

MAINE STATE LEGISLATURE

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126th MAINE LEGISLATURE

SECOND REGULAR SESSION-2014

Legislative Document

No. 1823

H.P. 1314

House of Representatives, March 18, 2014

An Act To Amend the Outcome-based Forestry Experiment Laws

(AFTER DEADLINE)

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.

Reference to the Committee on Agriculture, Conservation and Forestry suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative McCABE of Skowhegan.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 12 MRSA §8003, sub-§3, ¶Q**, as amended by PL 2011, c. 488, §1, is
3 further amended to read:

4 Q. The director, in cooperation with public and private landowners, shall actively
5 pursue creating experimental areas on public and private land where the principles
6 and applicability of outcome-based forest policy, as defined in section 8868, can be
7 applied and tested. No more than 6 such areas may be designated and no more than 3
8 of those 6 areas may individually be more than 50,000 acres. The director shall seek
9 to designate areas representing differing forest types and conditions and of differing
10 sizes and from different geographic regions of the State. The term of initial
11 agreements may not exceed 5 years.

12 This paragraph is repealed July 1, 2021.

13 **Sec. 2. 12 MRSA §8869, sub-§3-A**, as amended by PL 2011, c. 488, §3, is
14 further amended to read:

15 **3-A. Experimental areas.** Practices applied on an experimental area created
16 pursuant to section 8003, subsection 3, paragraph Q must provide at least the equivalent
17 forest and environmental protection as provided by existing rules and any applicable local
18 regulations. ~~At a minimum, tests of outcome-based principles must address:~~

- 19 ~~A. Soil productivity;~~
20 ~~B. Water quality, wetlands and riparian zones;~~
21 ~~C. Timber supply and quality;~~
22 ~~D. Aesthetic impacts of timber harvesting;~~
23 ~~E. Biological diversity; and~~
24 ~~F. Public accountability.~~

25 ~~The Governor shall appoint a panel of technical experts to work with the director to~~
26 ~~implement, monitor and assess tests of outcome-based forestry principles. In order to~~
27 ~~participate in the outcome-based forestry experiment, the landowner, director and~~
28 ~~technical panel must develop agreed-upon desired outcomes for the experimental area~~
29 ~~and develop a method for determining if the outcomes have been attained and a system~~
30 ~~for reporting results to the public.~~

31 **Sec. 3. 12 MRSA §8869, sub-§7-A**, as amended by PL 2011, c. 488, §4, is
32 further amended to read:

33 **7-A. Exemption for outcome-based forest policy experimental areas.** ~~Outcome-~~
34 ~~based~~ Except for the requirement in subsection 3-A, outcome-based forest policy
35 experimental areas designated under section 8003, subsection 3, paragraph Q are exempt
36 from the requirements of this ~~subchapter~~ section and rules adopted pursuant to this
37 ~~subchapter~~ section if the exemptions are identified in the agreement establishing the
38 experimental area.

1 This subsection is repealed July 1, 2021.

2 **Sec. 4. 12 MRSA §8869-B** is enacted to read:

3 **§8869-B. Outcome-based forest policy experimental area**

4 This section governs experimental areas created pursuant to section 8003, subsection
5 3, paragraph Q.

6 **1. Tests.** At a minimum, tests of outcome-based principles must address:

7 A. Soil productivity;

8 B. Water quality, wetlands and riparian zones;

9 C. Timber supply and quality;

10 D. Aesthetic impacts of timber harvesting;

11 E. Biological diversity; and

12 F. Public accountability.

13 **2. Technical panel.** The Governor shall appoint a panel of technical experts,
14 referred to in this subsection as "the technical panel," to work with the director to
15 implement, monitor and assess tests of outcome-based forestry practices. The technical
16 panel must consist of at least 5 but not more than 7 members and must include members
17 with expertise in plant ecology, wildlife ecology and forestry, members who represent the
18 interests of small and large landowners and members who represent the interests of the
19 public. At least one member with expertise in plant ecology, wildlife ecology or forestry
20 must be a current or former member of the faculty of the University of Maine forest
21 resources or wildlife ecology department. Members are appointed for terms of 4 years.

22 **3. Participation.** In order to participate in the outcome-based forest policy
23 experiment, the landowner, director and technical panel must develop agreed-upon
24 desired outcomes for the experimental area and develop a method for determining if the
25 outcomes have been attained. The method for determining if the outcomes have been
26 attained must include an assessment by the technical panel in accordance with subsection
27 4.

