

Subtitle 07 FORESTS AND PARKS

08.07.08 Licensed Forest Products Operator

Authority: Natural Resources Article, §5-608, Annotated Code of Maryland

Notice of Proposed Action

[11-243-P]

The Department of Natural Resources proposes to adopt new Regulations **.01—.07** under a new chapter, **COMAR 08.07.08 Licensed Forest Products Operator**.

Statement of Purpose

The purpose of this action is to adopt regulations that reflect the statutory changes adopted during the 2010 legislative session. These regulations allow the Department to issue a Forest Products Operator's license as well as suspend or revoke a Forest Products Operator's license if the operator fails to comply with existing laws and regulations pertaining to timber harvesting, environmental protections, or appropriate business practices.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

I. Summary of Economic Impact. The proposed regulations include a licensing requirement and a licensing fee. The fee was originally located in the statute but was removed from the statute during the 2010 legislative session. The original fee was \$20 but has been increased to \$30 as the fee has not been increased in years.

Revenue (R+/R-)

II. Types of Economic Impact.

Expenditure (E+/E-) Magnitude

- A. On issuing agency: (R+) Minimal
- B. On other State agencies: NONE
- C. On local governments: NONE

Benefit (+) Cost (-) Magnitude

- D. On regulated industries or trade groups: (-) Minimal
- E. On other industries or trade groups: NONE
- F. Direct and indirect effects on public: NONE

III. Assumptions. (Identified by Impact Letter and Number from Section II.)

A. Currently, the Maryland Forest Service receives approximately \$8,000 in revenue from issuing licenses required under the forest product operators statute. These funds are used to implement the licensing program. The \$10 fee increase will increase the revenue by \$4,000 to a total of approximately \$12,000.

B. Currently, approximately 400 forest product operators pay \$20 for their licenses. The \$10 increase in fee per these proposed regulations increases the cost to \$30.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Marian Honecny, Supervisor, Urban and Community Forestry, MD Forest Service, 580 Taylor Avenue, E-1, Annapolis, MD 21401, or call 410-260-8511, or email to mhonecny@dnr.state.md.us, or fax to 410-260-8595. Comments will be accepted through October 11, 2011. A public hearing has not been scheduled.

PROPOSED ACTION ON REGULATIONS

1158

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.01 Definitions.

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

(1) "Commercial logging or timber harvesting operations" means the cutting and removing of tree stems from a site for commercial purposes while leaving the root mass intact.

(2) Forest Products.

(i) "Forest products" includes trees or parts of trees that are harvested for compensation.

(ii) "Forest products" includes green lumber, logs, pulpwood, firewood, bark, chips, shavings, and sawdust.

(3) "Forest products operator" means a person who represents to the public that the person is available to engage in the commercial trade of forest products, including the harvesting, transporting, selling or re-selling of forest products.

(4) "Licensed forest products operator" means a person who has received a license from the Department displaying the person's qualification to practice as a forest products operator.

.02 License Required.

Forest products may be sold for compensation only by a person licensed as a forest products operator by the Department.

.03 Responsibilities.

A. A licensed forest products operator shall comply in all respects with applicable statutes and regulations pertaining to forest products operations.

B. A licensed forest products operator may not engage in any form of false or misleading advertising or promotional activities, including the falsification or misrepresentation of:

(1) The professional or trade qualifications or affiliations of the forest products operator;
or

(2) The experience or licensing status of the forest products operator.

C. A licensed forest products operator may not falsely represent the species of forest products sold or delivered, the quantity of forest products sold or delivered, or records of forest product transactions.

D. A licensed forest products operator shall retain documentation of all sales of chips produced at the site of harvest, logs, pulpwood, and firewood for one year from the date of sale. The documentation shall provide:

(1) Date of sale, name and address of purchaser;

(2) Quantity of forest product sold or delivered including unit of measurement;

(3) Species of the forest product; and

(4) County from which the forest product originated.

E. A licensed forest products operator shall disclose the license number issued by the Department in all advertisements of services offered or notices for sale of forest products.

F. A forest products operator shall not trespass upon property adjacent to the property from which the forest products operator is lawfully harvesting or collecting forest products.

G. A forest products operator shall ensure the safe operation of all equipment used during the harvesting or collecting of forest products.

H. In the performance of harvesting, collecting, or transporting forest products, a forest products operator shall make every reasonable effort to protect the safety, health, property, and welfare of the public.

- I. A forest products operator shall cooperate fully with the Department of Natural Resources in an investigation or adjudication of an alleged violation of laws pertaining to licensed forest product operators and, upon request, shall provide copies of documents to the Department.*
- J. A forest products operator shall, within 30 days, inform the Department of Natural Resources Forest Service in writing of a change in business address or telephone number.*

.04 Supervision.

A licensed forest products operator is responsible for the quality and content of all work and acts performed by those working under the license.

.05 Requirements for Licensure.

A. Qualifications; Issuance. The Department shall issue a forest products operator license to any applicant who:

- (1) Pays the fee of \$30 per year; and*
- (2) Completes a form provided by the Department indicating the applicant's sales of forest products during the previous calendar year.*

B. Licensee to Carry Insurance. Every licensee shall obtain workman's compensation insurance in an amount meeting the minimum requirements established pursuant to the Maryland Workers' Compensation Act under Title 9 of the Labor and Employment Article, prior to the Department issuing the license. The licensee shall maintain the insurance protection for the period the license is in effect.

.06 Prohibited Conduct.

Illegal Action and Activity. A person may not:

- A. Solicit, advertise, or represent oneself to the public as a forest products operator without having received a license;*
- B. After having received the license and subsequently losing it by revocation or suspension, continue to represent oneself as a licensed forest products operator; or*
- C. Use the title or abbreviation "F.P.O." or any other words, letters, or abbreviations tending to indicate that one is a licensed forest products operator without having received a license, or when the license has been revoked or suspended.*

.07 Suspension and Revocation.

A. The Department may permanently revoke or temporarily suspend the license of any licensed forest products operator who:

- (1) Is guilty of any fraud or deceit in obtaining the license;*
- (2) Violates any provision of Natural Resources Article, §5-608, Annotated Code of Maryland or this chapter.*

B. The Department shall provide notice of its intent to suspend or revoke a license in accordance with Natural Resources Article, §5-608(c), Annotated Code of Maryland.

JOHN R. GRIFFIN
Secretary of Natural Resources