



UNIVERSITY of NEW HAMPSHIRE
COOPERATIVE EXTENSION

Guide to New Hampshire Timber Harvesting Laws



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NH's Working Forest

One of New Hampshire's most attractive features is its rural landscape, which serves as the foundation for the state's \$1.7 billion forest products industry. New Hampshire's working forest also provides a spectacular backdrop that attracts tourists—our state's number one industry.

Three centuries ago Europeans, who settled New Hampshire, encountered vast forests. By 1850, land clearing for farms and pastures reduced forest cover to about 45% statewide. By 1998, the forest cover rebounded to an estimated 84%.

Of New Hampshire's approximately 5.75 million acres of land area, 84% (4.8 million acres) is forested. Of this forested acreage, 94% (4.5 million acres) is classified as timberland. Timberland is defined as land that is producing or capable of producing crops of wood.

New Hampshire's forests are mostly in private ownership. Of the total area of timberland in New Hampshire, over 80% (3.6 million acres) is privately owned. This leaves approximately 20% of New Hampshire forest in public ownership: either federal, state or municipal.

New Hampshire Forest Facts:

- Forests covers 84% of the state's landscape
- 80% of New Hampshire's timberlands are privately owned
- Yearly, the forest products industry contributes \$3.9 billion to the state's economy
- \$1.05 billion of tourist spending each year is attributable to open space
- 4.8 million acres of New Hampshire forest is capable of growing trees

Growing concern about timber harvesting, whether for forest management or for land development, has led, in some situations, to the development of local ordinances. Sensing that increased local regulation could indeed threaten the "working forest," in 1989 the New Hampshire state legislature formally recognized the importance of forestry to the state through amendments to the local planning and zoning, enabling legislation. RSA 672:1, III c, now reads:

IIc. Forestry, when practiced in accordance with accepted silvicultural principles, constitutes a beneficial and desirable use of New Hampshire's forest resource. Forestry contributes greatly to the economy of the state through a vital forest products industry, and to the health of the state's forest and wildlife resources through sustained forest productivity, and through improvement of wildlife habitats. New Hampshire's forests are an essential component of the landscape and add immeasurably to the quality of life for the state's citizens. Because New Hampshire is a heavily forested state, forestry activities, including the harvest and transport of forest products, are often carried out in close proximity to populated areas.

Further, the harvesting of timber often represents the only income that can be derived from property without resorting to development of the property for more intense uses, and pursuant to RSA 79-A:1, the state of New Hampshire has declared that it is in the public interest to encourage the preservation of open space by conserving forest and other natural resources. Therefore, forestry activities, including the harvest and transport of forest products, shall not be unreasonably limited by use of municipal planning and zoning powers or by the unreasonable interpretation of such powers, ...



Privately-owned, undeveloped land stands a better chance of remaining undeveloped if landowners receive income through the production of crops, livestock, or forest products. Towns also receive important revenue from timber harvests, as 10 percent of the stumpage value of the trees harvested is paid to the town in the form of the yield tax. Furthermore, assuring the economic viability of timber land and tailoring regulations to promote rather than hinder this goal may be the best means of conserving space in New Hampshire.

The University of New Hampshire Cooperative Extension and Society for the Protection of NH Forests completed economic studies of several communities demonstrating the economic value of open-spaced land. The cost of community services process was used to compare residential, commercial, industrial and open-space land use categories in each community. Cost of community services studies demonstrate that open space is an economic asset contributing to the stability of community tax rates. While there are many people who challenge the value of open space as a contributor to gross revenues and property taxes, research indicates otherwise. Clearly, each community should assess its own fiscal situation from both sides of the balance sheet, both revenue and costs.

Introduction to Forestry Laws

New Hampshire has laws and regulations designed to encourage responsible timber harvesting and minimize environmental impact of logging. Landowners, loggers, foresters have the responsibility to know and understand New Hampshire's timber harvesting laws. In addition, municipal officials have the authority and responsibility to work with state agencies to ensure that these laws are consistently enforced.

This publication is intended to assist municipal officials as they carry out their responsibilities. The guide presents the following information:

- Why and how town officials are to be notified of timber harvesting
- State laws regarding timber tax assessment
- State laws that protect wetlands and water resources during timber harvesting
- State laws that regulate timber harvesting operations
- Local official's role in enforcing state laws
- State agencies responsible for enforcing these laws and who to contact for enforcement assistance.

Help is available

New Hampshire forest landowners have several options available to help them with forest management. The UNH Cooperative Extension forest resource educators, located in each county, are available to provide objective guidance toward accomplishing forest management goals (see page 32). To assist in developing forest management plans and/or to implement a timber harvest, landowners are strongly encouraged to use the services of licensed foresters. A list of licensed foresters is available through the UNH Cooperative Extension's Forestry Information Center at (800) 444-8978.

New Hampshire state laws, developed over the last several decades, address concerns related to timber harvesting. The effectiveness of these laws depends a great deal on the awareness of landowners and loggers, and the commitment of state and local officials to bring problems to the attention of enforcing agencies. The services of state forest rangers, the state timber tax appraiser, UNH Cooperative Extension educators in forest resources, licensed foresters, and professional timber harvesters are available to help evaluate potential timber harvesting problems. **See pages 35 and 36 for listings of those agencies offering assistance.**

Current Use Law

The following page of information is excerpted from “A Layperson’s Guide to NH Current Use.”

In 1998, New Hampshire’s landmark current use law, RSA 79-A, celebrated 25 years as one of the nation’s simplest and most effective open space taxation programs. As the state becomes more dependent on the property tax to fund municipal services, the importance of the current use increases. Approximately 3 million acres are enrolled in the current use program by some 27,000 landowners.

What is current use?

Current use is a property taxing strategy designed to encourage landowners to keep their open space undeveloped. Rather than a property being taxed at its real estate market value, the land is taxed on its income producing capability. For example, through current use, land may be taxed as a woodlot or a farm, not as a potential site for houses.

Undeveloped farmland, forestland, and certified Tree Farms, may all enroll in current use. The law also covers land such as wetlands and other sites unsuitable for agriculture or forest products. Land in current use can be posted against trespassing, but owners receive additional tax savings if they keep their land open and without fee all year for hunting, fishing, snowshoeing, hiking, skiing, and nature observation. The Current Use Board also recognizes that there are extra costs associated with good forest management. Owners who meet criteria for forestland, with documented stewardship, may receive lower assessments.

Typically, land holdings must be at least 10 acres. Buildings and other improvements, such as driveways and septic systems, are excluded from current use.

Land is not automatically enrolled in current use. Landowners must apply to their town, committing their land to open space conservation. The selectman, town forester, or other assessing official appraises the land using criteria established by the state Current Use Board. Like other types of real estate, this valuation is equalized annually for the purpose of assessing taxes.

When land is developed, or an owner otherwise changes its use to one not qualifying for current use, a land use change tax is charged. The rate is 10% of the “full and true value” of the land, and is usually assessed at the time the physical change has begun. A study by D. E. Morris at UNH, *Town Incomes for the Land Use Change Tax 1980-1987*, shows that when land comes out of current use, towns receive more than the tax revenue they would have received had they simply taxed the land at a higher rate all along, rather than allowing the land to be in current use.

For more information about Current Use, or a copy of *A Layperson’s Guide to NH Current Use*, contact the Statewide Program of Action to Conserve Our Environment (S.P.A.C.E.) (603) 224-3306. The Department of Revenue Administration (603) 271-2687 is also a source for information on current use rules and assessment rates.

www.revenue.nh.gov/munc_prop/documents/2008CUBooklet.pdf

Timber Tax Law

Notice of Intent to Cut (RSA 79:10)

The State of New Hampshire has a real estate tax and by definition timber is considered to be real estate, and therefore taxable. However, the method in which it is taxed is different from other real estate and is describe in the State Constitution. Timber is taxed only at the time it is cut and at a rate which encourages the growing of timber. In order for the municipal assessing officials to be aware of cutting operations they must be notified of the cutting by the owner filing a notice of intent to cut timber. The Notice of Intent, which is required by law, notifies the assessing officials, NH Department of Revenue (DRA) and the NH Division of Forests and Lands. Timber on all land ownership is taxable at 10% of the stumpage value at the time of cutting. The only exceptions are as follows:

Items 1-6, no Intent to Cut required and timber not taxable by the owner

1. 10 MBF* saw logs and 20 cords fuel wood for personal use by the owner. (RSA 79:1 II(b) 1 &2)
2. 10 MBF saw logs and 20 cords of wood for land conversion purposes when all permits for the conversion have been received. (RSA 79:1 II (b) 5)
3. Shade and ornamental trees, usually considered to be trees within striking distance of a building. (RSA 79:2)
4. Christmas trees, fruit trees, and nursery stock and short rotation tree fiber. (RSA 79:2)
5. Any amount of firewood for maple syrup production. (RSA 79:1 II (b) 2)
6. Government and utilities not selling the wood. (RSA 79:1 II (b) 3 & 4)

The Notice of Intent to Cut must be completed with a volume estimate. The form must be assigned a number (in accordance with guidelines provided by the Commissioner of Revenue Administration) and signed by the assessing officials before any cutting requiring a notice can start. The original volume estimate cannot be exceeded without filing a Supplemental Notice of Intent to cut for additional volumes. Notice of Intent to Cut forms are available from the DRA and the town.

Town officials have 30 days to assign a number and sign the Notice of Intent to Cut form (RSA 79:3a III). Town officials may withhold a number & signing **only** for the following reasons:

1. The form has been improperly filled out (RSA 79:10);
2. Land is enrolled in the unproductive current use category that does not allow timber harvesting. (RSA 79-A:2,XIII, Current Use Administrative Rule Cub 305.02 (b);
3. A timber tax bond is required but has not been posted (RSA 79:3-a).
4. All owners of record have not signed the Notice of Intent to Cut (RSA 79:1,II). All owners of record are listed on the property record card.

If town officials have not acted on the Intent to Cut within 30 days of receipt, the landowner should contact DRA, which then inquires with the town as to the status of the paperwork. If municipal officials are withholding signing, the landowner or person responsible for cutting should be notified in writing by the town as to the reasons within 30 days of receipt of the Notice of Intent to Cut by the town. The owner shall be supplied a copy of the Notice of the Intent to Cut upon request.

