest Cutting Plan or Notice of Intent from con com

Notice of Proposed Cutting

For each regulated harvest, a complete filing package consists of the Forest Cutting Plan, appropriate maps and a form called a Notice of Intent to Abutters. The landowner or their agent is required to carefully prepare a form entitled Forest Cutting Plan, which meets the requirements of the Notice of Intent to cut. This form covers information such as: landowner name and address, property location, Best Management Practices used for stream and wetland crossings, harvesting in wetlands, type of harvesting in each stand, products to be harvested, and appointment of agent. Some landowners hire a consulting forester to look after their interests, while others have the harvesting operator prepare the form, both of whom can act as their agent. The landowner must sign the Forest Cutting Plan, either as the applicant or to appoint an agent.

At least two maps need to be included: a detailed map of the area to be harvested, and a locus map with property boundaries outlined. Separate maps for wetland resource areas and critical areas also may need to be provided.

The landowner or their agent must prepare a Notice of Intent to Abutters form, which must be sent to abutters of record whose boundaries are within 200 feet of the cutting area and whose property is not separated from the cutting area by a publicly maintained way. All forms and an informational pamphlet entitled *An Example of the Proper Filing of a Forest Cutting Plan* are available from DEM regional offices (see page 5).

Filing Deadlines

Landowners must hand deliver or send by certified mail the Forest Cutting Plan and maps to the appropriate DEM regional office and to the conservation commission(s) of the town(s) where the timber harvest will be done. DEM and the conservation commission must receive these documents at least 10 business days before any cutting is to begin. The Notice of Intent to Abutters form must also be hand delivered or sent by certified mail to abutters 10 days prior to the start of any harvesting.

Plan Approval

DEM Service Foresters are required to do a field inspection of the harvest site and to approve or disapprove the Plan. This should be done within 10 business days after receipt of the Forest Cutting Plan. Activities that impact wetlands can not be initiated until the Forest Cutting Plan is approved. An approved Forest Cutting Plan is valid for up to two years, and two one-year extensions may be granted.

When the Forest Cutting Plan is approved, DEM Service Foresters issue a certificate which landowners must post at the accessway to the job. Timber harvesters should follow the approved Forest Cutting Plan and have a copy on site, whenever work is being done. However, landowners are responsible for compliance with the Act and may use harvesting contracts and supervision of the timber harvest to ensure their interests are being met.

Forest Cutting and the Wetlands Protection Act

The Massachusetts Wetlands Protection Act (WPA), M.G.L. Ch. 131, s. 40, allows exemptions from its filing procedures for normal maintenance and improvement of land in agricultural use that occur in wetland resource areas. These areas include water bodies, land bordering water bodies and land subject to flooding. Table 1 (see page 2) shows seven scenarios where harvesting may be exempt from regulation, or a Forest Cutting Plan must be filed with DEM, or a Limited Project application under the WPA must be filed with the local conservation commission. In situations where forest management activities occurring in wetland resource areas are regulated by local conservation commissions, landowners may qualify for an exemption from the WPA by submitting a Forest Cutting Plan and meeting all the requirements of the Act.

A new law--the Rivers Protection Act (RPA)--now regulates activities in the 200-foot strip along all perennial streams. Landowners who have a properly filed Forest Cutting Plan also qualify for an exemption from the RPA. Landowners who do not intend to file a Forest Cutting Plan for reasons listed under Table 1, but who think they may be affected by the RPA, should contact their DEM Service Forester for advice on how to proceed.

Landowners are responsible for all harvesting activities occurring on their property, even if an agent is appointed to file the required paperwork and supervise the timber harvest.

Rare Wildlife Species Habitat

Special procedures ensure the protection of rare wetlands wildlife habitat and high priority sites of rare species habitat. The DEM Service Forester consults the most recent edition of the *Massachusetts Natural Heritage Atlas* to determine if the proposed timber sale falls within either rare wetlands wildlife habitat or high priority sites of rare species habitat.

If the harvesting area overlaps with one of these designated areas, then the DEM Service Forester forwards the Forest Cutting Plan to the Massachusetts Division of Fisheries & Wildlife's Natural Heritage & Endangered Species Program (NHESP) for their review. NHESP reviews Forest Cutting Plans to determine if the proposed harvesting activities will impact the habitat and suggests measures to lessen those impacts. The DEM Service Forester then will modify the Forest Cutting Plan to incorporate appropriate mitigation measures.

