



# STATE OF NEW HAMPSHIRE

Department of Natural and Cultural Resources

Division of Forests and Lands

## FORM 5302a



Application for permission to exceed the limits established in the provisions of the 50 percent basal area law RSA 227-J:9 Cutting of Timber Near Certain Waters and Public Highways of the State; Penalty.

<http://gencourt.state.nh.us/rsa/html/XIX-A/227-J/227-J-9.htm>

### Landowner Information

Name of Owner: \_\_\_\_\_ Telephone #(Home): \_\_\_\_\_

Mailing Address: \_\_\_\_\_ Telephone #(Work): \_\_\_\_\_

City, State, Zip: \_\_\_\_\_ Best Time To Contact: \_\_\_\_\_

### Authorized Agent if Other Than Owner

Name of Agent: \_\_\_\_\_ Telephone #(Home): \_\_\_\_\_

Mailing Address: \_\_\_\_\_ Telephone #(Work): \_\_\_\_\_

City, State, Zip: \_\_\_\_\_ Best Time To Contact: \_\_\_\_\_

### Location of Proposed Harvesting Operation

Town/City: \_\_\_\_\_

Physical Address: \_\_\_\_\_

Tax Map and Lot Number: \_\_\_\_\_

*You must attach a copy of a USGS Topographic Map or Town Tax Map with the proposed harvesting area and the area requiring permission clearly outlined. You may attach any other supporting documentation that you would like considered.*

### Describe The Proposed Operation

- ◆ Total distance along road, stream or water body: \_\_\_\_\_ Feet
- ◆ Total acreage of harvesting operation: \_\_\_\_\_ Acres

### Operation Check List

Check Only  
one Per  
Category

- |    |   |     |                          |    |                          |
|----|---|-----|--------------------------|----|--------------------------|
| 1. | Does the proposed harvesting area abut a scenic road?   | Yes | <input type="checkbox"/> | No | <input type="checkbox"/> |
| 2. | Have all required <u>state and local permits</u> been approved?   | Yes | <input type="checkbox"/> | No | <input type="checkbox"/> |
| 3. | Is the proposed harvesting operation a land conversion?   | Yes | <input type="checkbox"/> | No | <input type="checkbox"/> |
| 4. | Is the proposed harvesting operation associated with an existing structure or new development in the Shoreland Protection zone? | Yes | <input type="checkbox"/> | No | <input type="checkbox"/> |
| 5. | Is the proposed harvesting operation near or adjacent to a great pond or standing body of water 10 acres or more in area?       | Yes | <input type="checkbox"/> | No | <input type="checkbox"/> |
| 6. | Does the proposed harvesting area abut a fourth order stream or stream of higher classification?                                | Yes | <input type="checkbox"/> | No | <input type="checkbox"/> |

Describe why it is necessary to exceed the limits of the 50 Percent Basal Area Law ( RSA 227 -J):

Describe how the proposed action(s) is/are consistent with RSA 227-J:1  
Declaration of Purpose.

*Specifically, how the action(s) will: 1. conserve the amount and quality of surface waters and groundwaters of the state; 2. reduce the incidence and severity of forest fires; promote healthy surroundings, recreational opportunities, and scenic values; ensure future forest productivity; improve conditions for wildlife;*

- ◆ Is the proposed project on a certified tree farm? Yes  No
- ◆ If the property is a tree farm, what is the tree farm number? \_\_\_\_\_
- ◆ Is the property managed under a forest stewardship plan as defined in the NH Current Use Criteria Booklet Cub 304.03 FOREST LAND? Yes  No
- ◆ Is the proposed project on land enrolled in current use as defined in RSA79-A? Yes  No
- ◆ What is the expected start date of the harvesting operation? \_\_\_\_\_
- ◆ What is the expected completion date of the harvesting operation? \_\_\_\_\_
- ◆ Is this harvesting operation associated with a land conversion? Yes  No
- ◆ If yes, what is the anticipated completion date of the conversion? \_\_\_\_\_

**This Application Must Be Submitted and Received by the Division of Forests and Lands at Least 30 Days Prior to Commencing the Harvesting Operation.**

*»A Signature is required. Incomplete Applications Will be Returned.«*

RESET FORM

PRINT FORM

\_\_\_\_\_  
 Owner or Authorized Agent Signature

\_\_\_\_\_  
 Date

**Return The Completed Application To:**  
 Director, Division of Forests and Lands  
 172 Pembroke Road

*(use this address for requests in Coos County)*  
 Regional Forester  
 OR 629B Main Street

