

MAINE STATE LEGISLATURE

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FIRST SPECIAL SESSION

ONE HUNDRED AND SIXTH LEGISLATURE

Legislative Document

No. 2500

H. P. 1953

House of Representatives, February 7, 1974

Referred to the Committee on Public Lands. Sent up for concurrence and ordered printed.

E. LOUISE LINCOLN, Clerk

Presented by Mr. Lynch of Livermore Falls.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-FOUR

AN ACT Creating the Maine Forest Resources Regulation Act.

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

Sec. 1. R. S., T. 12, § 519, sub-§ 6, amended. Subsection 6 of section 519 of Title 12 of the Revised Statutes, as enacted by chapter 486 of the public laws of 1971 and as amended by section 18 of chapter 460 of the public laws of 1973, is further amended to read as follows:

6. Selective cutting which removes not more than 40% of the ~~trees~~ **net merchantable volume** within the 100-foot strip and returns a well distributed stand of tree foliage, except that more than 40% may be removed, if a state forester so recommends or if a private forester with the approval of the bureau so recommends;

Sec. 2. R. S., T. 12, c. 201, sub-c. IV, additional. Chapter 201 of Title 12 of the Revised Statutes is amended by adding a new subchapter IV, to read as follows:

SUBCHAPTER IV

THE MAINE FOREST RESOURCES REGULATION ACT

§ 540. Definitions

As used in this subchapter, unless the context otherwise indicates, the following words shall have the following meanings.

WATER RELATED TERMS**1. Tidal waters :**

All waters or portions thereof which customarily ebb and flow as the result of tidal action.

2. Normal high water mark of tidal waters :

That line on the shore of tidal waters reached by the shoreward limit of the rise of the medium tides between the spring and the neap.

3. Nontidal waters :

All waters or portions thereof which do not customarily ebb and flow as the result of tidal action.

4. Normal high water mark of nontidal waters :

That line on the shores and banks of nontidal waters which is apparent because of the contiguous different character of the soil or the vegetation due to the prolonged action of the water. Relative to vegetation, it is that line where the vegetation changes from predominantly aquatic to predominantly terrestrial (by way of illustration, aquatic vegetation includes but is not limited to the following plants and plant groups—water lily, pond lily, pickerelweed, cat tail, wild rice, sedges, rushes, and marsh grasses; and terrestrial vegetation includes but is not limited to the following plants and plant groups—upland grasses, aster, lady slipper, wintergreen, partridge berry, sasparilla, pines, cedars, oaks, ashes, alders, elms and maples). In places where the shore or bank is of such character that the high water mark cannot be easily determined (rockslides, ledges, rapidly eroding or slumping banks) the normal high water mark shall be estimated from places where it can be determined by the above method.

5. Body of standing water :

A body of surface water that has no perceptible flow and is relatively permanent in nature, except where such body of water is man-made and in addition is completely surrounded by land held by a single owner. Such bodies of water are commonly referred to as man-made or natural lakes or ponds.

6. Sizeable body of standing water :

A body of standing water of 10 acres or more as determined by the area within its normal high water mark.

7. Flowing water :

A surface water within a stream channel, as defined, that has a continuous flow and is relatively permanent in nature. Such waters are commonly referred to as rivers, streams and brooks.

8. Sizeable flowing water :

A flowing water downstream from the point at which it provides drainage for a watershed of 50 square miles.

9. Stream channel:

A channel between defined banks created by the action of surface water and characterized by the lack of terrestrial vegetation and by the presence of a bed, devoid of topsoil, containing water borne deposits or exposed soil parent material or bedrock.

10. Class I waters:

Sizeable nontidal bodies of standing water (lakes and ponds), sizeable nontidal flowing waters (rivers and streams) and tidal waters.

11. Class II waters:

Nontidal bodies of standing water (lakes and ponds), nontidal flowing waters (river and streams) and stream channels, except where such waters are included within Class I waters.

12. Waters of the State:

Class I or II waters as defined in subsections 10 and 11.