*Mbf stands for one thousand board feet

A timber cutting operation may not start until one of the following are posted in a conspicuous place within the area of cutting:

1. The Timber Tax Certificate from the DRA;
2. A copy of the Notice of Intent to Cut signed by the assessing officials with the operation number;
3. A copy of the Notice of Intent to Cut with the operation number along with the date, time and name of municipal official or employee who provided the operation number.

THE STATE OF NEW HAMPSHIRE
DEPARTMENT OF REVENUE ADMINISTRATION
PROPERTY APPRAISAL, PO BOX 487, CONCORD, NH 03302-0487
TEL.: (603) 271-2687

TIMBER TAX CERTIFICATE
POST IN A CONSPICUOUS PLACE WITHIN
THE AREA OF OPERATION

THIS CERTIFICATE EXPIRES MARCH 31, 2010

OPERATION: _____

This certifies that
in accordance with the provision of RSA 79:10 filed in the
town/city of _____
and with the Department of Revenue Administration a Notice of
Intent to Cut Growing Wood and Timber on Tax Map and Lot # _____

Tax Year 20__ - 20__

ISSUED BY:
JESSE BUSHAW, TIMBER TAX APPRAISER
DEPARTMENT OF REVENUE ADMINISTRATION

PA-6
Rev 1/08

Tax Responsibility: (RSA 79:1 II(a))

The responsibility for the timber tax depends on the type of ownership and must be one of the following:

1. Landowners with timber rights on their own land.
2. Persons with deeded timber rights on land they previously owned
3. Persons purchasing timber on public lands (federal, state, county, town, etc).

Timber Tax Bond: (RSA 79:10-a)

A timber tax bond, payable to the town, is required unless:

- real property (including land and buildings) is owned in the town where the cutting is to take place; and
- the owner(s) is current on property taxes including timber tax. All other owners must post a timber tax bond before the Notice of Intent to Cut is signed. Timber tax bonds are usually equal to the expected timber tax.

Report of Wood Cut: (RSA 79:11)

Report of Wood Cut forms are sent to the owners filing a notice along with a certificate which should be posted at the job site. Reports of wood cut must be filed with the town within 60 days of completion or by May 15, whichever comes first. Extensions are allowed upon written request by the owner to the assessing officials prior to April 1. The report form serves as the basis for determining the timber yield tax.

Appeal Process: (RSA 79:7-a, 79:8; 79:9-a)

If a taxpayer believes he or she has been overtaxed, the taxpayer must appeal to the town within 90 days of the tax bill. If the town denies the appeal then the taxpayer may appeal to the Board of Land and Tax Appeals within 180 days of the tax bill for an appeal board hearing. "The Guideline to Assessing Timber" is available from DRA to assist owners and towns in proper assessment of timber per NH timber tax law.

Penalties, Doomage and Enforcement: (RSA 79:12) (RSA 21:J 39) (RSA 79:28 & 28-a)

Fines for non-compliance range up to \$2000. A doomage penalty may be assessed for improper reporting. (Doomage is two times what the tax would have been if the report had been seasonably filed and truly reported.) The DRA and Division of Forests and Lands have authority to issue a cease and desist order for any cutting operation in violation of RSA 79.

This is only a synopsis of the law, for further clarification refer to the New Hampshire statutes (www.nh.gov) or call (603) 271-2687 Department of Revenue Administration, Property Appraisal Division.

FORM
PA-7

NEW HAMPSHIRE DEPARTMENT OF REVENUE ADMINISTRATION
NOTICE OF INTENT TO CUT WOOD OR TIMBER

RSA 79:10
See instructions on back.

YR	TOWN	OP#	T

For Tax Year April 1, 20____ to March 31, 20____

PLEASE TYPE OR PRINT

1 City/Town of _____

2 Tax Map No./Lot or USFS sale name & unit #: _____

3 Is this intent an: Original
Supplemental Orig. Oper. # _____

4 Name of road from which accessible: _____

5 a Acreage of lot: _____ Acreage of cut: _____

b Anticipated start date: _____

6 Type of ownership (check only one):

a Owner of Land and Stumpage.....

b Previous owner retaining previously deeded timber rights....

c Owner of stumpage & timber rights on public lands
(Fed., state, municipal, etc.) or Utility Easements.....

Report of Cut Form/Certificate to be sent to:

OWNER LOGGER/FORESTER

7 I/We hereby accept responsibility for reporting all timber cut within 60 days after the completion of the operation or by May 15, whichever comes first. I/We also assume responsibility for any yield tax which may be assessed. (If a corporation, an officer must sign)

Timber Tax Information is Available at www.revenue.nh.gov
Questions?? Call (603) 271-2687

A
SIGNATURE OF OWNER(S) OR CORPORATE OFFICER _____ DATE _____

B
SIGNATURE OF OWNER(S) OR CORPORATE OFFICER _____ DATE _____

C
CORPORATE OFFICER NAME AND TITLE _____

PRINT OWNER(S) NAME _____

MAILING ADDRESS _____

CITY/TOWN _____ STATE _____ ZIP CODE _____

Tele. No.: () _____

FOR ASSESSING OFFICIALS ONLY

The selectmen/assessing officials hereby certify that:
 1 All owners of record have signed intent;
 2 The land is not under the Current Use-unproductive category;
 3 The form is complete and accurate; and
 4 Any timber tax bond required has been received.
 Enter Amount of Timber Tax Bond Required and Date Posted:
 \$ _____ Date _____
 5 The tax collector will be notified within 30 days of receipt per RSA 79:10;
 6 This form to be forwarded to DRA within 30 days.

8 Description Of Wood Or Timber To Be Cut

Species	Estimated Amount To Be Cut	
White Pine		MBF
Hemlock		MBF
Red Pine		MBF
Spruce & Fir		MBF
Hard Maple		MBF
White Birch		MBF
Yellow Birch		MBF
Oak		MBF
Ash		MBF
Beech & Soft Maple		MBF
Pallet or Tie Logs		MBF
Others (Specify)		MBF
Pulpwood:	Tons	or Cords
Spruce & Fir		
Hardwood & Aspen		
Pine		
Hemlock		
Whole Tree Chips		
Miscellaneous:		
Birch Bolts		Cords
Cordwood & Fuelwood		Cords

9 Species and Amount of Wood or Timber For Personal Use or Exempt. See exceptions on back of form.

Species:	Amount:

10 By signing below, the Logger/Forester or person responsible for cutting hereby accepts responsibility for verifying the volumes of wood and timber to be reported by the owner. I have become familiar with RSA 227-J, the timber harvest laws.

SIGNATURE OF LOGGER/FORESTER OR PERSON RESPONSIBLE FOR CUTTING _____ DATE _____

PRINT NAME _____ TELEPHONE _____

MAILING ADDRESS _____

CITY/TOWN _____ STATE _____ ZIP CODE _____

Signature (in ink) of Assessing Official _____ Date _____

Signature (in ink) of Assessing Official _____ Date _____

Signature (in ink) of Assessing Official _____ Date _____

PA-7
Rev 7/04

NEW HAMPSHIRE DEPARTMENT OF REVENUE ADMINISTRATION
NOTICE OF INTENT TO CUT WOOD OR TIMBER
RSA 79:10

GENERAL INSTRUCTIONS

WHO MUST FILE	The owner shall complete the Notice of Intent to Cut Wood or Timber (Intent), Form PA-7, and shall file the form with the municipality (town, city or unincorporated place) where the property is located.
WHEN TO FILE	The Notice shall be to the assessing officials at the beginning of each tax year or prior to commencing each cutting operation. Cutting cannot take place until the form is signed and numbered by the assessing officials and any bond, if required, has been posted.
WHERE TO FILE	Return the form to the municipality to obtain signatures of the assessing officials in the space provided and the required assigned number on the Notice of Intent to Cut Wood or Timber. You may need to post a Timber Tax Bond, see below. All copies must be signed by the assessing officials before distribution. DISTRIBUTION: White copy - Municipality, Yellow and Pink copy - NHDRA, Green copy - Logger and the Goldenrod copy - Owner.
WHO MUST PAY	After the Report is filed the municipality will issue a tax bill to the owner and payment shall be remitted directly to the municipality. The Timber Tax is a 10% tax on the stumpage value at the time of cutting.
REPORT & CERTIFICATE	Once signed, the proper copies shall be forwarded by the municipality to the owner and to the New Hampshire Department of Revenue Administration (NHDRA). After the copies of the Notice of Intent have been received by the Department, a Report of Wood or Timber Cut, Form PA-8, and a Certificate will be issued by the Department. The Certificate should be posted in a conspicuous place within the area of the cutting.
EXCEPTIONS	RSA 79:1, II, (b) The following persons shall not be required to file an intent to cut or be subject to the Timber Tax: (1) A person who cuts, within the tax year, up to 10,000 board feet of logs from his own land for use in the construction, reconstruction, or alteration of his own buildings, structures, or fences situated in the state of New Hampshire; provided that such buildings are not being built for sale purposes; (2) A person who cuts or causes to be cut, within the tax year, up to 20 cords of fuel wood for his own consumption in the state of New Hampshire for domestic fuel purposes, or any amount for the manufacture of maple sugar or syrup; (3) Federal government, state government, cities, towns, school districts, or other political subdivisions which cut wood or timber for their own use, on lands under their ownership or jurisdiction or both. (4) Persons engaged in the clearing or maintaining of rights-of-way or water storage reservoir areas incidental to the furnishing of utility services or transportation services to the public; provided, however, that when the person clearing or causing the clearing of said right-of-way sells or agrees to sell the wood or timber, he shall be deemed to be an "owner" as defined in subparagraph (a) above. (5) A person who cuts or causes to be cut, within the tax year, up to 10,000 board feet of logs and 20 cords of wood or the equivalent in whole tree chips, from the person's own land within a municipality, for land conversion purposes other than timber growing and forest uses, provided that those persons intending to convert the use of the land have secured all required permits including, but not limited to, building permits, subdivision or zoning permits, excavation permits, or site plan approvals, as necessary for the use to which the land will be converted, and are able to furnish proof of such permits. RSA 79:2 Release From Taxes. (6) All growing wood and timber except fruit trees, sugar orchards, nursery stock, Christmas trees, and trees maintained only for shade or ornamental purposes or for genetically-engineered short rotation tree fiber, which shall not be subject to the yield tax, shall be released from the general property tax and the school tax in unincorporated places provided for in RSA 198:16, but the land on which such growing wood and timber stands shall be assessed.
TIMBER TAX BOND	Owners of land within the municipality where the cutting is to take place and that are current on property taxes and timber taxes are not required to post a timber tax bond. All others must post a Timber Tax Bond before the Notice of Intent to Cut Wood or Timber is signed. Timber Tax Bonds are equal to the expected timber tax.
NEEDHELP	Call the Department's, Community Services Division, at (603) 271-2687. Hearing or speech impaired individuals may call TDD Access: Relay NH 1-800-735-2964.
NEED FORMS	Forms may be obtained from the New Hampshire Department of Revenue Administration at PO Box 487, Concord, NH 03302-0487 or by calling (603) 271-2687.
TDD ACCESS	Individuals who need auxiliary aids for effective communication in programs and services of the Department of Revenue Administration are invited to make their needs and preferences known to the Department. TDD Access: Relay NH 1-800-735-2964.