Concord, New Hampshire 03301

Lancaster, New Hampshire 03584-3612

For Agency Use Only		
Approved	Approved with conditions	Denied

*Revised  
 9/19  
 SR*

## **Basal Area Law (RSA 227-J:9)**

The basal area law requires that forested buffers be left along town and state roads, streams, and bodies of water, following a timber harvest (Figure 5). These buffer zones can prevent erosion, provide wildlife habitat, protect stream temperature and aquatic life, and preserve the aesthetics of the landscape. This law also applies to land conversion and clearing unrelated to forest management unless all state and local permits necessary for the conversion have been secured. (RSA 227-J:9, IV).

### **What is Basal Area?**

Basal area means the cross-sectional area of a tree measured four-and-a-half feet from the ground (Figure 4). It is expressed in square feet per acre. Simply stated, basal area is a measure of tree density on each acre of land. The higher the basal area, the denser the forest.

### **What does the law say?**

The law says that no more than 50 percent of the basal area may be cut or otherwise felled each year, leaving a well distributed stand of healthy, growing trees:

#### **Within 150 feet of:**

- any great pond, which is a standing body of water 10 acres or greater in area
- any fourth order or higher stream To view a consolidated list of fourth order and higher streams, designated rivers, and water bodies >10 acres, follow the link below:  
[http://des.nh.gov/organization/divisions/water/wetlands/cspa/water\\_bodies.htm](http://des.nh.gov/organization/divisions/water/wetlands/cspa/water_bodies.htm)  
When the website appears, click "Consolidated List." The list is arranged alphabetically by city/town. A description of when a river/stream becomes fourth order is provided (for example, the Merrimack River becomes fourth order at the juncture of the Pemigewasset and Winnepesaukee Rivers in Franklin). The list also provides the names (and nicknames) of water bodies greater than 10 acres.
- any public highway (**Class VI exempt as of Jan 1, 2019**).

#### **Within 50 feet of:**

- any other stream, river, or brook that is not a fourth order or higher stream which normally flows throughout the year.
- any standing body of water less than 10 acres associated with a stream, river or brook, which normally flows throughout the year.

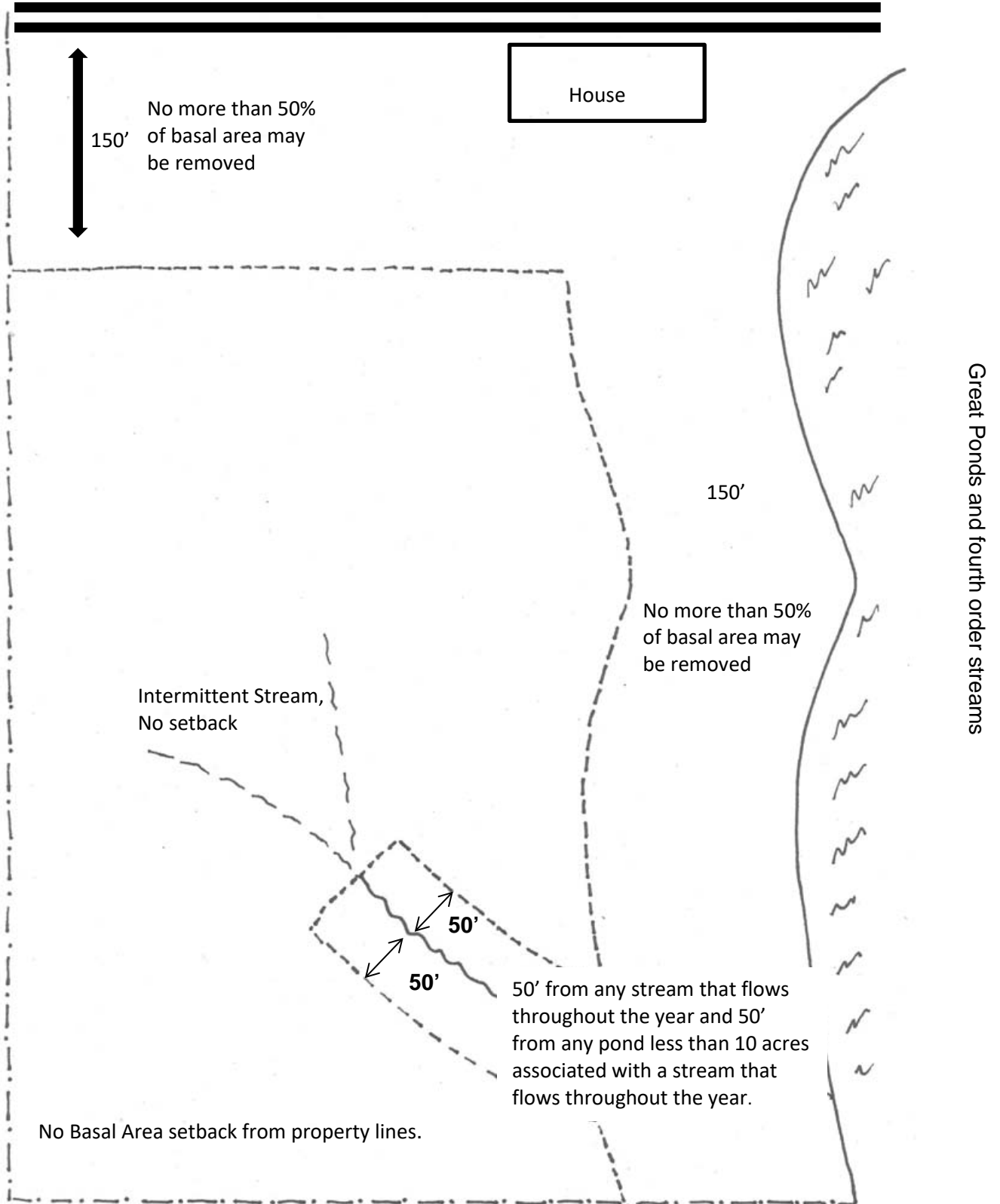
### **Can I obtain a variance to the Basal Area law?**