ROAD TERMS

13. Land management road:

A route or track consisting of a bed of exposed mineral soil, gravel or other surfacing material constructed for or created by the repeated passage of motorized vehicles and used primarily for forestry activities.

SOIL TERMS

14. Mineral soil:

Soil material in which inorganic (mineral) constituents predominate.

14a. Accelerated erosion:

Abnormally rapid erosion in an environment disturbed by animal life, mainly man, and due primarily to such disturbance.

FORESTRY TERMS

15. Forest land:

Land which is available for, and capable of, growing a crop of trees of any commercial species used to produce lumber and other forest products, including Christmas trees, in parcels exceeding one continuous acre.

16. Harvesting:

The removal of timber crops from forest land for use, including, without limitation, felling, limbing, bucking, yardng, decking and hauling, and treatment of slash, and the attendant operation of cutting and skidding machinery but not construction or creation of land management roads.

17. Operation:

The cutting or removal, or both, of timber or other solid wood forest products, including Christmas trees, from forest lands for commercial purposes, together with all the work incidental thereto.

18. Operator :

Any person or other entity who is engaged in timber operations himself or who contracts with others to conduct such operations on his behalf, except a person who is engaged in an operation as an employee with wages as his sole compensation.

19. Sapling :

A live tree of commercial species which is one to 5 inches in diameter at 4½ feet above the ground and of good form and vigor.

20. Seedling :

A live tree of commercial species which is at least 3 inches tall, less than one inches in diameter at 4½ feet above the ground and expected to survive.

21. Slash :

Branches, bark, tops, chunks, cull logs, uprooted stumps and broken or uprooted trees left on the ground as a result of logging, right-of-way construction or maintenance and land clearance.

22. Stand :

A contiguous group of trees, sufficiently uniform in composition, arrangement of age classes and condition to be identifiable as a homogeneous and distinguishable unit.

OTHER TERMS

23. Director :

The Director, Bureau of Forestry or his duly authorized representative.

24. Landowner :

Any person or persons or other entities that hold an ownership interest in forest land, including the State and any political subdivision thereof.

25. These rules :

The requirement set forth in this subchapter.

26. Timber owner :

Any person or persons or other entities, other than a landowner, that hold an ownership interest in any forest tree species on forest land.

§ 541. Policy

Recognizing that the forest makes a vital contribution to the State of Maine and the nation by providing jobs, products, tax base, wild life habitat, watersheds and recreation, it is hereby declared to be the public policy of the State of Maine to encourage forest practices which maintain and enhance such benefits and resources and which recognize varying forest conditions. This

subchapter attempts to insure that the inherent suitability and potential capability of forest lands to provide goods and services of value to man on a perpetual basis are maintained and, where feasible, enhanced for the benefit of society.

§ 542. General

1. The director shall designate what are Class I or Class II waters as defined in section 540, subsections 10 and 11. The director shall hold one or more public hearings, with such reasonable notice to the public as he shall determine, upon such designation of waters and shall issue an order or orders stating such designations. The director shall give public notice of same by certifying a copy of such designations to the Secretary of State and in such other manner as he determines reasonable.

2. The director shall consult with the Maine Land Use Regulation Commission, the Department of Environmental Protection, the Bureau of Parks and Recreation, the Department of Inland Fisheries and Game, the Soil and Water Conservation Commission, the Department of Transportation and any other state agencies concerned with the forest environment, where expertise from any of such agencies would be applicable.

3. These rules shall be complied with unless the operator, landowner or timber owner has secured written approval from the director of a plan for an alternate practice or practices which provides for equivalent or better results.

4. When a landowner wishes to convert his forest land to another use, he shall accomplish a conversion within the period required to achieve reforestation, namely 6 years, as specified in section 544, subsection 2. The determination by the director as to whether or not conversion has been accomplished shall be governed by:

A. The presence or absence of improvements necessary for use of the land for the intended purpose;

B. Evidence of actual use of the land for the intended purpose.

5. Compliance with these rules shall constitute the state's program for controlling nonpoint source discharges from forest land.