LINE-BY-LINE INSTRUCTIONS

LINE 1	Enter the name of the New Hampshire municipality where the cut is to take place.
LINE 2	Enter the municipality assigned tax map and lot number and the US Forest Service Sales sale name and unit number.
LINE 3	Indicate if the notice of Intent is an original or supplemental. Original means the first filing in a tax year. Supplemental means an additional filing to make corrections or additions to information contained on the original form. If this is a supplemental, enter the original operation number as previously assigned by the municipality.
LINE 4	Enter the name of the road from which the cutting will be accessible.
LINE 5	Enter the total number of acres in the lot, the number of acres you are working on, and the anticipated start date of the cutting.
LINE 6	Check the box to indicate whether you are the owner of land and stumpage, previous owner retaining previously deeded timber rights, or owner of stumpage & timber rights on public land or a utility easement. Check the box indicating if the Report and Certificate should be sent to the owner(s) or Logger/Forester.
LINE 7	The form must be signed and dated by all owners of the property. Clearly print the complete mailing address and telephone number of the owner(s).
LINE 8	Enter the estimated amount of timber to be cut by thousand board feet (MBF), tons or cords under the proper heading by species. The cutting should take place during the tax year April 1 to March 31. Before exceeding the original estimate, a supplemental Notice of Intent to Cut must be filed for additional volumes of timber.
LINE 9	Enter the species of any amounts not included on lines 8 you are claiming an exception for and the amount of the cut in the space provided. [See exceptions numbered (1) through (6) above.]
LINE 10	The form must be signed and dated by the Logger/Forester or person responsible for the cutting who accepts responsibility for verifying the volumes of wood to be reported by the owner. The person signing should be familiar with RSA 227-J, the timber harvest laws. Clearly print the name, complete mailing address and telephone number of the Logger/Forester or person responsible for cutting.

Guide to Determining Stumpage* Value in accordance with RSA 79 New Hampshire Timber Tax (See RSA 79:1 III “Stumpage Value”)

The following is a guide to assist municipalities in assessing stumpage value and to assist owners in providing supporting evidence to municipalities when proving the reasonableness of a claim of excessive stumpage value assessment. The burden of proof is upon the owner to demonstrate the reasonableness of a claim. The assessing officials are charged to assess the full and true stumpage value at the time of cutting in the same manner as other property values pursuant to RSA 75:1.

When assessing the value of wood and timber, the following factors should be considered:

1. Value is based on the most probable price that would be paid, not the average, highest or lowest price.
2. Value recognizes the highest and best use of the wood and timber.
3. Value is expressed in terms of money.
4. Value recognizes that the timber was exposed to the open market for a reasonable time.
5. Value recognizes that both buyer and seller are informed of the uses to which the wood and timber may be used.
6. Value assumes an arm’s length transaction in the open market. In other words there is no special relationship or collusion between the buyer and seller.
7. Value assumes a willing buyer and willing seller, with no advantage being taken by either party.

The assessing officials shall take into consideration the quality and location of the timber, the size of the sale, and any other factors necessary to harvest the wood or timber that affect the value of timber being cut. Assessing officials shall consider stumpage prices, allowing for costs incurred by the owner to improve access, i.e., road costs. Only costs which are necessary and reasonable to access and remove stumpage can be considered. Furthermore, some costs such as road improvement, should be prorated over the entire volume of wood favored by the cost. If only a portion of the wood is being cut, which was accessed by the construction of a road, then only that portion of the cost of the road can be charged against the cutting operation during that year. Costs created by constraints within a timber sale contract which limit operating beyond federal, state and local requirements and which are not necessary, i.e., specific logging equipment, aesthetic concerns, cannot be charged against the operation.

The assessing officials shall consider the stumpage price paid for standing timber when reviewing a claim of over-assessment. If the assessing officials disagree that the price paid is an accurate indication of assessed value, then they must inspect the property and assess in accordance with RSA 79:1.

The following evidence may be submitted by the owner to support a claim for abatement to the assessing officials:

1. Competitive bid results
2. Timber sales contract
3. Costs incurred to access and remove timber
4. Timber inventory of wood lot (for proration of road costs).
5. Map showing road locations

*Stumpage is standing timber or timber “on the stump.”

6. Comparative, competitive bid results during the same time period of the cutting operation being assessed indicating prices paid for similar wood or timber.
7. Payment received for harvested timber at purchasing mill, deducting expenses to truck, yard, and cut.
8. Road and landing construction costs incurred to access and remove the timber.
9. Timber sale contracts not a result of competitive bid may be a poor indication of full and true value. Incidental services received by the owner, rather than stumpage payment, must be considered.

Note: Actual numbers are needed, reasons such as “taxes are too high” are not sufficient reasons for abatement. Professional fees, i.e., foresters fees or commissions, timber marking, sale layout and supervision, are considered to be an option of the owner and not necessary costs to be considered.

The following is one practical approach towns may use to assess timber. This matrix attempts to satisfy the need to obtain factual information regarding the location of the timber, quality of the timber, and the size of the cutting operation:

	POOR	AVERAGE	GOOD
Quality of timber (height, diameter, defect)	0	1	2
Location of timber (access restrictions, distance to maintained public road and physical geography)	0	1	2
Size of sale (Acreage of lot and volume per acre)	0	1	2

Assessing Timber – An Example

Rating	Percentage Within Range
0	0%
1	17%
2	33%
3	50%
4	66%
5	83%
6	100%

Example: If the white pine stumpage DRA range is \$80-\$180/MBF ** and the quality, location and size of sale are average, poor and large respectively. The calculated scale would be 1 for quality, 0 for location and 2 for size of sale, for a total of 3 out of a maximum possible of 6 or 50%. 50% of the difference (\$100) between \$80 and \$180 is \$50 which, when added to the base of \$80 arrives at an assessment of \$130 per MBF for white pine stumpage with these specific attributes. (Refer to the Timber Tax Assessment Worksheet Appendix 1)

****For current stumpage ranges check DRA website at:
http://www.revenue.nh.gov/munc_prop/avgstumpval.htm**

The Department of Revenue Administration will assist municipalities in proper assessing procedure for timber and in reviewing documentation submitted to demonstrate the reasonableness of a claim of timber value by an owner. Owners may engage the services of a licensed forester or other professional to present a claim.

Time Line for Timber Tax Reporting (For Municipal Use)

Tax Year April 1 through March 31

- March 31 Last day an owner may request a Notice of Intent to Cut extension. (In writing to the selectman by the owner.)
- May 1 Time to send cordial reminder that reports are due May 15. (All reports due except those that have an extension)
- May 15 Reports due (without report extension).
- May 16 Time to send stern letter requesting reports no later than June 1.
- June 1 Reports due (No further extensions can be granted).
- June 2 Notify DRA timber tax appraiser of late Reports. (Estimate of cut volume to be made for doamage penalty purposes.)
- June 30 A timber harvest granted an extension must be completed.
- August 15 Extended operation report due.

Forest Management and Wetlands

A forest management plan that includes timber harvesting should incorporate regulatory requirements into the planning process. Many timber harvesting operations encounter wetlands or surface water during logging and must implement measures to eliminate or reduce impact and obtain appropriate permits. The purpose of this section is to explain what areas are regulated by the Department of Environmental Services (DES) and how you can identify them.

What is the New Hampshire wetlands law?

Wetlands and surface water are regulated under RSA 482-A, which was enacted in 1969. The law states “no person shall excavate, remove, fill, dredge, or construct a structure in surface water, bank, or a wetland without a permit from the Department of Environmental Services.”

The purpose of the law is to protect tidal and fresh waters and wetlands from unregulated alteration. Why the protection? The legislature recognizes that these areas are valuable to the State of New Hampshire based on the functions they provide. Wetland functions include nutrients and pollutant filtering, storm water retention, and wildlife habitat.

The permitting process allows DES to evaluate projects and their impacts on a wetland’s functions. In 1989, the law was modified to allow the timber industry to use a notification process for minimum impact projects instead of using the standard application process. The notification offers an opportunity for DES to monitor projects, but allows harvesting to begin with minimal delay provided that proper crossings are installed, the crossing is the alternative with the least impact to the wetlands, and the Best Management Practices (BMPs) are used.

What areas are regulated?

DES regulates dredge and fill activity in freshwater and tidal wetlands. DES defines a wetland as an area that is inundated by surface or ground water at a frequency and duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions. In other words, it is an area where you find specific plants that can grow in wet soil conditions.

Dredge and fill activities in surface water are also regulated. These areas include tidal waters, lakes, ponds, rivers, brooks, and seasonal or “intermittent” streams. Intermittent is defined as a stream which does not flow year round, but flows long enough to form a defined channel or have wetland vegetation establish. Activities in intermittent streams are regulated during all times of the year, even when they are dry.

