

# MAINE STATE LEGISLATURE

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# 126th MAINE LEGISLATURE

## SECOND REGULAR SESSION-2014

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Legislative Document

No. 1847

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S.P. 746

In Senate, March 26, 2014

### **An Act To Clarify Outcome-based Forestry**

(AFTER DEADLINE)

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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.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT  
Secretary of the Senate

Presented by Senator BOYLE of Cumberland.  
Cosponsored by Representative CRAY of Palmyra and  
Senators: SAVIELLO of Franklin, SHERMAN of Aroostook, VITELLI of Sagadahoc,  
Representatives: BLACK of Wilton, DILL of Old Town, NOON of Sanford, TIMBERLAKE  
of Turner.

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. The director shall  
8 seek to designate areas representing differing forest types and conditions and ~~from~~  
9 different geographic regions of the State. The term of initial agreements may not  
10 exceed 5 years.

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

13 **3-A. Plans for experimental areas.** Practices applied on an experimental area  
14 created pursuant to section 8003, subsection 3, paragraph Q must provide at least the  
15 equivalent forest and environmental protection as provided by existing local, state and  
16 federal rules and ~~any applicable local~~ regulations. At a minimum, tests of outcome-based  
17 principles practices must address:

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

24 The Governor shall appoint a panel of at least 6 technical experts to work with the  
25 director to implement, monitor and assess tests of outcome-based forestry ~~principles~~  
26 practices. The panel of technical experts must include at least one member representing  
27 the public and must have expertise in the principles listed in paragraphs A to F. In order  
28 to participate in the outcome-based forestry experiment, the landowner, director and  
29 technical panel must develop agreed-upon desired outcomes for the experimental area  
30 and develop a method for determining if the outcomes have been attained and a system  
31 for reporting results to the public. The technical panel must assess independently whether  
32 the practices applied on the experimental area provide at least the equivalent forest and  
33 environmental protection as provided by local, state and federal rules and regulations  
34 otherwise applicable to that experimental area. The technical panel may not delegate this  
35 assessment to any other person.

36 **Sec. 3. 12 MRSA §8869, sub-§§3-B and 3-C** are enacted to read:

37 **3-B. Reporting on experimental areas.** The director and the technical panel under  
38 subsection 3-A each shall submit a report to the joint standing committee of the  
39 Legislature having jurisdiction over forestry matters in accordance with this subsection.

1           A. Beginning January 1, 2015 and annually thereafter, the director and the technical  
2           panel shall each submit a report detailing the progress on the entirety of the outcome-  
3           based forestry experiment. The annual reports must be presented to the joint standing  
4           committee of the Legislature having jurisdiction over forestry matters at a public  
5           meeting no sooner than 30 days after submission of the reports to the committee.

6           B. Beginning 5 years from the date an agreement for an experimental area is entered  
7           into pursuant to section 8003, subsection 3, paragraph Q and every 5 years thereafter,  
8           the director and the technical panel shall each submit a report to the joint standing  
9           committee of the Legislature having jurisdiction over forestry matters on each  
10           experimental area created by an agreement. Each 5-year report must include an  
11           analysis as to whether the practices applied on the experimental area provide at least  
12           the equivalent forest and environmental protection as provided by local, state and  
13           federal rules and regulations in existence on the date of the agreement. Prior to the  
14           submission of the director's report to the Legislature, the director shall establish a  
15           30-day opportunity for public comment on the draft report. The director's final report  
16           to the committee must include a response to each public comment.

17           **3-C. Briefing to the Legislature.** Prior to entering into an outcome-based forestry  
18           agreement under section 8003, subsection 3, paragraph Q, the director shall brief the joint  
19           standing committee of the Legislature having jurisdiction over forestry matters. In the  
20           briefing, the director shall address how the proposed agreement will provide at least the  
21           equivalent forest and environmental protection as provided by local, state and federal  
22           rules and regulations that otherwise would apply to that experimental area.

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

25           **7-A. Exemption for outcome-based forest policy experimental areas.** ~~Outcome-~~  
26 ~~based~~ An outcome-based forest policy experimental area designated under section  
27 8003, subsection 3, paragraph Q are is exempt from the requirements of this subchapter  
28 ~~and rules adopted pursuant to this subchapter~~ section if specifically exempted in the  
29 agreement establishing the experimental area.

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

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

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## SUMMARY

2           This bill amends the laws governing outcome-based forest policy experimental areas.  
3 It amends the membership of the technical panel assessing those experimental areas to  
4 consist of at least 6 members, at least one of whom is a member of the public, and  
5 specifies that they must have expertise in the areas of outcome-based principles. The  
6 technical panel is required to determine whether the practices applied in an experimental  
7 area provide at least equivalent forest and environmental protection as provided by the  
8 local, state and federal rules and regulations that would otherwise apply to that  
9 experimental area.

10           This bill requires the Director of the Bureau of Forestry within the Department of  
11 Agriculture, Conservation and Forestry to brief the joint standing committee of the  
12 Legislature having jurisdiction over forestry matters prior to entering into an outcome-  
13 based forestry experiment agreement. The bill also requires the director and the technical  
14 panel each to submit 2 different reports to the joint standing committee. The first is an  
15 annual report regarding the progress on the outcome-based forestry experiment and the  
16 2nd is a report that must be completed every 5 years after entering into an agreement,  
17 which must include an analysis as to whether the practices applied on the experimental  
18 area provide at least the equivalent forest and environmental protection as provided by  
19 rules and regulations in existence on the date of the agreement.

20           The bill also amends current reporting requirements to require the director to make a  
21 recommendation to continue, change or discontinue the outcome-based forestry  
22 experiment.