§ 543. Commencement of operations, notification of director required; changes in operations

1. Notification. An operator, timber owner or landowner, before commencing an operation, shall notify the director as required by subsection 2. The purpose of this requirement is to facilitate the enforcement of this subchapter. In an emergency, notification may be given to the director by telephone and the Bureau of Forestry shall provide a toll-free telephone line for that purpose. If notification is given by telephone, the written notification procedure specified in this section shall be performed within 72 hours of such telephone notification.

2. **Types of operation.** The notification shall be required for the following types of operations:

- A. Construction of land management roads, bridges and landings on forest land;
- B. Harvesting;
- C. Site preparation for reforestation;
- D. Clearing forest land for change to nonforest use.

3. **Forms.** The notification required by subsection 2 shall be on forms provided by the director and a map provided by the applicant and shall include the following information:

- A. Name and address of the operator, timber owner and landowner;
- B. Name, address and telephone number of the person who is responsible for the conduct of the operation according to this subchapter, and who may be contacted by the director in regard to inspection of the operation;
- C. Nature of the proposed operation and estimated amount to be removed;
- D. The location of the operating area shown on a USGS quadrangle supplied by the applicant;
- E. Dates on which it is anticipated that operation will commence and be completed; and
- F. Applicant's certification that copies of the notification have been mailed, by certified mail; return receipt requested, to such of the operator, timber owner and landowner, or their duly authorized agent, who are not the party submitting the notification to the director. The purpose of this requirement is to inform all concerned and to prevent trespass.

4. **Subsequent change.** An operator, timber owner or landowner, whichever filed the original notification, shall promptly notify the director of any subsequent change in the information contained in the notification.

5. **Time.** A notification shall not cover an operation for more than 12 months from the date of the notification, except that notification for an operation for which a harvesting plan has been approved in advance, pursuant to section 545, subsection 6 or 8, shall cover the period stated in the harvesting plan.

6. **Rules, supply.** The director shall maintain a supply of these rules and notification forms available at the Bureau of Forestry in Augusta, the several Maine Forest Service offices and with the clerk of each municipality.

§ 544. Reforestation

1. **Purpose.** Reforestation of forest land following harvesting operations is an important factor in assuring continuous growing and harvesting of forest tree species on forest lands. The purpose of these rules is to describe

the conditions under which reforestation will be required, to specify the minimum number of trees per acre which will be required and to specify the maximum time period allowed after harvesting in which the reforestation requirements must be met.

2. Stocking levels, time limits. Whenever, as a result of an operation, the average stocking per acre of commercial species remaining in the harvested forest land area is reduced to less than 3 cords of net merchantable wood per acre, there shall either be left and remaining established 3 years following completion of the operation, or established within 6 years following completion of the operation, at least 500 seedlings or saplings, or combination thereof, per acre, well distributed over the harvested area. Sprout growth from a stump shall be counted as a single seedling or sapling. A landowner may certify in writing to the director that this requirement has been met and if the director determines such certification to be correct, the director shall so certify in writing, which certification shall be conclusive as to performance of the obligation under this subsection.

3. Fire or other natural disaster. In the event of destruction by fire, disease, insect, infestation or other natural disaster during the 6 year reforestation period, the reforestation requirement shall not apply if vegetative cover sufficient to prevent siltation is established within 3 years following such natural disaster.

4. Landowner's obligations. The landowner shall be responsible for compliance with the obligations of this section. Upon sale or other transfer of ownership, the succeeding landowner shall be responsible for compliance and the prior landowner shall be relieved of such responsibility; if before the transfer the prior landowner delivers to the succeeding landowner written notice that an obligation exists under this section and the succeeding landowner mails to the director by certified mail, return receipt requested and returned, written confirmation of the fact such notice has been received, both notices to be on forms prepared and made available by the director. In any event, the prior landowner shall not be relieved of responsibility if the succeeding landowner is controlled by or under common control with the prior landowner.

§ 545. Harvesting

1. Purpose. Harvesting of forest tree species is an integral part of forest management by which wood for human use is obtained and by which forests are established and tended. It is recognized that during harvesting operations there will be a temporary change in the forest environment. It is the purpose of this section to establish harvesting standards which will maintain the productivity of land for continuous forest crops, maintain or improve the quality of forest stands and tree species, minimize soil and debris entering streams and prevent unnecessary damage to wildlife and fish habitat.