The bank adjacent to surface waters is another jurisdictional area in which dredge and fill activities are regulated. A break in slope marks the top of the bank, which is the upper limit of jurisdiction. DES also has jurisdiction in the tidal buffer zone. The buffer zone is land (including upland areas) within 100 feet from the highest observable tide line. The jurisdictional areas most commonly encountered in the timber harvesting industry are surface water (perennial and intermittent streams) and forested wetlands.

Prime wetlands are designated by a municipality (and not state mandated) according to the requirements of RSA 482-A: 15 and Chapter Env-Wt 700 of the DES administrative rules. As of February 2009, 26 municipalities have bestowed the title of “Prime” unto their unique or larger wetlands.

Per RSA 482-A:11 IV, **no activity** shall take place in or within 100 feet of a prime wetland without a permit. All projects and practices, including all forestry management/timber harvesting activities, that are in or within 100 feet of a prime wetland are classified as major projects. All major projects require a field inspection by DES and all prime wetland projects require a public hearing to be conducted by DES. A Standard Dredge and Fill application **must** be filed to conduct any forestry activities in or within 100 feet of a prime wetland; therefore the Forestry Notification may **not** be used.

The following cities and towns have prime wetlands:

Andover	Goffstown	Northwood
Barrington	Hampton Falls	Pelham
Brentwood	Holderness	Salem
Bow	Hooksett	Sanborton
Brookline	Meredith	Sandwich
Derry	Nashua	Tamworth
Enfield	New Ipswich	Weare
Exeter	New London	Wolfeboro
Fremont	Newington	
Gilford	Newmarket	

What is a forested wetland? How can I recognize one?

Wetland areas dominated by trees or shrubs are called swamps. A typical swamp vegetative community may consist of a tree layer, a sapling layer, a shrub or bush layer, an herbaceous layer (wildflowers, ferns, grasses, sedge, etc.), and a bryophyte layer (mosses). Knowing which trees can grow in wetlands is the first step in identifying a forested wetland.

What are some other indicators for wetlands?

1. Water at or close to the surface throughout the year.

A wetland may become drier in July and August, but it will usually pond water for several days after a heavy rain. Look for evidence of dark stained or wet leaf litter. The type of soil will also provide information relative to a high water table. A quick soil test pit may show dark or gray wetland (hydric) soil instead of bright, light colors common to upland soils (tan, yellow, brown). For most soil types in central New Hampshire, this is best remembered by the adage “Red and yellow, happy fellow, dark and gray, stay away.”

2. The vegetative community in the area.

Thick growth of sphagnum moss and various species of ferns are a clue that you might be in a wetland. Trees with shallow, exposed root systems, trees with buttressed trunks, or in some cases, trees with multiple trunks at the same base may indicate a saturated soil condition. The high water table limits the trees ability to carry out the carbon dioxide/oxygen exchange, therefore root systems grow near or above the soil surface.

3. Thick deposits of organic matter on the ground.

The ground may bounce slightly underfoot. The lack of oxygen in saturated soil will slow down the decomposition of leaf and woody material, which allows it to accumulate.

4. The terrain or difference in elevation/topography

Wetlands are generally located at the base of slopes and in flatter areas. There may be a wetland associated with and adjacent to surface waters such as streams, rivers, lakes, and ponds. Groundwater may break out at the base of a small hill and develop into a seep. Areas that are frequently flooded may have a high water line stain on rocks and tree trunks.

A pit and mound wetland is an area where vegetation grows on the mounds (usually old decayed trunks from fallen trees) and water collects in the pits (usually depressions left from when a tree became uprooted). These wetlands may be unusual because upland trees, such as pine, which normally never grow in wetlands, can grow on a mound and the site is still considered wetland.

What common forestry activities are regulated?

RSA 482-A is commonly referred to as the dredge and fill law, since these are the regulated activities. Fill is defined as material that has been deposited or caused to be deposited by human activity. Some examples of fill:

1. Material, such as gravel, placed in a wetland or stream for a skid trail or truck road.
2. Tree limbs (corduroy) placed in wetlands or drainage swale for a skid trail.
3. Logs or rock (pole/stone ford) placed in stream bed for skid trail.
4. Logs or rock placed in stream bank for a bridge abutment.
5. Stockpiling of tree butts, slash, and debris in a wetland, bank, or waterbody.

Dredge is defined as the excavation or otherwise disturbance of the soil in a wetland, bank or surface waterbody. Some examples of dredge would be:

1. Excavating a bank to install a bridge abutment.
2. Digging in a stream or wetland to install a culvert.
3. Machinery ruts in a wetland, bank or waterbody

If your proposed forestry project involves any of the above activities by crossing surface waters or non-frozen wetlands, then you are required to file *Notification of Forest Management or Timber Harvest Activities Having Minimum Wetlands Impact*. If the work will exceed the criteria outlined on the notification, you are required to file a different wetlands application.. If you question whether your project would meet the dredge and fill definition or need information on the notification process, please contact the DES Wetlands Bureau at (603) 271-2147, which is located at 29 Hazen Drive, PO Box 95, Concord, NH 03302 or visit the web site at <http://des.nh.gov/organization/divisions/water/wetlands/index.htm>

Vernal Pools

Vernal pools are surface waters or wetlands which provide breeding habitat for amphibians and invertebrates that have adapted to unique environments (Env-Wt 101.99). They usually occur in shallow basins, have no permanent flowing outlet, hold water for at least two months after spring ice out, lack a viable fish population, and support certain organisms. Vernal pools are usually dry in the late summer months.

While DES currently does not require setbacks from vernal pools, DES does encourage that foresters and loggers avoid harvesting near them.

Haul Roads

Properties in New Hampshire managed for strictly forestry usually use the same landing areas, skid trails, and haul roads. A haul road is the main travel way from the town road to the landing. If a haul road needs to cross a wetland or stream on a lot that is strictly used for forestry, a permanent crossing may be allowed. This permanent crossing shall be adequate to handle a 25-year flood (Env-Wt 304.05 (e)). Permanent haul road crossings are allowed under the Forestry Notification and do not need to be renewed when filing subsequent notifications. Having a permanent haul road crossing helps to reduce the impact to wetlands and streams by limiting the need for constructing multiple crossings through the same wetland or stream.

All other wetland and stream crossings constructed on the property not associated with the haul road must be removed at the end of the current forestry operation.

Note: When a property that was once strictly used for forestry operations is converted to a building lot, subdivision, or some other non-forestry use, the permanent haul road crossing is no longer a valid forestry crossing. A Standard Dredge and Fill application must be submitted to DES in order to retain that crossing.

Comprehensive Shoreland Protection Act (RSA 483-B)

The Comprehensive Shoreland Protection Act (CSPA) was enacted to help protect the water quality of New Hampshire's surface waters. A 250 foot, regulated buffer encompasses all fourth order and higher streams, designated rivers, and all water bodies greater than 10 acres in size. According to RSA 483-B:5-a II, timber harvesting is exempt from CSPA regulations.

However, today's foresters and loggers are branching out; diversifying their business by not solely relying on the timber harvesting industry. Some foresters and loggers are now clearing lots within the CSPA zone for house sites. This would be an example of a conversion; changing the use from forestry to a non-forestry use. **When a change in use or conversion occurs within the 250 foot protected shoreland, these activities are no longer exempt and are now under the jurisdiction of the CSPA. If a forester or logger is asked to remove a tree from an existing non-forestry property, this is not considered a timber harvesting operation and is under the jurisdiction of the CSPA. Removal of stumps and their root systems within the CSPA zone is not considered a timber harvesting operation and is under the jurisdiction of the CSPA.** Permits, variances, and waivers may be needed. If you have any questions, please contact DES Wetlands Bureau at (603) 271-2147.



DEPARTMENT OF ENVIRONMENTAL SERVICES
WETLANDS BUREAU
 29 Hazen Drive PO Box 95
 Concord, NH 03302-0095
 Phone: (603) 271-2147 Fax: (603) 271-6588
 web site: www.des.nh.gov email: wetmail@des.nh.gov



Notification of Forest Management or Timber Harvest Activities Having Minimum Wetlands Impact

Please circle YES or NO to respond to each question. **Bold-faced terms** are defined on the attached page.

1. Will the proposed forest management activity be in or adjacent to a municipally designated prime wetland , or cross any wetland or surface water ? If NO, then you do not need to file this form or any other wetlands application. If YES, continue.	Yes No
2. Will the construction of all crossings follow the Best Management Practices (BMPs) for Erosion Control on Timber Harvesting Operations in New Hampshire ? Please note, for DES purposes BMPs are mandatory [Rule Env-Wt 304.05].	Yes No
3. Is land being cleared in preparation for subdivision, development, or conversion to non-forestry use?	Yes No
4. Is the proposed activity in bogs, marshes , sand dunes, tidal wetlands, undisturbed tidal buffer zone , a wetland identified by the Natural Heritage Inventory , or in or within 100 feet of designated prime wetlands ?	Yes No
5. Does any crossing exceed any of the following criteria? ➤ For installation of a culvert and associated fill, rock ford, or temporary crossing: a) Is the width of the roadway travel surface at the crossing more than 20 feet (from edge of road to edge of road)? b) Is the fill width more than 50 feet from toe of slope to toe of slope? c) Is the length of any forested wetland or wet meadow crossing (measured along the proposed access way) more than 50 feet? d) Is the length of any surface water crossing (measured from base of bank to base of bank) more than 10 feet? e) Do the wetlands that are being crossed have standing water for more than two months of the year? ➤ For installation of a bridge: a) Is any work proposed in the water? b) Does the fill for the abutment(s) exceed 3,000 square feet in the banks of the stream? ➤ For installation of a temporary road through forested wetlands during frozen conditions, constructed of snow or inverted stumps: a) Is the road travel surface more than 15 ft. wide or 200 feet long?	Yes No Yes No Yes No Yes No Yes No Yes No Yes No Yes No Yes No
If you answered YES to any of the questions numbered 3, 4, or 5, you must file a different wetlands application (see Definitions of Terms - wetlands applications - for more information) and no work in wetlands or surface waters may be done until you receive a permit from the DES Wetlands Bureau. If you answered NO to all questions numbered 3, 4, or 5, complete the remaining sections of the application (on the reverse side).	

