

AGENCY OF NATURAL RESOURCES
DEPARTMENT OF FORESTS, PARKS AND RECREATION

**INTENT TO CUT NOTIFICATION
EMERGENCY RULES, STANDARDS AND
PROCEDURES**

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AGENCY OF NATURAL RESOURCES
DEPARTMENT OF FORESTS, PARKS AND RECREATION

Instructions

The attached form is to be completed and submitted to the appropriate DISTRICT OFFICES (*list attached*) of the Division of Forestry, Department of Forests, Parks and Recreation, Agency of Natural Resources. On submission of the completed form, Department personnel have 15 days to review, approve, approve with conditions or deny the application. If a determination is not made in that period, then the heavy cut is exempt from the review requirements and may proceed.

When is the Application Required?

Intent to Cut Notification is needed **ONLY IF** the landowner plans to implement a **HEAVY CUT** of **FORTY ACRES or more**. Landowners “heavy cutting” more than 80 acres within a 2 mile radius must also file an **INTENT TO CUT NOTIFICATION**. A heavy cut is defined as “a harvest leaving a residual stocking level below the C-line as defined by the U.S. Department of Agriculture silvicultural stocking guides for the applicable timber type.”

1. APPLICATION FORM

Landowner Name: Provide complete landowner’s name. This name should be the same as the name found on the deed, lease, or other agreement that establishes ownership of the land and/or the timber or wood products to be harvested.

A “**landowner**” means a person or entity that owns or controls the land and/or the right to harvest timber or other wood products, including: 1) an individual, partnership, corporation, association, unincorporated organization, trust or other legal entity, including a joint venture or affiliated ownership, 2) municipality or state agency, 3) individuals and entities affiliated with each other for profit, consideration, or any other beneficial interest, and 4) individual’s parents and children, natural or adoptive, and spouse, unless the individual establishes that he or she will derive no profit or consideration or acquire any other beneficial interest.

A “**landowner**” is **not**: 1) a stockholder in a corporation, solely on the basis of being a stockholder, if the stockholder’s spouse, natural or adoptive parents, children, and siblings own, control, or have beneficial interest in less than five percent of the outstanding shares, 2) an agent of another acting within the scope of duties of a court-appointed guardian, licensed attorney, real estate broker or salesperson, engineer, land surveyor, forester, or retail/wholesale vendor of wood products unless compensation or benefit received by the agent indicate more than an agency relationship, 3) a seller or chartered lending institution solely on financing all or a portion of the purchase price at rates nor substantially higher than prevailing rates in the community and subsequently granting partial release of the security, 4) a logging contractor solely for conducting a harvest of timber or other wood products while subject to the supervision and control of the landowner, unless the contractor holds ownership interest in the land or standing timber.

Home or Business Address: Provide the complete mailing address (including telephone numbers) of the residence or business, whichever applies.

Location of the Parcel: Provide the name of the county(s), town(s), and nearest road(s) name for the parcel to be harvested. The road should be the town road that provides access to the parcel. Provide a location map of the parcel to be harvested (*see example*).

Size of the Parcel: Provide the total number of acres in the parcel.

Locations of Other Owned Parcels Heavily Cut Within 2 Miles: Provide the locations and size of other parcels within 2 miles of the parcel to be harvested owned and heavily cut by the same landowner within the past 5 years.

Acres Involved in Heavy Cut: Provide the total number of acres (heavy cut) to be harvested in this operation.

2. EXEMPTIONS:

The landowner will check off the appropriate exemptions listed on Page 2 of the application. In the space titled **Landowner Certification**, the landowner certifies that he/she is in compliance. Appropriate documentation of the plan (Current Use, ACT 248, Stewardship or other plan) should be attached, with the location map, and filed in the district office. The Field Forester will review these certifications and his/her signature will appear in the space provided, indicating that **NO FURTHER REVIEW** is required.

3. AUTHORIZATION TO PROCEED:

If there are no specific exemptions that apply, the landowner must provide the details of the proposed heavy cut and the Field Forester will make a determination as to the suitability of the proposal in relation to applicable rules. Plans

must specify application of silvicultural standards in order to receive Authorization to Proceed. The applicable silvicultural standards and references are attached. If the Field Forester is satisfied that the standards will be met, he/she will sign in the space provided on the **AUTHORIZATION TO PROCEED**.