2. Methods of harvesting and reforestation. Because of the differences in forest types, stand and environmental conditions which exist throughout the forest lands of Maine, there are a variety of methods that can be used in har-

vesting and reforestation to meet the stated purposes of this subchapter. These methods include clearcutting with natural reproduction, direct seeding of planting, seed-tree method of cutting, selection cutting, shelter-wood cutting and such other methods as shall be consistent with good forestry practice. Each method, when properly applied and conducted, has its value as a silvicultural tool.

3. Soil protection. Harvesting shall be conducted so as to prevent accelerated erosion or other significant soil deterioration and to avoid significant impairment of the productivity of the harvested area.

4. Protection of residual stocking. On any operation, trees which are left for future harvest shall be adequately protected from damage resulting from harvesting operations to assure their survival and growth. This may be accomplished by the careful location of roads and landings and by directional felling coordinated with skid-road layout and decking operations, so as to minimize damage to or loss of residual trees.

5. Treatment of waste materials. All debris, overburden and other waste material associated with harvesting shall be left or placed in such a manner as to prevent their entry by erosion, high water or other means into waters of the State. Any debris or waste material which accumulates from logging operations, such as filters, grease and oil containers, machine parts, old wire rope, used lags or skidder tires and camp rubbish, shall be disposed of as an ongoing process during operations in disposal areas provided by the operation with landowner approval or in some other lawful disposal area. Open disposal areas shall be covered over upon termination of operations. The operation shall comply with sections 1551 to 1559, including without limitation section 1551 burning permits; section 1552 disposal along highways; section 1553 disposal along railroads and utility lines; section 1554 disposal along land bordering on another; section 1555 disposal by dwelling houses and section 1557 manner of disposal.

6. Harvesting near waters.

A. Class I waters. Harvesting operations within 250 feet of the normal high water mark, measured as a horizontal distance landward from such high water mark of Class I waters, shall either be conducted pursuant to a harvesting plan approved in advance by the director as meeting standards consistent with the purpose, intent and provisions of this subchapter, and adequately providing for the prevention of accelerated erosion, the prevention of sedimentation of surface waters, the maintenance of water quality and the maintenance of the quality of aquatic habitat; or shall meet the following requirements:

- (1) Harvesting operations shall be conducted in such a manner that a well-distributed stand of trees is retained;
- (2) Harvesting activities shall not create single openings greater than 10,000 square feet in the forest canopy;
- (3) In any stand, harvesting shall remove not more than 40% of the volume of trees 6 inches in diameter and larger, measured at 4½ feet

above ground level, in any 10-year period. Removal of trees less than 6 inches in diameter, measured as above, is permitted in conformity with the other requirements of this paragraph;

(4) No substantial accumulation of slash shall be left within 50 feet of the normal high water mark of Class I waters. At distances between 50 and 250 feet from the normal high water mark of Class I waters, all slash shall be disposed of in such a manner that it lies on the ground and no part thereof extends more than 4 feet above the ground.

(5) Skid trails, log yards and other sites where the operation of logging machinery results in the exposure of substantial areas of mineral soil should be located such that an unscarified vegetation strip is retained between the exposed mineral soil and the normal high water mark of Class I waters. The width of this strip should vary according to the average slope of the land as follows:

Average Slope of Land Between Exposed Mineral Soil and Normal High Water Mark (Percent)	Width of Strip Between Exposed Mineral Soil and Normal High Water Mark (Feet along Surface of the Ground)
0	25
10	45
20	65
30	85
40	105
50	125
60	145
70	165

(6) Harvesting operations shall be conducted in such a manner and at such a time that minimal soil disturbance results. Adequate provision shall be made to prevent accelerated erosion and sedimentation of waters of the State.

(7) Exercise caution to reduce accelerated erosion by using all appropriate techniques and measures necessary.