6. Location of Timber Harvest or Forest Management Activity (should agree with *Notice of Intent to Cut*)

 Street Town or City Tax Map # Lot #

7. Property owner's name, mailing address, telephone number, and zip code. (Failure to provide this information may cause this notification to be considered incomplete.)

 Property Owner's Name Telephone #

 Mailing Address (Street or PO Box), Town, State, Zip Code

 Mailing Address Telephone #

(For DES to send the **Confirmation of Complete Notification** if different from the property owner's address above.)

8. Forester's or logger's name, address and telephone number (should agree with *Notice of Intent to Cut*).

 Name Street Address, Town, State, Zip Code Telephone #

9. Attach a copy of the USGS topographic map or a USDA Natural Resources Conservation Service soils map with the *type and location* of all temporary and permanent structures for crossing wetlands or surface waters clearly indicated. If the USGS map does not provide enough space to clearly indicate the type and location of crossings, you may submit *IN ADDITION TO THE USGS MAP*, a hand-drawn map, tax map, or cutting plan, showing the layout of property lines, skid roads and the approximate location(s) and type(s) of crossings.

10. Attach a sketch of the type of proposed crossing(s) of wetlands or surface waters. Copies of sketches from the **Best Management Practices for Erosion Control on Timber Harvesting Operations in New Hampshire** may be used if they accurately depict the proposed structure(s).

11. Attach a check for \$25.00 payable to the NH DES Wetlands Bureau.

12. Property owner's signature certifies that: a) Items 1 through 10 are correctly answered or represented; and b) all logging contractors have been directed to conform to the **Best Management Practices for Erosion Control on Timber Harvesting Operations in New Hampshire**, and have been instructed to install crossings only as indicated on the attached map and sketches; and c) the property owner is in compliance with RSA 79:10.

Property Owner's Signature _____ Date _____

Mail this form, with attached map(s), sketches, and check, to:

NH DES Wetlands Bureau, PO Box 95, Concord, NH 03302-0095

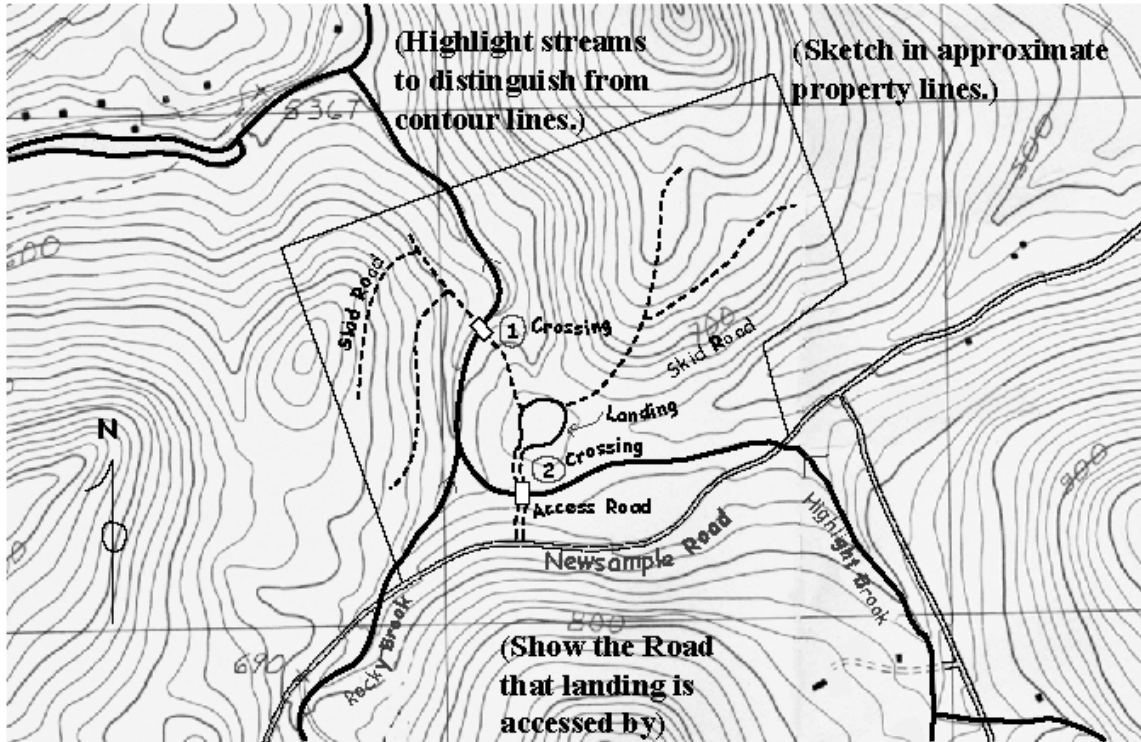
If answers to and information for any of Items 1-12 are not provided, this notification will be considered INCOMPLETE and all work in wetlands or surface waters **SHOULD NOT PROCEED**. Work conducted without filing a complete notification may be cause for DES enforcement action. Work may proceed upon proper filing of a COMPLETE notification. DES will issue a **Confirmation of Complete Forestry Notification** if the Notification that you submitted is complete. The **Confirmation SHOULD BE POSTED AT THE LANDING**. Copies of the notification are sent to the district forest rangers and conservation commissions.

FOR DES OFFICE USE ONLY:						
Fee Received	\$	()				
Check #	Amount	Init.	Dated	File #	Dist Forest Ranger #	
Check Submitted by: _____			Date Received: _____			

2002/11-03-2008

Sample Sketch of Supplemental Site Map Showing Type and Location of all Wetlands and Surface Water Crossings

See number 11 on Forestry Notification form.



Proposed Crossings

- ① Skidder Bridge
- ② Culvert

Key

- Access Road
- Proposed Skid Road
- Log Landing
- Property Line (approximate)

Definitions of Terms - Notification of Forest Management and Timber Harvest Activities Having Minimum Wetlands Impact

Best Management Practices for Erosion Control on Timber Harvesting Operations in New Hampshire (2004) - The manual developed by the New Hampshire Department of Resources and Economic Development (DRED) which addresses the best management practices for reducing soil erosion and controlling sedimentation from timber harvesting activities. Copies are available at no charge from DRED, 172 Pembroke Road, PO Box 1856, Concord, NH 03302, phone: (603) 271-2214, http://des.nh.gov/organization/divisions/water/wetlands/documents/timber_harvesting.pdf; or UNH Cooperative Extension, Durham, NH 03824, phone: (603) 862-1028, or from the DES Wetlands Bureau (see Wetlands Applications below)

Bog - A wetland distinguished by stunted evergreen trees and shrubs, peat deposits, and acidic soil and water conditions. Bogs generally have no inlet or outlet. Sphagnum moss may be abundant. *The Notification form may not be used for any crossings or activities in bogs.*

Designated Prime Wetland - A wetland designated by a municipality as requiring special protection in accordance with Env-Wt 700. Projects in or within 100 feet of prime wetlands are classified as major projects. *The Notification form shall not be used for any crossings or activities in or adjacent to prime wetlands. If you are not sure whether or not the project is within 100 feet of a designated prime wetland, please call the DES Wetlands Bureau, (603) 271-2147.* Check with the municipal office or DES for the locations of these wetlands. As of November 2008, municipalities with designated prime wetlands are: Andover, Barrington, Bow, Brookline, Derry, Enfield, Exeter, Fremont, Gilford, Goffstown, Holderness, Hooksett, Meredith, Nashua, New Ipswich, New London, Newington, Newmarket, Northwood, Pelham, Salem, Sanbornton, Sandwich, Tamworth, Weare, Wolfboro.

Forested wetland - A wetland where trees 20 feet and taller are the dominant plants. Typical trees are red maple, green ash, black willow, American elm, balsam fir, black spruce, tamarack and sometimes hemlock and white pine. May also be called a swamp.

Marsh - A wetland distinguished by the: 1) absence of trees and shrubs; 2) dominance of soft-stemmed herbaceous plants such as cattails, grasses, reeds, and sedges; may have lily pads or pickerel weed, and 3) a water table at or above the surface which may fluctuate seasonally. *The Notification form may not be used for any crossings or activities in marshes.*

Natural Heritage Inventory - Information about rare, threatened, and endangered species and exemplary natural communities in New Hampshire, which is maintained by the Natural Heritage Bureau at the Department of Resources and Economic Development. Call (603) 271-3623 or contact www.nhnaturalheritage.org for information.

Natural Resources Conservation Service (NRCS), formerly Soil Conservation Service (SCS), soils map - A map developed as part of a soil survey, which provides information about characteristics of the soils and the suitability, limitations, and management of soils for specified uses. Contact the state NRCS headquarters (603) 868-7581 or visit the NRCS website: http://soils.usda.gov/survey/printed_surveys/state.asp?state=New%20Hampshire&abbr=NH, or your county office (<http://offices.sc.gov.usda.gov/locator/app>) for information on the current soil survey maps.

RSA 79:10 - The statute that requires notification to assessing officials, NH Department of Revenue, and NH Department of Resources and Economic Development (Forest and Lands Division) of intent to harvest timber.

Surface water - Those waters of the state, as defined by RSA 482-A:4, which have standing or flowing water at or on the surface of the ground during part or all of the year. This includes, but is not limited to, rivers, streams (perennial and seasonal), lakes, ponds and tidal waters, and marshes.

Swamp - A wetland dominated by trees or shrubs. Typical trees are red maple, green ash, black willow, American elm, balsam fir, black spruce, tamarack and sometimes hemlock and white pine.

Tidal buffer zone - The area extending landward 100 feet from the highest observable tide line. This area can contain wetlands, transitional areas, and natural and developed upland areas.

Toe of Slope - The bottom edge (base) of the road fill where it meets the flatter grade of the ground surface.