4. DENIAL OF AUTHORIZATION TO PROCEED:

If the landowner fails to provide enough information, or the information is not in compliance with the appropriate rules, then the Field Forester may prescribe conditions that must be met, or may deny the application. If the landowner agrees to meet the conditions, then the Field Forester will sign the **AUTHORIZATION TO PROCEED**. In either case, the landowner has 30 days to appeal the conditions or denial to the Commissioner of Forests, Parks and Recreation.

5. COMPLETED NOTIFICATIONS:

When all necessary information and signatures are completed, the "For Departmental Use Only" section will be completed and the data entered into a computer data base for record keeping. A copy of the Notification will be provided to the landowner and any town in which the cut is proposed.

DEPARTMENT OF FORESTS, PARKS AND RECREATION

1. APPLICATION: (TO BE COMPLETED BY THE LANDOWNER)

This form is to be completed and submitted to one of the DISTRICT OFFICES (*list attached*) of the Division of Forestry, Department of Forests, Parks and Recreation, Agency of Natural Resources. Intent to Cut notification is needed **ONLY IF** the landowner plans to implement a **HEAVY CUT of FORTY ACRES or more**. A heavy cut is defined as “*a harvest leaving a residual stocking level below the C-line as defined by the U.S. Department of Agriculture silvicultural stocking guides for the applicable timber type.*” Incomplete applications will be returned within 48 hours of such determination.

Landowner's Name:	
Day Time Phone:	Evening Phone:
E-mail Address:	
Home Address:	
Business Address:	
Location of Parcel: (<i>County, Town, and Road Name</i>)	
Size of Parcel: _____ (acres)	Size of Proposed Heavy Cut: _____ (acres)
Location of other owned parcels which have been heavily cut within 2 miles:	
Acres involved in heavy cut within past five years:	

2. EXEMPTIONS: (TO BE COMPLETED BY THE LANDOWNER)

No further review is required if one of the following conditions apply:

- This notice is for informational purposes only, even though the harvest is not subject to regulations under the provisions of this law.
- I (*the landowner*) certify that the proposed heavy cut is intended to carry out an agricultural conversion plan, and that the conversion will be completed and the land will be in agricultural production within five years.
- I (*the landowner*) certify that the proposed heavy cut is a conversion subject to regulation by a district commission and the environmental board under 10 V.S.A. chapter 151 Act 250 or by the public service board Title 30.
- I (*the landowner*) certify that the proposed heavy cut is consistent with one of the following:
 - 1. A forest management plan currently in effect and approved by the department under the current use assessment program.
 - 2. A chip harvesting plan currently in effect and approved by the department of fish and wildlife under a permit issued under 30 V.S.A. §248.
 - 3. A forest management plan currently in effect and approved by the department under rules in effect at the time of approval of the plan.

Landowner Certification:

I, _____, as landowner of record, do attest and
Name (*printed or typed*)

certify that the items checked above are true and represent the conditions under which I apply for an Exemption to Proceed under the Heavy Cut Provision of 10 V.S.A. §2622.

Signature

Date

DETERMINATION OF EXEMPTION (TO BE COMPLETED BY FPR)

I have reviewed this Notification and have determined that **NO FURTHER REVIEW** is required:

Name (*printed or typed*)

Signature
Department Field Forester

Date

Signature

3. FOR PARCELS THAT DO NOT QUALIFY FOR AN EXEMPTION:

I, _____, as landowner of record, do attest and
Name *(printed or typed)*

certify that the information presented below is true and represents the conditions under which I apply for an Authorization to Proceed under the Heavy Cut Provision of 10 V.S.A. §2622.

Permission is granted for a department forester to enter upon the property for which I seek a permit:

Yes No

Note: ***Denial of permission to enter may mean that a permit may be delayed or cannot be issued.***

Signature

Date

Description of Proposed Harvest: *(TO BE COMPLETED BY LANDOWNER)*

Please include stand type, stocking level, basal area and position relative to the "C line". Attach any other information including a location map.

4. **AUTHORIZATION TO PROCEED:** *(TO BE COMPLETED BY FPR)*

I have reviewed this Notification, and I have found that the proposal is in conformance with rules adopted by the department and the cut may **PROCEED**.

Name *(printed or typed)*

Signature
Department Field Forester

Date

Signature

5. **CONDITIONS TO BE MET AND REVIEWED FOR RESUBMISSION OF THIS APPLICATION:**
(TO BE COMPLETED BY FPR)

Name *(printed or typed)*

Signature
Department Field Forester

Date

Signature

The conditions established above have been met and the cut may proceed.