B. Class II waters. Harvesting operations within 250 feet of the normal high water mark, measured as a horizontal distance landward from such high water mark, of Class II waters, shall either be conducted pursuant to a harvesting plan approved in advance by the director as meeting standards consistent with the purpose, intent and provisions of this subchapter, and adequately providing for the prevention of accelerated erosion, the prevention of sedimentation of surface waters, the maintenance of water quality and the maintenance of the quality of aquatic habitat; or shall meet the following requirements:

(1) Harvesting operations shall be conducted in such a manner that sufficient vegetation is retained along the banks of flowing waters, as defined in section 540, subsection 7, to maintain shading of the surface waters thereby preventing substantial increases in water temperature which would be damaging to the existing aquatic biotic community.

(2) Skid trails, log yards and other sites where the operation of logging machinery results in the exposure of substantial areas of mineral soil should be located such that an unscarified vegetation strip is retained between the exposed mineral soil and the normal high water mark of the Class II waters. The width of this strip should vary according to the average slope of the land as follows :

Average Slope of Land Between Exposed Mineral Soil and Normal High Water Mark (Percent)	Width of Strip Between Exposed Mineral Soil and Normal High Water Mark (Feet along Surface of the Ground)
0	25
10	45
20	65
30	85
40	105
50	125
60	145
70	165

(3) Harvesting operations shall be conducted in such a manner and at such a time that minimal soil disturbance results. Adequate provisions shall be made to prevent accelerated erosion and sedimentation of waters of the State.

(4) Exercise caution to reduce accelerated erosion by using all appropriate techniques and measures necessary.

7. Harvesting near highways. Harvesting operations within 100 feet from the right-of-way of numbered highways generally used by the public shall comply with section 519.

8. Harvesting in protection or conservation districts.

A. For harvesting operations within protection or conservation districts as established by the Maine Land Use Regulation Commission or municipalities, the harvesting plan shall be approved in advance by the director as meeting standards consistent with the purpose, intent and provisions of this subchapter, and consistent with the protection of the resource involved. This section shall not apply to protection or conservation districts based solely on proximity to waters of the State including, without limitation, Interim (P-3) Protection Subdistricts and Interim (P-10) Protection Subdistricts established by the Maine Land Use Regulation Commission

and protection or conservation districts established by municipalities pursuant to sections 4811 to 4814 or otherwise, such areas being covered by subsection 6, paragraphs A and B;

B. Harvesting plans may be approved for extended periods of time as the director may deem appropriate.

§ 546. Transportation

1. Transporting forest products from the harvesting site to a point of consumption is a necessary part of any harvesting operation. The proper location, design, construction and maintenance of forest transportation systems is extremely important in preventing adverse environmental impact. It is the purpose of this section to establish standards which will minimize accelerated erosion and sedimentation of surface waters on and from forest transportation systems.

2. Land management roads; location, design, construction and maintenance.

A. All land management roads shall be located, designed and constructed and maintained in such a manner that minimal accelerated erosion hazard results. Adequate provision shall be made to prevent accelerated erosion and sedimentation of surface waters.

B. Adequate measures shall be employed to minimize accelerated erosion of land management roads during the period of use. Such measures shall include, where appropriate, construction of ditches, cross-drainage facilities, culverts, water turnouts, dips and out-slopes and the maintenance of these facilities to keep them serviceable.

C. Upon discontinuance of use, adequate measures shall be employed to stabilize land management roads and minimize accelerated erosion thereafter. Such measures shall include removal of temporary culverts, construction of water bars and revegetation where appropriate.

3. Land management road crossings of Class I or II waters.

A. All land management roads constructed shall conform with the following standards:

(1) Land management road crossings of watercourses shall be kept to the minimum number practicable;

(2) Bridges or culverts of adequate size and design shall be provided for all land management road crossings of watercourses which are to be used when surface waters are unfrozen;

(3) Bottoms of culverts shall be installed at stream-bed elevation; and

(4) All cut or fill banks and areas of exposed mineral soil in the immediate vicinity of watercourses shall be revegetated or otherwise stabilized.

B. Whenever practicable, land management road crossings of watercourses should be constructed during periods of low flow, normally July and August.