USGS (United States Geological Survey) topographic map - A map that uses contour lines to represent the three-dimensional features of a landscape on a two-dimensional surface. These maps use a line and symbol representation of natural and artificially created features in an area. **Map scale** - 1:24,000 Maps are available at most outdoors and sporting goods stores as well as bookstores.

Wetland - An area that is inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal conditions does support, a prevalence of vegetation (more than 50%) typically adapted for life in saturated soil conditions (hydric soils). Wetlands include, but are not limited to swamps, bogs, marshes and similar areas.

Wetlands Applications - Other forms (*Standard Dredge and Fill* or *Minimum Impact Expedited*) are used to apply for permits to work in wetlands or surface waters if the answer to question 3, 4, or 5 is "Yes." These forms can be obtained from town clerks, by calling the DES Wetlands Bureau at (603) 271-2147, or from the DES web site on the Internet at: www.des.nh.gov or by mail from: NHDES PO Box 95, Concord, NH 03302. For projects that do not qualify for the Notification of Forest Management (if there were any "Yes" answers on questions 3-5), no work in wetland or surface water may begin without obtaining and posting a DES wetlands permit.

Wet Meadow - An area dominated by sedges, grasses, and non-woody vegetation less than 3 feet in height, which is saturated for long periods during the growing season and may be seasonally flooded.



New Hampshire Department of Environmental Services
 Wetlands Bureau
 6 Hazen Drive, Concord, NH 03302, (603)271-2147



Confirmation of Complete Forestry Notification

Des File #: _____
 Property Owner: _____
 Town: _____
 Logger or Forester: _____
 Tax Map: _____
 Lot: _____

Notification Expires

Provided the project is in compliance with RSA 79:10

 Permit by Notification Specialist
 DES Wetlands Bureau, 603-271-2147

This Confirmation should be posted at the site in a conspicuous place.

Timber Harvesting Laws

Timber Trespass (RSA 227-J:8)

Timber can be worth thousands of dollars. As such, it can be a tempting target for unscrupulous operators. In addition to the law as described below, it is important that landowners know where their boundary lines are and mark them accordingly.

227-J:8 Trespass; Civil Penalty

I. No person shall negligently cut, fell destroy, injure, or carry away any tree, timber, log, wood pole, underwood, or bark which is on the land of another, or aid in such actions without the permission of that person or the person's agent.

II. In addition to any other civil or criminal penalty allowed by law, any person who violates the provisions in paragraph I shall forfeit to the person injured no less than 3 and not more than 10 times the market value of every such tree, timber, log, lumber, wood, pole, underwood, or bark cut, felled, destroyed, injured, or carried away.

227-J:8-a Trespass; Criminal Penalty

I. No person shall recklessly cut, fell, destroy, injure, or carry away any tree, timber, log, wood, pole, underwood, or bark which in on the land of another person, or aid in such actions without the permission of that person or the person's agent.

II. A person who violates the provisions of paragraph I shall be guilty of a class B felony if the loss is greater than \$1000, or a misdemeanor for any other loss.

If you suspect that timber has been stolen from your property please consider the following questions:

1. Do you know where your boundary lines are?
2. Has the property been recently surveyed?
3. Are your property lines marked?
4. Do you have a map?
5. If the theft has occurred through the property of another, have you contacted the abutter?

If, after considering these questions, please contact the NH Division of Forests and Lands at (603)-271-2217.

Deceptive Forestry Business Practices (RSA 227-J:15)

Buying and selling forest products can be confusing and occasionally deception occurs. Therefore, it is important that all parties involved have a clear understanding of how the wood will be measured, what the prices are, and how each party will be paid. A written contract, with mutually agreed-upon prices and amounts, is strongly recommended.

The following describes Deceptive Forestry Business Practices.

A person is guilty of a Class B felony if the loss is greater than \$1000 or otherwise guilty of a misdemeanor if that person, in the course of buying and selling of a forest product, as defined under RSA 227-G:4, VII:

- Uses or possesses for use a false weight or measure, or any other device for falsely determining or recording any quality or quantity as provided under RSA 438; or
- Sells, offers, or exposes for sale or delivers less than the represented quantity of any commodity or service; or
- Takes or attempts to take more than the represented quantity of any commodity or service when, as buyer, the person furnishes the weight or measure; or
- Sells, offers, or exposes for sale adulterated or mislabeled commodities; or
- Does not remunerate the owner of the timber for the value of the forest products pursuant to a written contract; or
- Does not furnish the owner, upon written request, with all scale slips to verify the amount of the forest products removed from the owner's property.

In 2007, the Legislature through House Bill 440 amended RSA 227-J:15, Timber Harvesting; Deceptive Forestry Business Practices to include further clarification of what should be included in a scale slip and a new requirement for a written contract for those buying and selling a forest product which is subject to a notice of intent to cut.

Section II defines a scale slip as a means written or printed form or combination of forms which provide an accurate, readily understandable record containing the species of wood product, board footage of each individual log when the standard unit of measurement is per thousand board feet, or tonnage, or cordage when not sold per thousand board feet, gross scale, defect, net scale, date wood was measured, and the name of the party scaling the wood.

Section III requires that a written contract be provided to the owner, prior to cutting from the owner's property any forest products which are subject to a notice of intent to cut as defined in RSA 79:10. The contract shall be signed by both parties, specify the remuneration for the forest products to be cut, and the time in which the remuneration shall be made.

Basal Area Law (RSA 227-J:9)

The basal area law requires that forested buffers be left along town and state roads, streams, and bodies of water, following a timber harvest (Figure 5). These buffer zones can prevent erosion, provide wildlife habitat, protect stream temperature and aquatic life, and preserve the aesthetics of the landscape. This law also applies to land conversion and clearing unrelated to forest management unless all state and local permits necessary for the conversion have been secured. (RSA 227-J:9, IV).

What is Basal Area?

Basal area means the cross-sectional area of a tree measured four-and-a-half feet from the ground (Figure 4). It is expressed in square feet per acre. Simply stated, basal area is a measure of tree density on each acre of land. The higher the basal area, the denser the forest.

What does the law say?

The law says that no more than 50 percent of the basal area may be cut or otherwise felled each year, leaving a well distributed stand of healthy, growing trees:

Within 150 feet of:

- any great pond, which is a standing body of water 10 acres or greater in area
- any fourth order or higher stream To view a consolidated list of fourth order and higher streams, designated rivers, and water bodies >10 acres, follow the link below:
http://des.nh.gov/organization/divisions/water/wetlands/cspa/water_bodies.htm

When the website appears, click “Consolidated List.” The list is arranged alphabetically by city/town. A description of when a river/stream becomes fourth order is provided (for example, the Merrimack River becomes fourth order at the juncture of the Pemigewasset and Winnepesaukee Rivers in Franklin). The list also provides the names (and nicknames) of water bodies greater than 10 acres.

- any public highway.

Within 50 feet of:

- any other stream, river, or brook that is not a fourth order or higher stream which normally flows throughout the year.
- any standing body of water less than 10 acres associated with a stream, river or brook, which normally flows throughout the year.

Can I obtain a variance to the Basal Area law?

A landowner may request a variance from the Director of the Division of Forests and Lands to cut more than 50 percent of the basal area along roads, water bodies, or streams. The written request for a variance must include the reason (s) why the variance is necessary and a map showing the location of the property. If the harvest requires approval from local zoning or planning officials, written evidence of such approval must be included with the variance request.

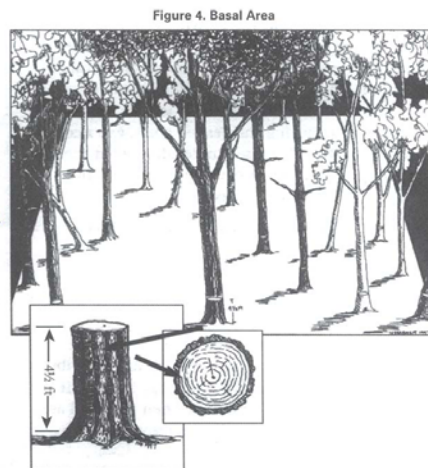
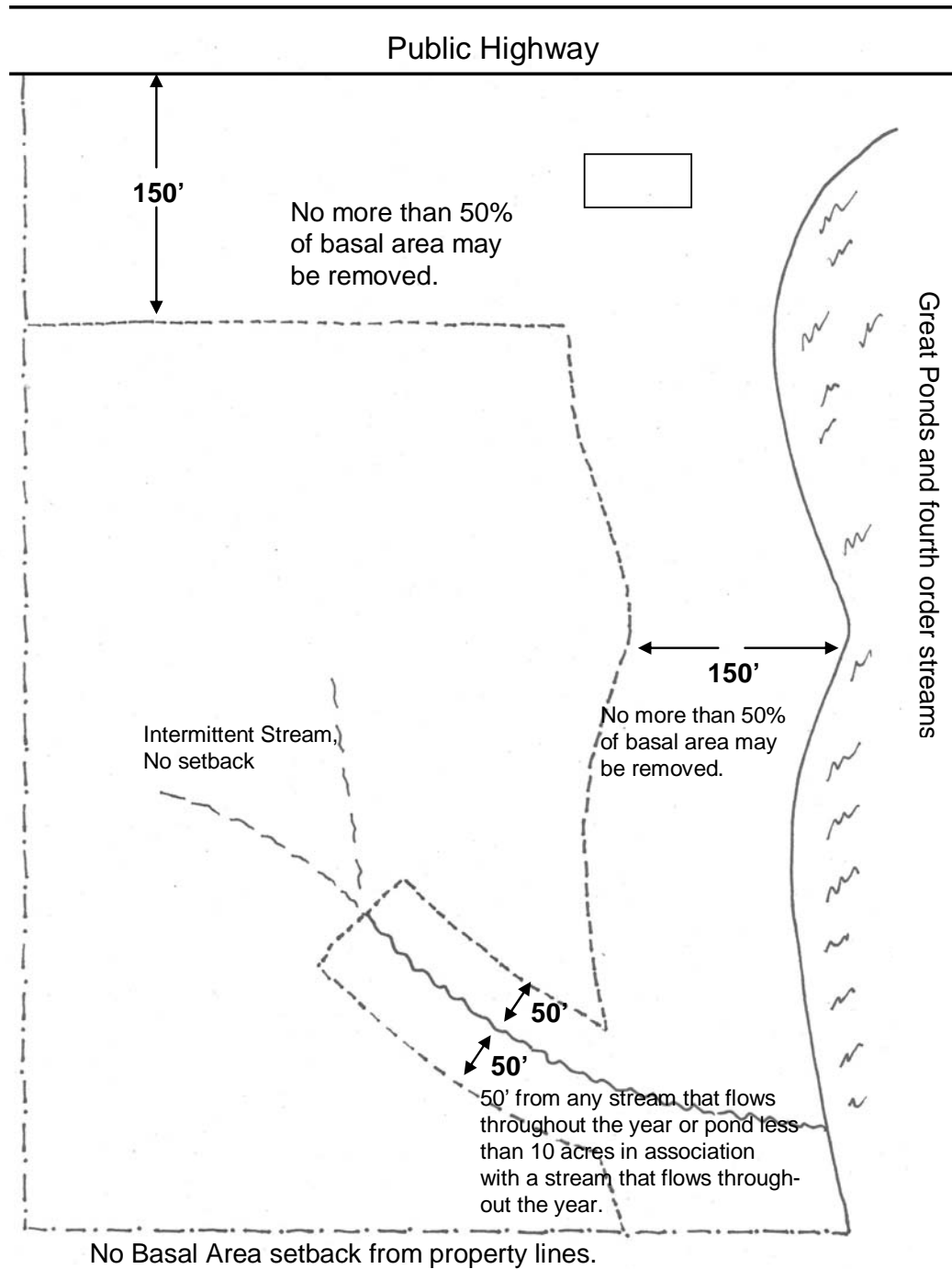