28 **4. Assessment.** The technical panel shall independently assess whether the practices
29 applied in the experimental area provide at least the equivalent forest and environmental
30 protection as required by existing rules and any applicable local regulations as required
31 by section 8869, subsection 3-A. The technical panel may not delegate the assessment to
32 any other person or organization. In determining whether the forest and environmental
33 protection is equivalent, the technical panel shall evaluate the outcomes of the outcome-
34 based forest policy experiment:

35 A. On multiple size scales, including a harvesting-area scale, a landscape scale and a
36 regional scale; and

37 B. By habitat type, habitat patch size and long-term impacts to habitat structure
38 across the experimental area.

1 **5. Annual report.** Beginning January 1, 2015, and by every January 1st thereafter,
2 the director shall submit a report to the joint standing committee of the Legislature having
3 jurisdiction over conservation matters. The annual report must include an assessment of
4 the progress on the entirety of the outcome-based forest policy experiment and must
5 include recommendations on whether the outcome-based forest policy experiment should
6 be continued, changed or ended. The director shall present the annual report to the joint
7 standing committee at a public meeting no sooner than 30 days after the report is
8 submitted to the committee.

9 **6. Five-year report.** Beginning 5 years from the date an agreement for an
10 experimental area is entered into pursuant to section 8003, subsection 3, paragraph Q and
11 every 5 years thereafter, the director shall submit a report on that experimental area to the
12 joint standing committee of the Legislature having jurisdiction over conservation matters.
13 The 5-year report must include an assessment by the technical panel in accordance with
14 subsection 4. Prior to the submission of the 5-year report to the joint standing committee,
15 the director shall provide a 30-day opportunity for public comment on the draft report.
16 The 5-year report to the joint standing committee must include a response to each public
17 comment from the director.

18 **7. Proposed agreements.** Prior to entering into any agreement establishing an
19 outcome-based forest policy experimental area pursuant to section 8003, subsection 3,
20 paragraph Q, the director shall present the proposed agreement to the joint standing
21 committee of the Legislature having jurisdiction over conservation matters. The
22 presentation must address how the proposed agreement will provide at least the
23 equivalent forest and environmental protection as required by existing rules and any
24 applicable local regulations as required by section 8869, subsection 3-A.

25 **8. Rules.** The bureau shall adopt rules to implement this section. Rules adopted
26 pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375,
27 subchapter 2-A.

28 **9. Repeal.** This section is repealed July 1, 2021.

29 **Sec. 5. 12 MRSA §8879, sub-§1,** as amended by PL 2011, c. 532, §2 and c. 657,
30 Pt. W, §7 and PL 2013, c. 405, Pt. A, §23, is further amended to read:

31 **1. Content.** The report must describe the condition of the State's forests based on
32 historical information and information collected and analyzed by the bureau for the
33 5-year period. The report must provide an assessment at the state level of progress in
34 achieving the standards developed pursuant to section 8876-A, ~~including progress of the~~
35 ~~outcome-based forestry experiment authorized under section 8003, subsection 3,~~
36 ~~paragraph Q.~~ The director shall also provide observations on differences in achieving
37 standards by landowner class. The report must summarize importing and exporting of
38 forest products for foreign and interstate activities. The director shall obtain public input
39 during the preparation of the report through appropriate methods.

40 **Sec. 6. Staggered terms.** Notwithstanding the Maine Revised Statutes, Title 12,
41 section 8869-B, subsection 2, by October 15, 2014, the Governor shall appoint the
42 members of the technical panel to serve initial staggered terms. Of the appointees, up to

1 2 members serve initial terms of one year, up to 2 members serve initial terms of 2 years,
2 one member serves an initial term of 3 years and 2 members serve initial terms of 4 years.
3 The Governor may appoint a member serving on the technical panel on the effective date
4 of this Act to serve on the panel in accordance with Title 12, section 8869-B, subsection
5 2.

6 **SUMMARY**

7 This bill amends the laws governing outcome-based forest policy experimental areas.
8 It amends the membership of the technical panel assessing those experimental areas. It
9 requires the technical panel to prepare an independent assessment and amends reporting
10 requirements. It also repeals these laws July 1, 2021.