§ 547. Rules

The director may adopt rules to interpret and carry out this subchapter in accordance with Title 5, sections 2351 to 2354, unless otherwise provided by this subchapter.

§ 548. Violation by operator; citation

1. Citation. Whenever the director determines that an operator has committed a violation of these rules, he may issue and serve a citation upon the operator or his authorized representative. The director shall cause a copy of the citation to be mailed or delivered to the timber owner and landowner. Each citation issued under this section shall specify the nature of the violation charged and any damage or unsatisfactory condition that has occurred as the result of such violation.

2. Procedure. Whenever a citation is served pursuant to subsection 1, the director:

A. Shall issue and serve upon the operator or his authorized representative an order directing that the operator cease further violation and shall cause a copy of such order to be mailed or delivered to the timber owner and landowner; and

B. May issue and serve an order upon the operator and shall cause a copy of such order to be mailed or delivered to the timber owner and landowner directing the operator to make all practicable efforts to repair the damage or correct the unsatisfactory condition specified in the citation within a period specified by the director.

3. Temporary order. In the event the order issued under subsection 2, paragraph A, has not been complied with, and the violation specified in such order is resulting in continuing damage, the director, by temporary order, may direct the operator to cease any further activity in the area where the violation or damage, or both, has occurred. Such temporary order shall be in effect until the date of the expiration of the period as prescribed in subsection 4 or until the date that the violation ceases, whichever date occurs first.

4. Service; hearing. A temporary order issued under subsection 3 shall be served upon the operator or his authorized representative and the director shall cause a copy of such temporary order to be mailed or delivered to the timber owner and landowner. If requested by the operator, timber owner or landowner, the director shall hold a hearing on the temporary order within 10 working days after the receipt by the director of the request. The director shall afford the operator, timber owner or landowner the opportunity to appear before him for the purpose of presenting facts pertaining to the alleged violation and of examining any witnesses whose testimony may be relevant. A temporary order issued and served pursuant to subsection 3 shall remain

in effect not more than 10 working days after such hearing, unless the order is sooner affirmed, modified or revoked by the director.

§ 549. Failure to comply with order to repair damage

1. Failure to comply. In the event an order issued pursuant to section 548, subsection 2, paragraph B, directs the repair of damage or correction of an unsatisfactory condition and if the operator does not comply with the order within the period specified in such order, the director shall hold a hearing on the alleged violation to determine the nature and severity of the violation, the effect of the violation on the resources protected by this subchapter, corrective measures needed to rectify the unsatisfactory condition, the immediacy of the need for corrective action and the estimated costs to repair the damage or unsatisfactory condition. The director shall afford the operator, timber owner or landowner the opportunity to appear before him for the purpose of presenting facts pertaining to the alleged violation and the proposed expenditure and of examining any witnesses whose testimony may be relevant. This hearing shall be held as soon as possible after the period specified in the order issued pursuant to section 548, subsection 2, paragraph B, has elapsed and shall in all cases be held within 10 working days of the end of that period.

2. Repair of conditions requiring immediate attention. If, as the result of the hearing, the director determines that the nature of the damage or unsatisfactory condition resulting from violation of these rules is such that substantial harm to the resources protected by this subchapter is being caused, or is imminent as the result of the violation, and that immediate corrective action could prevent or reduce such harm, the director shall proceed, either with his own forces or by contract, to repair the damages or correct the unsatisfactory condition. The director shall keep a complete account of direct expenditures incurred, and upon completion of the work, shall prepare an itemized statement thereof and shall deliver a copy to the operator, timber owner and landowner.

3. Repair of other conditions. If the director determines as the result of the hearing that the nature of the damage or unsatisfactory condition resulting from violation of these rules is other than as in subsection 2 but would benefit from corrective action, the director shall either enter, within 60 days of the close of the hearing, into a legally binding agreement with the operator, timber owner or landowner, such party to repair the damage or unsatisfactory condition to the director's satisfaction within a reasonable period of time; or the director shall proceed, either with his own forces or by contract to repair the damages or correct the unsatisfactory condition. The director shall keep a complete account of direct expenditures incurred and, upon completion of the work, shall prepare an itemized statement thereof and shall deliver a copy to the operator, timber owner and landowner.