Completed Operations

When an operation is complete the landowner or the designated agent shall notify the DEM regional office. The DEM Service Forester will make a final field inspection to determine whether the work conformed to the approved Forest Cutting Plan. If the work is satisfactory, the inspector signs the certificate of compliance section of the Forest Cutting Plan.

STANDARDS

A set of minimum standards for the cutting of trees, the engineering of logging roads and landings, and calculating volumes are presented in the regulations. These standards guarantee that a system of harvesting will be employed that is most likely to regenerate the stand and leave the harvest area in a stable condition. The standards are outlined below. *The Massachusetts Forestry Best Management Practices Manual, or BMP Manual* (see page 6), details activities regulated by the Act and additional practices that maintain water quality while harvesting.

Cutting Trees

Landowners' management objectives guide the type of forest cutting used while maintaining or regenerating a stand of healthy, vigorous and growing trees. Most important is that the trees marked for harvest, whether a regeneration or intermediate cut, are accurately described in the Forest Cutting Plan. A regeneration cut is designed to replace the existing stand with new trees within five growing seasons. An intermediate cutting removes trees to improve the spacing, species, overall quality, ages or sizes of trees in existing stands. After a regeneration or intermediate cut, the residual stand must contain or be capable of establishing within 5 years, sufficient numbers of healthy trees.

The visual quality of the landscape is protected with a buffer strip of 50 feet along edges of all publicly maintained ways and 100 feet on designated scenic roads. Within a buffer strip, no more than 50% of the basal area (a technical measure of tree density) can be cut at any one time and healthy, well-distributed growing trees should be left throughout the area. The landowner must wait 5 years to harvest again.

Filter strips are used to protect water quality of all water bodies and Certified Vernal Pools, a wetland wildlife habitat type specially designated by NHESP. Within a filter strip guidelines for the remaining trees are the same as in buffer strips (see above). The landowner must wait 5 years to harvest

again. The minimum width of a filter strip is 50 feet, which may increase to 100 feet if the slope is greater than 30%.

Bordering vegetated wetlands are areas along streams and water bodies that perform special water quality functions. For harvesting within bordering vegetated wetlands, guidelines for the remaining trees are the same as in buffer strips (see above).

The landowner and operator must keep tree tops and slash out of Certified Vernal Pools. If a tree top does land in the pool, the operator shall leave it only if it falls in during the amphibian breeding season, approximately March 1 through July 1.

Engineering and Logging

Most erosion and sedimentation from timber harvesting operations is due to the skidding and trucking of logs. Therefore, the Act addresses these forest engineering problems in great detail. The lay out, construction, maintenance and stabilization of roads, skid roads and skid trails shall be completed according to the principles set forth in the BMP Manual.

Adequate measures, such as drainage ditches, temporary culverts and water bars, shall be used to move water from the road surface to appropriate filter strips or hay bale impoundments. All major skid trails will be stabilized if they are to be left inactive for over one month, or at the request of the DEM Service Forester. The Forest Cutting Plan must include a narrative of the erosion control measures to be used, and special care shall be taken on sustained steep slopes.

Wetland resource areas that are to be crossed or logged must be accurately shown and labeled on the Forest Cutting Plan map. No equipment may enter bordering vegetated wetlands unless the ground is frozen, dry or otherwise stable. Every reasonable effort must be made to avoid or minimize access through wetlands by obtaining a right-of-way through abutting ownerships or rehabilitating existing accessways, if these ways cause less disturbance.

Use of temporary stream crossings must follow the principles established in the BMP Manual. Stream crossings within 1,000 feet upstream of a public water supply reservoir must use a temporary bridge. No equipment can operate within 50 feet of a waterbody or Certified Vernal Pool except at stream crossings, on a pre-existing logging road, or where environmental damage can be reduced by traveling in that area.

Harvesting operators must remove all trash from the landing. Extra wood, such as branches, cut log ends and logs must be placed neatly to improve the appearance of the landing and promote rapid decay. The soil must be stabilized and, if necessary, seeded to grass at the end of the operation. The amount of mud tracked onto a highway must be reduced to a safe level.

Volume Standards

Methods for determining volumes are detailed in the Act regulations. These methods can be used to settle disputes on timber sales exempt from the Act or where no Forest Cutting Plan was filed.