A landowner may request a variance from the Director of the Division of Forests and Lands to cut more than 50 percent of the basal area along roads, water bodies, or streams. The written request for a variance must include the reason (s) why the variance is necessary and a map showing the location of the property. If the harvest requires approval from local zoning or planning officials, written evidence of such approval must be included with the variance request.

### **Do I also need a Shoreland Protection waiver or alteration of terrain permit?**

If tree removal is associated with construction, alteration of terrain, or land conversion to a use other than forestry within the Shoreland Protection Zone of 250' from a great pond of 10 acres or more, or a 4<sup>th</sup> order stream or higher, a DES permit will be needed per RSA 483-B:9 and RSA 485-A:17.  
[https://www.des.nh.gov/organization/divisions/water/wetlands/cspa/permit\\_shoreland\\_impact.htm](https://www.des.nh.gov/organization/divisions/water/wetlands/cspa/permit_shoreland_impact.htm)

Figure 5. Basal Area Law Map  
Public Highway – Class VI exempt as of Jan 1, 2019



Res 5302.01 Conditions Required to Exceed 50 Percent Basal Area. One or more of the following conditions shall exist in order to qualify for approval to exceed 50 percent basal area:

(a) Cutting up to and including 50 percent of the basal area of trees shall lead to substantial windthrow, mortality or other damage in the residual stand due to stand exposure, shallow or wet soils, stand age or species composition or a combination of these factors;

(b) Salvage of timber is due to damage from fire, insects, diseases, ice, snow, wind or other such natural occurrences;

(c) Public safety is of a prime consideration, due to heavy conifer cover on the south side of major travel routes causing serious icing conditions;

(d) The location of clearings for log yards and truck routes within applicable areas is necessary due to terrain, wet soils, property boundaries, and other site conditions;

(e) Cutting is for the purpose of improving wildlife habitat and can be demonstrated to be part of a long term forest management plan or strategy;

(f) Cutting is for the purpose of a silvicultural strategy or forest management plan for the regeneration of certain forest types requiring removal of overstory trees;

(g) Cutting is for the purpose of a scenic vista or view, providing the area remains in natural vegetation and the purpose is to provide a public benefit;

(h) Cutting is for the purpose of removing vegetation or trees within 150 of an existing dwelling or permanent structure or within 75 feet of the edge of an active agricultural field or crop land, so long as it does not violate the provisions of RSA 483-B; and

(i) Cutting is consistent with the purpose of RSA 227-J:1 as determined by the director.