4. Lien. The expenditures in cases covered by this section shall constitute a general lien upon the parcel of real property of the operator, timber owner and landowner on which the damage occurred. A written notice of the lien, stating the amount demanded, the description of the property upon

which the expenditures were made and the name of the parties against whom the lien attaches, shall be certified under oath by the director and filed in the county or counties in which the expenditures were made within 6 months after the date of delivery of the itemized statement referred to in subsection 3, in the office of the registry of deeds. From the time of the filing, the amount set forth in the certificate constitute a lien upon such real property of the operator, timber owner and landowner. The effect of such liens, their release by the director and their enforcement shall be as provided in Title 36, sections 5313 to 5315. Liens provided for in this section shall cease to exist unless suit for foreclosure is instituted within 6 months from the date of filing the written notice of lien.

§ 550. Appeals from orders of director ; judicial review

Any operator, timber owner or landowner affected by any determination or order of the director pursuant to this subchapter may appeal to the Superior Court in the county in which the land or any part thereof affected by the determination or order is located within 30 days after notice of such determination or order from the director. Notice of the appeal shall be ordered by the court and trial shall be held without jury in the manner and with the rights provided by law in other civil actions so heard. The proceedings shall not be de novo, the court shall receive into evidence true copies of the transcript of the hearing, the exhibits thereto and the decision of the director. The court's review shall be limited to questions of law as to whether the director acted regularly and within the scope of his authority and the director's decision shall be final so long as supported by substantial evidence. The court may affirm, reverse or remand the director's decision for further proceedings. Appeals from all other orders or decisions of the director, unless otherwise specified by statute, shall be taken pursuant to Rule 80B of the Maine Rules of Civil Procedure.

§ 551. Conversion

Nothing in this subchapter shall prevent the conversion of forest land to any other use.

§ 552. Operations underway

With respect to operations which are underway on the effective date of this Act, the notification required by section 543 shall be given within 30 days after the effective date of this Act and this Act shall apply to such operations commencing 30 days after the effective date of this Act.

§ 553. Advisory council

There is established a Forest Resource Regulation Council, hereinafter called the "advisory council," which shall consist of 7 members, knowledgeable with respect to the forest resource and representatives of the various areas of the State, to be appointed by the Governor with the advice and consent of the Council. Appointment shall be for a term of 4 years, and in the event of the death or resignation of such an appointee, the Governor shall make an appointment to the advisory council, with the advice and consent of the Council, for the unexpired term. The members of the advisory council

shall receive no compensation for their services, but said advisory council shall be allowed actual expenses not to exceed \$2,000 for each fiscal year. The advisory council shall render to the Director of the Bureau of Forestry information and advice concerning the administration of the Maine Forest Resource Regulation law. The advisory council shall hold a regular meeting with the Director of the Bureau of Forestry or his deputy at least once each year and special meetings at such other times and places within the State as seems advisable. At the first meeting held in each calendar year, the advisory council may elect one of its members as chairman and one as vice-chairman.

§ 554. Injunctions

In the event that anyone fails to comply with an order of the director, the director may institute injunction proceedings in the Superior Court in the county in which the land, or any part thereof, may be located to enjoin the further violation of these forest practice rules.

§ 555. Penalties

Any person, corporation or other legal entity who shall fail, neglect or refuse to obey any order of the director, lawfully issued hereunder, shall be punished by a fine of not more than \$1,000 for each day of such violation, failure, neglect or refusal after the expiration of any time limit set by the director. When an appeal is taken from any such order, no fine should be imposed for the period of time during which the appeal is pending.

Any person, corporation or other legal entity, who shall fail to comply with any provision of this subchapter, shall be punished by a fine of not more than \$100 for the first violation and not more than \$500 for each subsequent violation.

