

§1880. Control of timber harvesting operations

1. Restricted zone; timber harvesting. Timber harvesting operations are not permitted within the restricted zone, except:

A. By direction of the bureau for the purpose of maintaining healthy forest conditions; or [PL 1997, c. 678, §13 (NEW); PL 2011, c. 657, Pt. W, §7 (REV); PL 2013, c. 405, Pt. A, §24 (REV).]

B. By direction of the bureau for the purpose of correcting situations arising from natural disasters. [PL 1997, c. 678, §13 (NEW); PL 2011, c. 657, Pt. W, §7 (REV); PL 2013, c. 405, Pt. A, §24 (REV).]

[PL 2003, c. 452, Pt. F, §3 (AMD); PL 2003, c. 452, Pt. X, §2 (AFF); PL 2011, c. 657, Pt. W, §7 (REV); PL 2013, c. 405, Pt. A, §24 (REV).]

2. Waterway outside restricted zone.

[PL 2003, c. 452, Pt. F, §4 (RP); PL 2003, c. 452, Pt. X, §2 (AFF).]

3. Restricted zone; herbicides. The spraying of herbicides is prohibited within the restricted zone.

[PL 2003, c. 452, Pt. F, §5 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

4. Restricted zone; aircraft. A person may not fly an aircraft equipped to spray herbicides lower than 500 feet above ground level over any portion of the restricted zone.

[PL 2003, c. 452, Pt. F, §5 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

5. Waterway outside restricted zone. A person may not:

A. Commence a timber harvesting operation in the waterway outside the restricted zone without consultation with or, when required under subsection 6, paragraph B, written approval from the bureau; or [PL 2003, c. 452, Pt. F, §5 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF); PL 2011, c. 657, Pt. W, §7 (REV); PL 2013, c. 405, Pt. A, §24 (REV).]

B. Commence a herbicide application in the waterway outside the restricted zone without written approval from the bureau under subsection 6, paragraph B. [PL 2003, c. 452, Pt. F, §5 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF); PL 2011, c. 657, Pt. W, §7 (REV); PL 2013, c. 405, Pt. A, §24 (REV).]

[PL 2003, c. 452, Pt. F, §5 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF); PL 2011, c. 657, Pt. W, §7 (REV); PL 2013, c. 405, Pt. A, §24 (REV).]

6. Operations and application outside restricted zone. The following requirements apply to timber harvesting and herbicide application in the waterway outside the restricted zone.

A. Before a timber harvesting operation is commenced in the waterway outside the restricted zone, a management plan must be submitted to the bureau. The plan must contain:

- (1) A description of the proposed timber harvesting operation that includes the type of cutting;
- (2) The amount of timber proposed to be removed;
- (3) The time of year of cutting and removal;
- (4) The location of principal haul roads and crossings in the waterway to be used in connection with the proposed timber harvesting operation;
- (5) A plan for reforestation;
- (6) A stand table indicating species composition, size class and health of the original and residual stands;
- (7) The expected date of reentry;

(8) A pesticide or other chemical treatment planned, excluding the use of herbicides before December 1, 1990; and

(9) A plan for mitigating evidence of harvesting.

When a permit is not required under paragraph B, those who are submitting the management plan shall cooperate with the bureau to address any concerns of the bureau. [PL 2003, c. 452, Pt. F, §5 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF); PL 2011, c. 657, Pt. W, §7 (REV); PL 2013, c. 405, Pt. A, §24 (REV).]

B. When the bureau determines that a timber harvesting operation or herbicide application is proposed for an area in the waterway outside the restricted zone and visible from the watercourse, that operation may commence only with approval from the bureau. A request for approval on a form provided by the bureau must be completed and signed by the applicant. This paragraph may not be construed to excuse the applicant from obtaining other permits required by law. [PL 2003, c. 452, Pt. F, §5 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF); PL 2011, c. 657, Pt. W, §7 (REV); PL 2013, c. 405, Pt. A, §24 (REV).]

C. The bureau shall, within 30 days of receipt of a form requesting approval, either approve in writing the proposed timber harvesting or herbicide application upon terms and conditions the bureau determines are appropriate and reasonable or disapprove the request, setting forth in writing the reasons for the disapproval. If a decision is not made within the 30 days, the request for the timber harvesting operation or herbicide application is considered approved under the provisions of the management plan submitted. [PL 2003, c. 452, Pt. F, §5 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF); PL 2011, c. 657, Pt. W, §7 (REV); PL 2013, c. 405, Pt. A, §24 (REV).]

D. The bureau shall approve a timber harvesting operation or herbicide application when it finds that the management plan provides for the silvicultural alternative that:

(1) Produces the least adverse impact upon the natural character of the area in the waterway outside the restricted zone and visible from the watercourse for which the timber harvesting operation or herbicide application is proposed; and

(2) Is economically feasible, except that an applicant may waive the requirement of a finding of economic feasibility. [PL 2003, c. 452, Pt. F, §5 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF); PL 2011, c. 657, Pt. W, §7 (REV); PL 2013, c. 405, Pt. A, §24 (REV).]

E. Notwithstanding the provisions of paragraph D, the bureau may not deny approval for the removal of trees that are dead, dying or damaged by natural causes. [PL 2003, c. 452, Pt. F, §5 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF); PL 2011, c. 657, Pt. W, §7 (REV); PL 2013, c. 405, Pt. A, §24 (REV).]

F. Before disapproving a request for approval or imposing terms and conditions under paragraph C, the bureau shall have the request for approval and the management plan reviewed by an experienced professional forester. [PL 2003, c. 452, Pt. F, §5 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF); PL 2011, c. 657, Pt. W, §7 (REV); PL 2013, c. 405, Pt. A, §24 (REV).]
[PL 2003, c. 452, Pt. F, §5 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF); PL 2011, c. 657, Pt. W, §7 (REV); PL 2013, c. 405, Pt. A, §24 (REV).]

7. Violations. The following penalties apply to violations of this section.

A. Except as otherwise provided in this subsection, a person who violates any provision of this section or rules adopted or permits issued under this section commits a civil violation for which a fine of up to \$1,000 for each day of the violation may be adjudged. [PL 2003, c. 452, Pt. F, §5 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

B. A person who intentionally or knowingly falsifies any statement contained in a management plan or application under this section commits a civil violation for which a fine of up to \$1,000 may be adjudged. [PL 2003, c. 452, Pt. F, §5 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

C. A person who violates the herbicide provisions of this section is subject to the penalties of Title 22, section 1471-J. [PL 2003, c. 452, Pt. F, §5 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

In addition, the bureau may in the name of the State institute any appropriate action, injunction or other proceeding to prevent, restrain, correct or abate any violation of this subchapter or of the rules or permits issued under this subchapter as provided in section 1884.

[PL 2003, c. 452, Pt. F, §5 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF); PL 2011, c. 657, Pt. W, §7 (REV); PL 2013, c. 405, Pt. A, §24 (REV).]

SECTION HISTORY

PL 1997, c. 678, §13 (NEW). PL 2003, c. 452, §§F3-5 (AMD). PL 2003, c. 452, §X2 (AFF). PL 2011, c. 657, Pt. W, §7 (REV). PL 2013, c. 405, Pt. A, §24 (REV).

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