
**ADOPTING STATEWIDE TIMBER HARVESTING STANDARDS FOR YOUR SHORELAND ZONING ORDINANCE—
Guidance from Chapter 1000 Guidelines**

Title 38 M.R.S.A. section 438-B establishes three options from which each municipality may choose as the State implements a set of statewide timber harvesting standards in shoreland areas:

Option 1: The first option available to a municipality is the complete repeal of timber harvesting provisions from the shoreland zoning ordinance. Under this option the Bureau of Forestry will administer the regulation of all forestry activities within the municipality. Section 438-B(2) states:
A municipality may choose to have the statewide standards apply to timber harvesting and timber harvesting activities in that municipality by authorizing the repeal of all provisions within the municipal shoreland zoning ordinance that regulate timber harvesting and timber harvesting activities in shoreland areas and notifying the (Director of the Bureau of Forestry within the Department of Agriculture, Conservation and Forestry) of the repeal. The authorization must specify a repeal date. When a municipality accepts the statewide standards in accordance with this subsection, the (Director of the Bureau of Forestry) shall administer and enforce the statewide standards within that municipality beginning on (January 1, 2013) or the municipal repeal date specified in the notification received under this subsection.

Section 438-B(6) provides that, notwithstanding any provision in a local ordinance to the contrary, beginning January 1, 2013 rules adopted by the Bureau of Forestry under Title 12, section 8867-B will apply in all municipalities that have accepted the statewide standards in accordance with Option 1.

If a municipality chooses option 1, completely repealing the municipal regulation of timber harvesting activities in the shoreland zone and deferring the regulation of timber harvesting activities to the Bureau of Forestry, the repeal should include all references to timber harvesting regulations, including:

1. Section 14, Table 1, *Land Uses in the Shoreland Zone*, Item 3 (forest management activities except for timber harvesting & land management roads), Item 4 (timber harvesting), and Item 27 (land management roads) of the Table;
2. Section 15(O) in its entirety (Section 15(O-1) would not have been adopted by those municipalities that had elected to retain section 15(O), so there would be no need to repeal section 15(O-1)); and
3. All definitions in Section 17 pertaining to timber harvesting and forest management activities, including the terms: Cross-sectional area, DBH, Disruption of shoreline integrity, Forest management activities, Forest stand, Harvest area, Land management road, Licensed forester, Residual basal area, Residual stand, Skid road or skid trail, Slash, Timber harvesting and related activities, and Wind firm.

Option 2: The second option available to the municipality is the adoption of timber harvesting standards that are identical to the statewide standards. This option allows the municipality to retain some local control over the administration and enforcement of timber harvesting in the shoreland zone, while receiving assistance and expertise from staff of the Bureau of Forestry. Section 438-B(3) states:

A municipality may adopt an ordinance to regulate timber harvesting and timber harvesting activities that is identical to the statewide standards. A municipality that adopts an ordinance under this subsection may request the director (of the Bureau of Forestry) to administer and enforce the ordinance or to participate in

joint administration and enforcement of the ordinance with the municipality beginning on the effective date of the statewide standards (January 1, 2013) or within 60 days of the director's receiving a request. When a municipality requests joint responsibilities, the director and the municipality shall enter into an agreement that delineates the administrative and enforcement duties of each. To continue to receive administrative and enforcement assistance from the (Bureau of Forestry) under this subsection, a municipality must amend its ordinance as necessary to maintain identical provisions with the statewide standards.

Section 438-B(6) provides that, notwithstanding any provision in a local ordinance to the contrary, beginning January 1, 2013 rules adopted by the Bureau of Forestry under Title 12, section 8867-B will apply in all municipalities that have adopted an ordinance identical to the statewide standards in accordance with Option 2.

For those municipalities that choose option 2, these Guidelines contain timber harvesting standards that are based on the June 15, 2005 Bureau of Forestry Chapter 21 statewide standards (Section 15.O-1). Provisions for culvert sizing in this section 15.O-1 have been updated to comply with current NRPA standards, and a reference to Bureau of Forestry definitions for terms used in this section has been added. However, before a municipality adopts or amends this section they should consult with the Bureau of Forestry to get the latest version of Chapter 21. A municipality amending their own forestry standards, whether under Option 2 or Option 3, is required to coordinate with the Bureau of Forestry through the Title 12, section 8869, subsection 8 process to ensure that any local amendments are consistent with the statewide standards in effect at the time of the local ordinance amendments.

Option 3: The third option available to the municipality is to retain its current timber harvesting standards. Section 438-B(4) states:

A municipal ordinance regulating timber harvesting and timber harvesting activities that is in effect and consistent with state laws and rules in effect on December 31, 2005 continues in effect unless action is taken in accordance with (Option 1 or Option 2 above). A municipality that retains an ordinance with provisions that differ from the statewide standards shall administer and enforce that ordinance unless the municipality requests that the director (of the Bureau of Forestry) administer and enforce the ordinance and the director agrees with the request after reviewing the ordinance. The director may not administer or enforce any ordinance that is more stringent than or significantly different from the requirements of section 438-B(3). A municipality may not amend a municipal ordinance regulating timber harvesting and timber harvesting activities unless the process established in Title 12, section 8869, subsection 8 is followed. Beginning on (January 1, 2013), a municipality may not amend an ordinance regulating timber harvesting and timber harvesting activities in a manner that results in standards that are less stringent than or otherwise conflict with the statewide standards (Section 438-B(4)).

Option 3 municipalities may also amend their timber harvesting ordinances in accordance with section 15.O-1, but before a municipality amends their ordinance they should consult with the Bureau of Forestry to get the latest version of Chapter 21. A municipality amending their forestry standards, whether under Option 2 or Option 3, is required to coordinate with the Bureau of Forestry through the Title 12, section 8869, subsection 8 process to ensure that any local amendments are consistent with the statewide standards in effect at the time of the local ordinance amendments.