Sec. 3. R. S., T. 12, § 682, sub-§ 7, amended. Subsection 7 of section 682 of Title 12 of the Revised Statutes, as enacted by chapter 494 of the public laws of 1969 and as repealed and replaced by section 2 of chapter 457 of the public laws of 1971, and as amended by section 5 of chapter 569 of the public laws of 1973, is further amended to read as follows:

7. Development. Development shall mean any land use activity or activities directed toward using, reusing or rehabilitating air space, land, water or other natural resources, except the cutting or removal of timber or other wood for use and the construction of land management roads and bridges and, excluding, however, such specific uses or classes and categories of uses as the commission may by regulation determine do not need regulating to achieve the purpose, intent and provisions of this chapter.

Sec. 4. R. S., T. 12, § 685-A, sub-§ 5, amended. Subsection 5 of section 685-A of Title 12 of the Revised Statutes, as enacted by section 5 of chapter 457 of the public laws of 1971 and as amended by section 10 of chapter 569 of the public laws of 1973, is further amended by adding a new paragraph after the 2nd paragraph to read as follows:

Land use standards adopted pursuant to this chapter shall in no way limit the right, method or manner of cutting or removing of timber or other wood

for use, or the construction or maintenance of land management roads and bridges, such activities being placed under the exclusive regulation of the Director of the Bureau of Forestry pursuant to chapter 201, subchapter IV.

Sec. 5. R. S., T. 12, § 4815, additional. Title 12 of the Revised Statutes is amended by adding a new section 4815 to read as follows:

§ 4815. Exemption

The zoning regulations required by this chapter shall in no way limit the right, method or manner of cutting or removing of timber or other wood for use, such harvesting operations being placed under the exclusive regulation of the Director of the Bureau of Forestry pursuant to chapter 201, subchapter IV.

Sec. 6. R. S., T. 30, § 4962, ¶ I, additional. Section 4962 of Title 30 of the Revised Statutes, as enacted by section 2 of chapter 455 of the public laws of 1971, and as amended, is further amended by adding a new paragraph I to read as follows:

I. No zoning ordinance adopted under this subsection shall in any way limit the right, method or manner of cutting or removing of timber or other wood for use, such harvesting operations being placed under the exclusive regulations of the Director of the Bureau of Forestry pursuant to Title 12, chapter 201, subchapter IV.

STATEMENT OF FACT

This bill creates the Maine Forest Resources Regulation Act and amends the statutes which provide for zoning regulation in the municipalities and in the unorganized territory in order to provide for the exclusive regulation of forest practices by the Bureau of Forestry in the Conservation Department.

The purpose of this bill is to provide harvesting regulations of general applicability throughout the State. Harvesting regulation is not a hit-or-miss proposition. It should be undertaken on a state-wide, consistent and professional basis to protect the forest resources and to require good forest practices.

The bill regulates harvesting and land management roads near all waters of the State to prevent erosion, to maintain water quality and to prevent undue alteration of wild-life habitat. It amends the roadside harvesting law to make it more effective. It provides reforestation requirements to assure the continuation of a productive forest. It provides for the protection of residual stocking of the clean up of waste materials.

Land management roads are regulated as to location, design, construction and maintenance, particularly with respect to road crossings of bodies of water.

Harvesting and land management roads in Protection or Conservation Districts require a harvesting plan approved in advance by the Bureau of Forestry

The Director of the Bureau of Forestry is empowered to adopt rules and regulations to interpret and carry out this subchapter, and is given broad powers to cite operators and landowners for violation, including the issuance of orders to cease violation and to repair the damage or correct any unsatisfactory condition. In the case of failure to comply with an order to repair, the director may proceed to repair the damage at the operator and landowner's expense. In addition, the director is entitled to seek court injunctions to enforce his orders and criminal penalties are provided for violation of his orders or violation of the provisions of this subchapter. An Advisory Council is created to advise the Bureau of Forestry with respect to the administration of this law.

The Act provides that the Director of the Bureau of Forestry shall consult with other state agencies concerned with the forest environment where their expertise would be applicable.

The bill provides for efficient administration because the operator, timber owner or landowner must notify the bureau before commencing operations and then must follow these statutory rules. This notification procedure permits Forest Rangers to inspect the operation for compliance with the law.