Name (*printed or typed*)

Signature
Department Field Forester

Date

Signature

6. DENIAL OF AUTHORIZATION TO PROCEED: (*TO BE COMPLETED BY FPR*)

I have reviewed this Notification, and I have found that the proposal is **NOT** in conformance with rules adopted by the department and the cut **MAY NOT** proceed.

Name (*printed or typed*)

Signature
Department Field Forester

Date

Signature

NOTICE: If an exemption is denied or if authorization to proceed is denied, the landowner has 30 days in which to file an appeal with the COMMISSIONER of the Department of Forests, Parks and Recreation.

For Department Use Only:

Heavy Cut # _____

Location _____

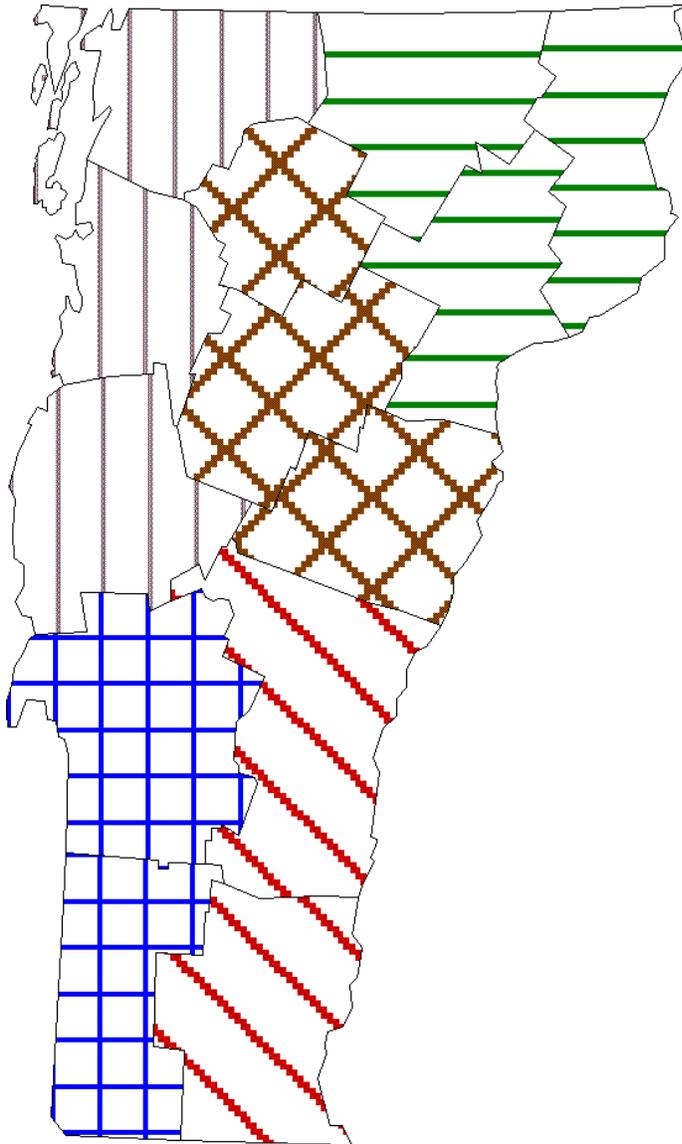
Acres _____

Private forester involved _____

Date Received _____

Referred to _____

FORESTRY DISTRICT OFFICES AND CONTACTS



DISTRICT 1:

Connecticut Valley District
100 Mineral Street, Suite 304
Springfield, VT 05156-3168
Contact: Melissa Currier
E-mail: melissa.currier@anr.state.vt.us
Tel. 802-885-8845 Fax 802-885-8890

DISTRICT 2:

Taconic District
271 North Main Street, Suite 215
Rutland, VT 05701
Contacts: Patty Dean
E-mail: patricia.dean@anr.state.vt.us
Tel. 802-786-0060 Fax 802-786-3870

DISTRICT 3:

Champlain Valley District
111 West Street
Essex Jct., VT 05452-4695
Contact: Tracy Cabral
E-mail: tracy.cabral@anr.state.vt.us
Tel. 802-879-6565 Fax 802-878-5192

DISTRICT 4:

Central Vermont District
5 Perry Street, Suite 20
Barre, VT 05641-4265
Contact: Lisa Wright
E-mail: lisa.wright@anr.state.vt.us
Tel. 802-476-0170 Fax 802-476-0129