Figure 5. Basal Area Law Map



Slash Law (RSA 227-J:10)

Slash is the debris left after a timber harvest. These branches, leaves, stems, unmerchantable logs, and stumps may take several years to decompose. Slash represent a fire hazard and, often a messy appearance.

The slash law is intended to reduce fire danger caused by slash and to improve the aesthetics along roads and water bodies (Figure 6)

What does the law say?

No logging slash may be left:

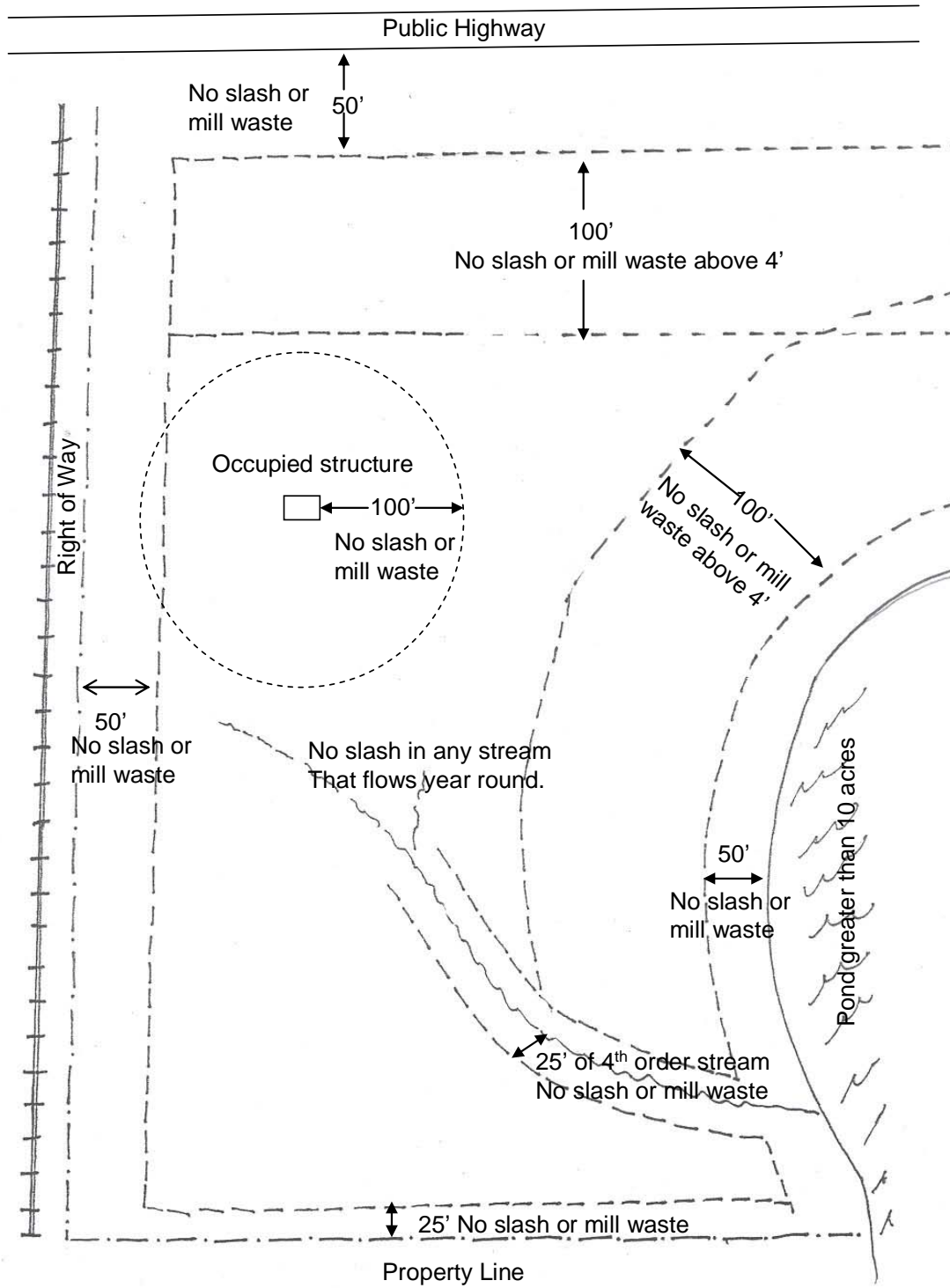
- In any river, stream or brook that normally flows throughout the year, or any other standing body of water, public highway, or active railroad bed.
- On the property of another, or in a cemetery
- Within 25 feet of land of another, or fourth order stream
- Within 50 feet of any great pond, any other standing body of water 10 acres or more in area, public highway, or active railroad bed.
- Within 100 feet of any occupied structure (RSA 635:1, III) including all barns, sheds, and other storage buildings, except a temporary lumber camp.

Slash may not be more than four feet high within 50 to 150 feet of any great pond, standing body of water 10 acres or more in area, or public highway.

NOTE: According RSA 482-A:3, No fill shall be placed in a wetland/surface water unless authorized by DES. DES considers slash as fill. Therefore, slash generated from forestry/harvesting activities is not allowed to remain in wetlands/surface waters.



Figure 6. Slash Law



What if the land is being converted to other uses?

Timber cutting for land conversion purposes, other than timber growing and forest uses, is exempt from the basal area law if those persons intending to convert the use of the land have secured all required local and/or state permits including, but not limited to, building, subdivision or zoning permits, excavation permits, wetland/shoreland permits, or site plan approval necessary for the use to which the land will be converted and are able to furnish proof of such permits.

Clearing for agriculture that requires no local permits prior to tree removal, except the intent to cut, is therefore exempt from this provision. However, timber cutting for land conversion purposes, other than timber growing and forest uses, that does not require local permits, shall be exempt from this section if conversion occurs within 180 days of exceeding the basal area provisions, or there has been written consent from Director of Forests and Lands to extend the 180 day period. Please note that a wetlands and/or shoreland permit may be needed depending on the project type.

If the land is being cleared for a subdivision, the subdivision plan must have been submitted and approved by the Water Supply and Pollution Control Division of DES in accordance with RSA 485-A:32, III and RSA 227-J:9, III. The plan must be approved before any road construction or land clearing begins. If land clearing begins before the subdivision plan is approved, or before all other necessary permits are obtained, town officials are to notify the Director of the Division of Forests and Lands (RSA 227-J:9, VII). If the director takes no enforcement action within 10 days, the town may take action to stop the activity, such as issuing a cease-and-desist order.

Land Conversion/Development Harvesting Laws

New Hampshire law makes a distinction between timber harvesting for forest management and timber harvesting that takes place to convert land to non-forest uses such as in development. The following chart summarizes restrictions that apply to land conversion, and those that apply to forestry, with statutory references in parentheses.

State Law	Land Conversion	Forestry
Notice of Intent to Cut (RSA 79)	Required when cutting greater than 10MBF and 20 cords	Required, some exceptions apply
Dredge & Fill Permit (RSA 482-A)	Required if wetlands impact is minimum, minor, or major	Required if wetlands impact is minor or major
Forestry Notification Having Minimum Wetlands Impact (RSA 482-A:3)	Can't be used; Must use a Dredge & Fill application	Required if wetland impact is minimum
Alteration of Terrain (RSA 485-A:17)	Required if > 100,000 sq. ft. (2.3 acres) is disturbed (excavating, stumping, etc.), 50,000 sq. ft. within shoreland protection Zone, or >0 sq. ft. on a 25% or greater slope within 50 ft. of a surface water (RSA 483-B:9, V)	Required, but Notice of Intent to Cut Timber Certificate serves as permit (RSA 485-A:17, III); Disturbance must not exceed limitations in previous column.
Basal Area Law (RSA 227-J:9)	Applies unless all local permits have been secured	Applies unless variance has been obtained from Division of Forests & Lands
Slash Law (RSA 227-J:10)	Applies	Applies
Comprehensive Shoreline Protection Act (RSA 483-B:9, V)	Permit is required for any dredge, fill, or construction project within 250 linear feet of fourth order and higher streams, designated rivers, and water bodies >10 acres	Not applicable
Natural Heritage Bureau (RSA 212-A; 212-B; 217-A)	Required with all wetland/shoreland applications	Not applicable

Other Forest Management Laws

Maximum Weight Limits on Class IV, V, and VI Roads (RSA 231:190-191)

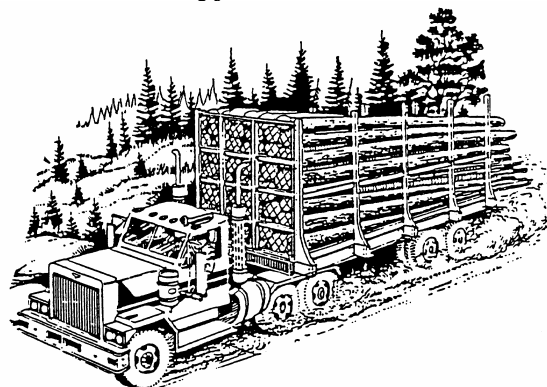
A town or city may set road limits, on a seasonal or permanent basis, that are more restrictive than state law. Cities and towns that have enforceable weight limits must comply with the following:

- Whenever the governing body (selectman or council) votes to establish a weight limit (whether year-round or seasonal) the written minutes of the meeting where the vote occurs should reflect testimony from the road agent or highway engineer that the limit was necessary “to prevent unreasonable damage or extraordinary municipal maintenance expense,” citing facts and experience as much as possible to back up this conclusion.
- The limit must be posted at all entrances from other highways using weather resistant materials.

