

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-SIXTH LEGISLATURE

FIRST SPECIAL SESSION
August 29, 2013

SECOND REGULAR SESSION
January 8, 2014 to May 2, 2014

THE EFFECTIVE DATE FOR
FIRST SPECIAL SESSION
EMERGENCY LAW IS
SEPTEMBER 6, 2013

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
AUGUST 1, 2014

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH THE MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

Augusta, Maine
2014

chapter 34-A and the creation of an independent siting authority to consider wind energy development applications; ~~and~~

(d) Include a description of activities undertaken pursuant to paragraph H; ~~and~~

(e) Include a description of the State's activities relating to the expansion of natural gas service, any actions taken by the office to expand access to natural gas in the State and any recommendations for actions by the Legislature to expand access to natural gas in the State.

The joint standing committee of the Legislature having jurisdiction over utilities and energy matters may report out legislation by February 1st of each odd-numbered year relating to the content of the plan. The joint standing committee of the Legislature having jurisdiction over natural resources matters may make recommendations regarding that legislation to the joint standing committee of the Legislature having jurisdiction over energy matters.

See title page for effective date.

CHAPTER 542

S.P. 746 - L.D. 1847

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

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

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

Q. The director, in cooperation with public and private landowners, shall actively pursue creating ~~experimental~~ areas on public and private land where the principles and applicability of outcome-based forest policy, as defined in section 8868, subsection 2-B, can be applied and tested. No more than 6 such areas may be designated. The director shall seek to designate areas ~~representing~~ of various sizes owned by different landowners. The designated areas must represent differing forest types and conditions and from different geographic regions of the State. Prior to entering into an outcome-based forestry agreement, the director and the panel of technical experts under section 8869, subsection 3-A shall conduct a comprehensive review of the proposed outcome-based forestry agreement. The term of initial agreements may not exceed 5 years. The director may renew an agreement if requirements under this section

and section 8869, subsection 3-A are met. The term of a subsequent agreement may not exceed 5 years.

Sec. 2. 12 MRSA §8868, sub-§2-B, as amended by PL 2011, c. 488, §2, is further amended to read:

2-B. Outcome-based forest policy. "Outcome-based forest policy" means a science-based, voluntary process to achieve agreed-upon economic, environmental and social outcomes in the State's ~~forest forests~~, as an alternative to prescriptive regulation, demonstrating measurable progress towards achieving statewide sustainability goals and allowing landowners to use creativity and flexibility to achieve objectives, while providing for the conservation of public trust resources and the public values of forests.

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

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

- A. Soil productivity;
- B. Water quality, wetlands and riparian zones;
- C. Timber supply and quality;
- D. Aesthetic impacts of timber harvesting;
- E. Biological diversity; ~~and~~
- F. Public accountability; ~~and~~
- G. Economic considerations;
- H. Social considerations; and
- I. Forest health.

The Governor shall appoint a panel of at least 6 technical experts to work with the director to implement, monitor and assess tests of outcome-based forestry principles. The panel of technical experts must have expertise in all of the principles listed in paragraphs A to I. In order to participate in the an outcome-based forestry ~~experiment~~ project, the landowner, director and technical panel must develop agreed-upon desired outcomes for the ~~experimental~~ outcome-based forestry area and develop a method for determining if the outcomes have been attained and a system for reporting results to the public. The technical panel shall assess whether the practices applied on the outcome-based forestry area provide at least the equivalent forest and environmental protection as provided by rules and regulations otherwise applicable to that outcome-based forestry area. The technical panel may not delegate

this assessment to any other person, except that the technical panel may consider information provided by the bureau, the landowner or a 3rd-party forest certification program auditor.

Sec. 4. 12 MRSA §8869, sub-§3-B is enacted to read:

3-B. Reporting and notification; outcome-based forestry projects. The director, in consultation with the technical panel under subsection 3-A, shall report to the joint standing committee of the Legislature having jurisdiction over forestry matters as follows.

A. Beginning March 1, 2015 and annually thereafter, the director shall submit a report detailing the progress on each outcome-based forestry agreement under section 8003, subsection 3, paragraph Q. The report must include an assessment of the landowner's progress toward attaining the outcomes under subsection 3-A. The report must be presented to the joint standing committee of the Legislature having jurisdiction over forestry matters at a public meeting no sooner than 30 days after submission of the report to the committee.

B. When an initial outcome-based forestry agreement is approved by the director as provided by section 8003, subsection 3, paragraph Q, the director shall notify the joint standing committee of the Legislature having jurisdiction over forestry matters within 15 days. In the notification, the director shall address how the proposed agreement will provide at least the equivalent forest and environmental protection as provided by rules and regulations that otherwise would apply to that outcome-based forestry area.

C. When an outcome-based forestry agreement under this section is renewed as provided by section 8003, subsection 3, paragraph Q, the director shall notify the joint standing committee of the Legislature having jurisdiction over forestry matters no later than 15 days after the agreement is renewed.

A report, notification or any information concerning outcome-based forestry projects under this subsection must be placed on the Department of Agriculture, Conservation and Forestry's publicly accessible web-site.

Sec. 5. 12 MRSA §8869, sub-§7-A, as amended by PL 2011, c. 488, §4, is further amended to read:

7-A. Exemption for outcome-based forestry areas. ~~Outcome based forest policy experimental areas~~ An outcome-based forestry area designated under section 8003, subsection 3, paragraph Q are is exempt from the requirements of this subchapter and

~~rules adopted pursuant to this subchapter section if specifically exempted in the agreement establishing the outcome-based forestry area.~~

Sec. 6. 12 MRSA §8869, sub-§13, as amended by PL 2011, c. 488, §5 and c. 657, Pt. W, §7 and PL 2013, c. 405, Pt. A, §23, is further amended to read:

13. Confidential information. Information provided to the bureau voluntarily or to fulfill reporting requirements for the purposes of establishing and monitoring outcome-based ~~forest policy experimental~~ forestry areas, as created pursuant to section 8003, subsection 3, paragraph Q, is public unless the person to whom the information belongs or pertains requests that it be designated as confidential and the bureau has determined it contains proprietary information. For the purposes of this subsection, "proprietary information" means information that is a trade secret or production, commercial or financial information the disclosure of which would impair the competitive position of the person submitting the information and would make available information not otherwise publicly available. The bureau, working with the landowner and the panel of technical experts appointed under subsection 3-A, may publish reports as long as those reports do not reveal confidential information.

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

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

See title page for effective date.

CHAPTER 543

S.P. 654 - L.D. 1660

An Act Regarding Bad Faith Assertions of Patent Infringement