DISTRICT 5:

Northeast Kingdom District
1229 Portland Street, Suite 201
St. Johnsbury, VT 05819-2099
Contact: Ellen Hinman
E-mail: ellen.hinman@anr.state.vt.us
Tel. 802-751-0110 Fax 802-748-6687

DISTRICT 5

DISTRICT 3

AGENCY OF NATURAL RESOURCES
DEPARTMENT OF FORESTS, PARKS AND RECREATION

SILVICULTURAL GUIDELINES AND FORESTRY STANDARDS

To insure consistency of application of the Heavy Cutting Legislation the following silvicultural guidelines and forestry standards are established.

Management Plans: Plans submitted with the INTENT TO CUT NOTIFICATION will comply with the standards required for the Use Value Appraisal Program. See "Directions for Completing Form for Use Value Appraisal Forest Management Plan."

Silviculture: All harvesting activities covered under an INTENT TO CUT NOTIFICATION will comply with the following minimum practice standards and will be carried out in accordance with appropriate U.S. Forest Service silvicultural guides and handbooks.

Regeneration Cutting:

For stands that are being regenerated, there must be successful establishment of not less than 350 stems per acre of an acceptable species¹ that are well distributed throughout the stand.

NOTE: Stocking and distribution will be determined by using the U.S. Forest Service 1/700-acre sample plot survey system described in the U.S. Forest Service Handbook, GMNF Supplement No. 4; 1979.

Intermediate Cutting: Under even-aged management, the stocking of acceptable growing stock² will not be below the "C" line in the appropriate stocking guide. List attached.

If no stocking guide is available, the residual stand basal area will not be less than 40 square feet of acceptable growing stock per acre.

Under uneven-aged management: The stocking level of acceptable growing stock will not be less than 60 square feet per acre.

¹ Acceptable species is defined as a potential crop tree to be retained and managed.

² Acceptable growing stock means a stem having a diameter of 4.5 inches or greater at breast height which has the potential of producing a sawlog product of a commercial species of any grade, now or in the future.

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Silvicultural References

1. Uneven-aged Silviculture and Management in the U.S.; USDA, USFS, 1976.
2. A Silvicultural Guide for Spruce-Fir in the Northeast, Technical Report NE-6; USDA, USFS, NA FES, 1973.
3. Uneven-aged Management of Northern Hardwoods in New England; USDA Forest Service Research Paper NE-332, 1975.
- 4a. A Stocking Guide for Eastern White Pine; USDA Forest Service Research Note NE-168, 1973.
- 4b. A Silvicultural Guide for White Pine in the Northeast; Lancaster & Leak Forest Service General Technical Report NE-41, 1978.
5. A Silvicultural Guide for Northern Hardwoods in the Northeast; USDA Forest Service Research Paper NE-603, 1987.
6. Forester's Guide to Marking and Grading Eastern Hemlock Timber; GFA Project Hemlock Utilization Guide No. 1, 1973.
7. A Guide to Hardwood Timber Stand Improvement; USDA Forest Service, NA Upper Darby, Pennsylvania, 1975.
8. Establishing Even-aged Northern Hardwood Regeneration by Shelterwood Method - A Preliminary Guide; USDA Forest Service No. Central Forest Experiment Station, Research Paper NC-99, 1973.
9. Manager's Handbook for Northern White Cedar in the North Central States; USDA Forest Service Experiment Station, General Technical Report NC-35, 1977.
10. Manager's Handbook for Red Pine in the North Central States; USDA Forest Service Experiment Station, General Technical Report NC-33, 1977.
11. Manager's Handbook for Oaks in the North Central States; USDA Forest Service No. Central Experiment Station, General Technical Report NC-37, 1977.
12. Manager's Handbook for Aspen in the North Central States; USDA Forest Service No. Central Experiment Station, General Technical Report NC-36, 1977.

AGENCY OF NATURAL RESOURCES
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FREQUENTLY ASKED QUESTIONS (FAQ'S) AND ANSWERS

Question: Who is required to file an INTENT TO CUT NOTIFICATION?

Answer: INTENT TO CUT NOTIFICATION is needed ONLY IF the landowner plans to implement a HEAVY CUT of FORTY ACRES or more. A heavy cut is defined by statute as "a harvest leaving a residual stocking level of acceptable growing stock below the C-line as defined by the U. S. Department of Agriculture silvicultural stocking guides for the applicable timber type." Harvest of more than 40 acres, but which do not involve a heavy cut of more than 40 acres, are generally exempt from the filing requirements.