ADMINISTRATION

Penalties

Although their preferred role is to work with landowners to bring a job into compliance, the DEM Service Forester is authorized to issue a Stop Order to immediately terminate any timber harvest operation that fails to meet the law or regulations. When the problem is corrected to the satisfaction of the DEM Service Forester, the harvest may proceed. If not corrected, DEM may revoke the license of the timber harvester after a hearing, for failure to comply with the Act or its regulations.

Failure to give proper notice or to follow an approved Forest Cutting Plan is punishable by a fine of up to \$100 per acre cut in violation of, or in the absence of a Plan.

Amendments

Amendments to approved Forest Cutting Plans may be made in writing to the DEM Service Forester before a change takes place. The DEM Service Forester will follow the approval procedure outlined above, and work under the amended Plan can begin after its approval.

Timber Harvester License

Timber harvester licenses are issued annually by DEM to individuals, firms or corporations that apply and are in compliance with all local, state or federal laws and regulations governing forestland, forestry, forest harvesting, public health and safety. A landowner must have a licensed timber harvester on site whenever work is being done. This licensee must have a copy of the approved Forest Cutting Plan on site during the job and is responsible for compliance with the terms detailed in the Plan.

By contacting a DEM Service Forester at the beginning of the harvest planning process, landowners can learn right from the start what their harvesting options and responsibilities are.

CH. 132 RESPONSIBILITY CHECK LIST

LO* SF*

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|-------------------------------------|-------------------------------------|---|
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 1. Complete Cutting Plan and maps. |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 2. Send Cutting Plan to DEM Service Forester so it is received 10 business days before job begins. |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 3. Send Cutting Plan to conservation commission so it is received 10 business days before job begins. |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 4. Send Notice of Intent to Abutters 10 days before harvest begins. |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | 5. Inspect harvest area. |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | 6. Determine if proposed harvest is in rare species habitat. |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | 7. Send Cutting Plan to NHESP for their determination, if appropriate. |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | 8. Incorporate NHESP recommendations into Cutting Plan. |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | 9. Approve/disapprove Cutting Plan within 10 business days. |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | 10. Issue a certificate of approval. |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 11. Post certificate at accessway. |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 12. Ensure that harvest is conducted according to Cutting Plan. |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 13. Ensure that a copy of approved Cutting Plan is on site when work is being done. |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 14. Notify DEM Service Forester when harvest is completed. |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | 15. Conduct final field inspection of harvest site. |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | 16. Certify compliance by signing Final Report section of Cutting Plan. |

*LO = landowner

*SF = DEM Service Forester

CONTACTS

Call a DEM Service Forester for more details on the Forest Cutting Practices Act, instructions on how to file a Forest Cutting Plan, a copy of the BMP Manual (see page 6), as well as information on other forestry-related issues.

DEM Regional Offices

Region 1: Barnstable, Bristol,
Dukes, Nantucket, Plymouth
P.O. Box 66
South Carver, MA 02366
(508) 866-2580

Region 2: Essex, Middlesex, Norfolk
P.O. Box 829
Carlisle, MA 01741
(978) 369-3350

Region 3: Worcester
P.O. Box 155
Clinton, MA 01510
(978) 368-0126

Region 4: Franklin, Hampden,
Hampshire
P.O. Box 484
Amherst, MA 01004
(413) 545-5993

Region 5: Berkshire
P.O. Box 1433
Pittsfield, MA 01202
(413) 442-8928



READINGS

Massachusetts Forestry Best Management Practices Manual, by D. Kittredge and M. Parker. 1995. Also known as the BMP Manual, this field guide gives details on how to meet current harvesting regulations as well as recommendations for other methods needed to complete a sound harvesting job. To order, contact a local DEM Service Forester or DEM regional office.

The Forest Stewardship Source Book: Information & Services for Massachusetts Forest Landowners, by S. Campbell, G. Cox and H. Bowdoin. 1996. A guide to the world of forestry in Massachusetts, this booklet refers landowners to the best available publications, professional services, programs, relevant organizations and more. To order, contact Massachusetts Forestry Association at 413-323-7326. Price is about \$5.00 plus postage.

Forested Wetlands: Functions, Benefits and the Use of Best Management Practices, by D. Welsch, et al. USDA Forest Service Bulletin NA-PR-01-95. Free. To order, write USDA Forest Service, State & Private Forestry, P.O. Box 640, Durham, NH 03824, or call 603-868-7686.

Credits

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