

The Vermont Right to Conduct Forestry Operations

In 2018, the Vermont General Assembly passed, and Governor Scott signed into law, the **Vermont Right to Conduct Forestry Operations - Title 12, Chapter 196** of the Vermont Statutes Annotated - establishes that lawful forestry operations are protected from nuisance lawsuits.

Why it is important?

As a result of encroachment on forests, conflicts have arisen between traditional forestry land uses and urban, commercial, and residential land uses. “**Conventional forestry practices**,” including but not limited to logging, transportation, and processing of forest products may be subject to unnecessary or adversarial lawsuits based on the theory of nuisance. Nuisance suits could encourage, and result in, the conversion of forestland and loss of the forest economy. It is in the public’s interest to ensure that lawfully conducted conventional forestry practices are protected and encouraged and are not subject to nuisance actions. “**Forestry operations**” are typically of finite duration and are necessary to achieve multiple objectives, including but not limited to, managing forest health, implementing forest management plans (e.g., current use enrollments), and providing needed revenue to landowners to sustain the forestland use and prevent forest fragmentation. Maintaining forests as forests is essential to providing Vermonters with forest products, clean air and water, flood resilience, carbon sequestration and storage, biodiversity and wildlife habitat, and opportunities for outdoor recreation.



Photo Credit: Vermont Sustainable Jobs Fund, Erica Housekeeper

What is a conventional forestry practice?

According to the law, a person conducting a conventional forestry practice shall be entitled to a rebuttable presumption that the conventional forestry practice does not constitute a public or private nuisance, if, the person conducts the conventional forestry practice in compliance with the [Acceptable Management Practices for Maintaining Water Quality on Logging Jobs in Vermont](#) and other applicable law.

Conventional forestry practice means:

- Forestry operations;
- A change in ownership or size of a parcel on which a forestry operation is being conducted;
- Cessation or interruption of a forestry operation or a change in a forestry operation, including a change in the type of a forestry operations;
- Enrollment in governmental forestry or conservation programs;
- Adoption of new forestry technology;
- Construction, maintenance, and repair of log landings, logging roads, and skid trails;
- Visual changes due to the removal, storage, or stockpiling of vegetation or forest products
- Noise from forestry equipment used as part of a forestry operation; or
- The transport or trucking of forest products or of equipment on, to, or from the site of a forestry operation

Nuisance lawsuit protection **does not apply** to logging that is not part of the management of forests. For example, if logging is a component of converting the land to a non-forest use, it is not a forestry operation and not entitled to this protection.



What is a forestry operation?

Forestry operations includes:

- A. The primary processing of forest products on a parcel where a timber harvest occurs; or
- B. The primary processing of forest products at a site that is not the harvest site, provided that:
 - i. The person conducting the forestry operations owns or has permission to use the site for the forestry operation;
 - ii. The forestry operation was established prior to surrounding activities that are not forestry operations;
 - iii. The site is used by the forestry operation for 12 or fewer months in any two-year period or 24 or fewer months in any five-year period;
 - iv. The forestry operation complies with all applicable law; and
 - v. Only portable, nonpermanent equipment is used to process the forest products at the site.

The offsite processing provision provides protection for the temporary duration of forestry operations that stockpile forest products for processing at sites other than the parcel where the timber harvest occurs, such as producers of firewood, fuelwood chips, or bark mulch, or operators of portable sawmills.

Do I still need a local permit?

You may. This protection does not supersede local zoning or land use permitting requirements, and if permits are required for processing forest products at a parcel that is not the harvest site, they must be in place for the protection to be in effect. Pursuant to Title 24, Chapter 117 of the Vermont Statutes Annotated, 24 V.S.A. § 4413, forest operations where the timber harvest occurs are exempt from municipal regulation. In addition, an appropriate municipal panel may, when issuing a decision on a land development application, impose reasonable restrictions to protect wildlife habitat, threatened or endangered species, or other natural historic or scenic resources, as long as such restrictions do not restrict or regulate forestry operations unrelated to land development.

What doesn't the law protect?

It does not protect those who would operate negligently or in violation of the law. This important presumption may be rebutted by: 1) showing that a nuisance resulted from the negligent operation of the conventional forestry practice; 2) a nuisance resulted from a violation of state, federal, or other applicable law during the conduct of the conventional forestry practice; or 3) there is clear and convincing evidence that the conventional forestry practice has a substantial adverse effect on the health, safety, or welfare of the complaining party.

How can I avoid nuisance lawsuits?

Though this nuisance lawsuit protection is in place for lawfully conducted conventional forestry practices, logging contractors and their employees, truck drivers, licensed foresters, and others associated with the operation should take it upon themselves to conduct their work and interact with the general public and neighbors in a professional manner. With or without this protection, courteously engaging with the public, providing explanations to those who may not understand the value or logistical needs of forestry practices, and considering their concerns can be the most effective tool to resolve any potential conflict long before this protection needs to be employed.

For more information, read the [full statute](#), or contact
the Vermont Department of Forests, Parks & Recreation at (802) 828-1534.

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