In addition to the above municipalities should consider:

- Violators of properly enacted weight limits are guilty of a violation and in addition are liable for restoring the road.
- Selectman, road agents, or street commissioners are given authority to grant exemptions in writing. Bonding and restoration can be required as a condition of granting an exemption, but the municipality can't impose restoration costs on anybody without “reason to believe that the...damage...is attributable” to that person. A bond, properly speaking, is simply an agreement between a landowner and a municipality stating that the landowner agrees to do a certain thing, and accompanied by some type of security for the municipality to draw upon if the landowner fails.
- If the weight limit causes significant interference with any land use or enterprise that existed prior to the posting, this will constitute hardship entitling the landowner to an exemption, if bonding and restoration requirements are complied with and the exemption would not be detrimental to public safety.

For more information about trucking laws see *Forest Products Road Manual: A Handbook for Municipal Officials and the Forest Products Industry* at UNH Cooperative Extension's web site (<http://extension.unh.edu>) or to obtain a copy contact NHTOA at (603) 224-9699.



Rights-of-Way for Removal of Lumber (RSA 231:40-42)

Occasionally, it becomes necessary to obtain a right-of-way through the land of another to access lumber, wood, or other material. If a right-of-way location has not been agreed on by the owners, the selectman may designate a right-of-way.

After notifying the owner of the lands on which the right-of-way will pass, the selectmen shall determine the necessity for and damages caused by the right-of-way before it is open for use.

Any person aggrieved by the action has the right to appeal. Selectmen:

- may set the time and conditions under which the right of way may be used.
- may order the right-of-way closed or discontinued when, in their judgment, it is necessary.
- shall set a time for examining the premises and hearing parties in interest and give 12 days notice to one or more of the petitioners and to the persons owning or having an interest in lands through which the right-of-way will be laid out, altered, or discontinued.
- shall also give notice when a right-of-way is altered or discontinued.
- shall indicate when they will consider claims for damage.
- shall publish a notice in a local newspaper not less than 10 days before the time set for the hearing.

Bridging The Enforcement Gap

Town officials can play a vital role in the enforcement of timber laws. While this publication provides general information on laws that apply to timber harvesting, municipal officials should also have complete copies of all relevant statutes and administrative rules.

Become familiar with the laws

Selectman may delegate responsibilities for reviewing timber harvesting operations to a code enforcement officer, the conservation commission, a designated forestry committee, a law enforcement officer, or a licensed forester working for the town. Some towns employ a “timber tax monitor” usually on a part-time basis to keep track of timber harvesting activity, report filing, and payment of timber tax.

Conservation commissions may ask the town assessing officials to notify them when an Intent to Cut Timber form has been filed. Some towns now routinely provide information and materials such as *Best Management Practices for Erosion Control on Timber Harvesting Operations* to those filing an Intent to Cut Timber form. Town road agents and police can also inform the conservation commission of the location of logging or land conversion activities.

After determining the location of the logging operation and whether it is forestry work or land conversion for development (different laws apply), the conservation commission, after obtaining landowner permission, can check the operation for compliance. Remember, **a conservation commission or a board of selectman does not have legal authority to enter private land without first obtaining permission**. An effort should be made to work constructively with the landowner and logger. It is wise to be sure that a potential violation exists before filing a complaint or reporting the problem to proper authorities.

Please note that a *Notification of Forest Management or Timber Harvest Activities Having Minimum Wetlands Impact* **can not** be used if the property is slated to be converted for development, subdivided into multiple lots, or any other non-forestry use.

What to look for at the site

Unless exempted, a logging operation should comply with the following:

- A timber cutting operation may not start until one of the following is posted in a conspicuous place within the area of cutting:
 - The certificate from DRA;
 - A copy of the notice of intent to cut signed by the assessing officials; or
 - A copy of the notice of intent to cut with the operation number along with the date, time and name of municipal official or employee who provided the operation number.
- Either a tyvek, Confirmation of Complete Forestry Notification, or a dredge and fill permit from the New Hampshire Wetlands Bureau must be posted on the site. They are *not* required if no wetlands or surface water bodies are impacted. If no form or permit is present, and you believe one is required, you should contact the Wetlands Bureau.
- In general there should be a well-distributed stand of healthy trees along roads (including Class VI roads). If the trees have been completely removed from along the road, the Division of Forests and Lands should be contacted to determine whether the landowner has applied for a variance to

the basal area law. If the land is being converted to non-forest uses, the basal area law may not apply, but local and state officials should be contacted to see that the appropriate permits have been obtained.

- In general, there should be no large piles of slash near roads or lakes. Slash and slash piles may be present when cutting takes place in these areas, but should be removed promptly. When this condition is not met, contact the Division of Forests and Lands.
- If the owner is disturbing (damaging) a public highway (including Class VI), permission must be sought under RSA 236:9.

Get Help

The New Hampshire Division of Forests and Lands forest rangers are available to help town officials enforce timber harvesting laws. These rangers have the authority to enforce laws relating to Basal Area and Slash (RSA 227-J), Wetlands (RSA 482-A), Alteration of Terrain (RSA 485-A:17), and Timber Tax (RSA 79). **When potential violations of state harvesting laws are encountered, the state forest ranger for that region should be notified immediately by calling the Forest Protection Bureau in Concord at (603) 271-2217. Timber tax issues or questions should be directed to the Department of Revenue Administration at (603) 271-2687.**

Who Has Authority to Enforce or Assist in Enforcing Regulations

The following table lists important regulations and the official bodies responsible for their enforcement.

REGULATION	ENFORCEMENT/AUTHORITY
Timber Tax Enforcement	NH Department of Revenue Administration NH Division of Forests and Lands Town Tax Assessor or Town Selectmen
Dredge-and-Fill Permits	NH Wetlands Bureau Town Planning Board Town Selectmen Town Conservation Commission NH Division of Forests and Lands
Wetland Forestry Notification	NH Wetlands Bureau NH Division of Forests and Lands
Basal Area and Slash Law	NH Division of Forests and Lands Municipality, after notifying NH Division of Forests and Lands
Timber Trespass	NH Division of Forests and Lands
Deceptive Forestry Practices	NH Division of Forests and Lands

HOW TO CONTACT STATE AGENCIES AND ORGANIZATIONS

New Hampshire Department of Resources and Economic Development

Division of Forests and Lands Forest Protection Bureau

Main Office and South Region

PO Box 1856 Concord, NH

03302-1856

(603) 271-2217

<http://www.nhdf.org>

North Region 629B Main St.

Lancaster, NH 03584-3612

(603) 788-4157

New Hampshire Department of Revenue Administration

Property Appraisal Division

109 Pleasant Street, P.O. Box 487

Concord, NH 03302

http://www.revenue.nh.gov/munc_prop/propertyappraisal.htm

New Hampshire Department of Environmental Services

New Hampshire Wetlands Bureau

P.O. Box 95

Concord, NH 03302-0095

(603) 271-2147 or, for other DES matters (603) 271-3503

<http://des.nh.gov/organization/divisions/water/wetlands/index.htm>

New Hampshire Timberland Owners Association

54 Portsmouth Street

Concord, NH 03301

(603) 224-9699

<http://www.nhtoa.org>

New Hampshire Timber Harvesting Council

54 Portsmouth Street

Concord, NH 03301

(603) 224-9699

<http://www.nhtoa.org/timberharv.htm>

UNH Cooperative Extension, Forestry & Wildlife Program

214 Nesmith Hall, 131 Main Street

Durham, NH 03824

(603) 862-1028

<http://extension.unh.edu> (Forests and Trees)

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Extension Specialists, Forestry and Wildlife – UNH Campus Offices

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karen.bennett@unh.edu

Sarah Smith
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603-862-2647
sarah.smith@unh.edu

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Wildlife
603-862-3594
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UNH Cooperative Extension Forestry Information Center – (800) 444-8978

Visit our web site at: <http://extension.unh.edu>

REFERENCES:

For a copy of *Does Open Space Pay?* Contact the UNH Cooperative Extension's Forestry Information Center at (800) 444-8978 or http://extension.unh.edu/resources/files/Resource000400_Rep422.pdf

The publication *Best Management Practices for Forestry: Protecting New Hampshire's Water Quality* describes Best Management Practices, or BMP's for protecting water quality during forest harvests. This publication is available from UNH Cooperative Extension's Forestry Information Center at (800) 444-8978 or http://extension.unh.edu/resources/files/Resource000248_Rep267.pdf

Appendix 1

Timber Tax Assessment Worksheet

Town: _____

Owner: _____

Oper. #: _____

Tax Year: _____

Acreage of cut: _____

Map/Lot#: _____

	POOR	AVERAGE	GOOD
Quality of timber (height, diameter, defect)	0	1	2
Location of timber (access restrictions, distance to maintained public road and physical geography)	0	1	2
Size of sale (Acreage of lot and volume per acre)	0	1	2

Rating	Percentage Within Range
0	0%
1	17%
2	33%
3	50%
4	66%
5	83%
6	100%