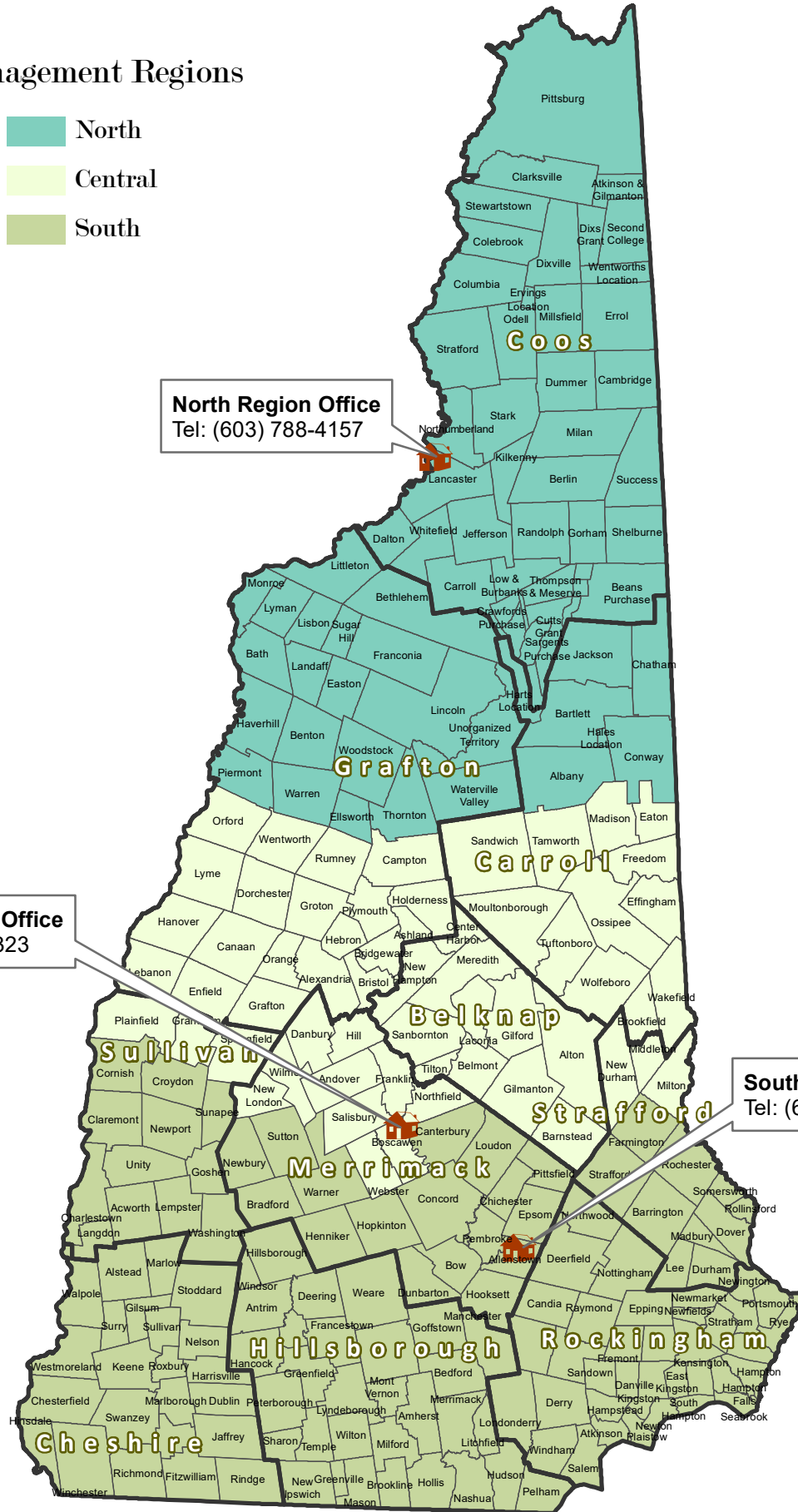


NH DIVISION OF FORESTS & LANDS  
 Regional Offices for Basal Area Variances



Management Regions

- North
- Central
- South



**North Region Office**  
 Tel: (603) 788-4157

**Central Region Office**  
 Tel: (603) 796-2323

**South Region Office**  
 Tel: (603) 227-8741