Question: Are there others who should file an INTENT TO CUT NOTIFICATION?

Answer: Yes. Landowners who will be doing a heavy cut on more than FORTY ACRES on or after the legislation became effective or that exceeds EIGHTY acres within 5 years within a radius of two miles will also have to file. Separated cuts will be measured from the closest point of one cut to the closest point on another.

Question: Are there any heavy cuts that are exempt from review?

Answer: Yes. Heavy cuts are exempt and, no further review necessary, if one of the following conditions apply.

1. If the notice is for informational purposes only even though the harvest is not subject to regulations under the provisions of this law.
2. If the landowner certifies that the proposed heavy cut is intended to carry out an agricultural conversion plan, and that the conversion will be completed and the land will be in agricultural production within five years.
3. If the landowner certifies that the proposed heavy cut is a conversion subject to regulation by a district commission and the Environmental Board under 10 V.S.A. Chapter 15 (Act 250) or by the Public Service Board Title 30.
4. If the landowner certifies that the proposed heavy cut is consistent with one of the following:
 - A. A forest management plan currently in effect and approved by the department under the current use assessment program.
 - B. A chip harvesting plan currently in effect and approved by the Department of Fish and Wildlife under a permit issued under 30 V.S.A. Section 248.

C. A forest management plan currently in effect and approved by the department under rules in effect at the time of approval of the plan.

Question: When must I apply?

Answer: The best time to apply is prior to a harvesting operation. An application is REQUIRED prior to heavy cutting. Failure to provide prior INTENT TO CUT NOTIFICATION is subject to penalties.

Question: Where should I apply?

Answer: File your INTENT TO CUT NOTIFICATION in the Forestry District Office that covers the County where your land is located. See the attached list.

Question: If I file an INTENT TO CUT NOTIFICATION, how long do I have to wait for my permit to begin cutting?

Answer: On submission of the completed form, Department personnel have 15 days to review, approve, approve with conditions or deny the application. If a determination is not made in that period then the heavy cut is exempt from the review requirements and may proceed. The proposed cut is still subject to the requirements of a harvest (or management) plan, and applicable department rules.

Question: Is there an appeal process if I am not satisfied with the Department's response to my INTENT TO CUT NOTIFICATION?

Answer: You have thirty days to appeal to the Commissioner of Forests, Parks and Recreation concerning the conditions or the denial. A review team and a hearing officer may be appointed to gather information and make recommendations to the Commissioner. The Commissioner has thirty days from receipt of the appeal to issue a decision.

Question: What if the Commissioner upholds the denial?

Answer: You have the right to appeal to the Environmental Law Court which will review the record and issue a decision. The Commissioner's decision will be upheld unless the court finds that the Commissioner has acted arbitrarily or without substantial basis.

Question: If I intend to heavy cut in excess of the allowed acreage, what standards apply?

Answer: You will be required to follow the standards established by Emergency Rules which are being developed. The Department of Forests, Parks and Recreation will be convening a work group representing a broad spectrum of interests, including the forest products industry, to draft permanent rules governing heavy cuts.

Question: What is the penalty for failing to file an INTENT TO CUT NOTIFICATION?

Answer: A violation of the law and/or the rules adopted may result in a penalty of up to \$50,000 per violation and up to \$25,000 a day for a continuing violation.

Question: What is the fee for filing an INTENT TO CUT NOTIFICATION?

Answer: A fee of \$100.00 is for filing an INTENT TO CUT NOTIFICATION that is NOT EXEMPT for review under the provisions of this legislation. Fees paid for proposals that are later deemed to be entitled to an exemption or do not require a site visit shall be returned to the landowner. Only checks and money orders in the amount of \$100.00 made payable to the State of Vermont will be accepted. NO CASH PAYMENTS will be accepted. Fees should be paid at time of filing.

Question: Is the landowner's forester or the logging contractor subject to the permit requirement?

Answer: Not if they are acting purely as an agent and are receiving compensation comparable to that of the industry.

Loggers who are harvesting subject to control and supervision of a landowner or owners of timber are generally exempt, unless some other agreement or compensation plan indicates an "affiliation for profit."

Partners, persons owning more than 5% of corporate owner's stock, and family members who are benefitting financially from the harvest are considered to be affiliated for profit.