

MAINE STATE LEGISLATURE

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ONE HUNDRED AND SEVENTH LEGISLATURE

Legislative Document

No. 1804

H. P. 1446

House of Representatives, April 8, 1975

Referred to the Committee on Natural Resources. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Mr. Lynch of Livermore Falls.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-FIVE

AN ACT Creating the Maine Forest Practices Act.

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

Sec. 1. 12 MRSA § 520-B, as last amended by PL 1973, c. 460, § 18, is amended to read:

§ 520-B. Reports by forest landowners

Any owner of forest land who sells **more than 100 cords or 50,000 board feet of stumpage** during a calendar year shall render an annual report to the director during the month of January of the following year, stating the species, volume and stumpage price per unit of measure for each transaction and the municipality or township where the stumpage was located. Any owner of forest land who cuts **more than 100 cords or 50,000 board feet of stumpage** for his own business use during a calendar year shall render an annual report to the director during the month of January of the following year, stating the species and volume per unit of measure for each municipality or township where the stumpage was located. Forms for this report shall be provided by the director. Information contained in said reports shall not be made public but shall be available for the use of the State Tax Assessor pursuant to Title 36, chapter 105, subchapter II-A.

Sec. 2. 12 MRSA c. 201, sub-c. IV is enacted to read:

SUBCHAPTER IV

THE MAINE FOREST PRACTICES ACT

§ 541. Findings and purposes

It is hereby declared that the forest land of the State of Maine makes a vital contribution to the general welfare of the State and the Nation by pro-

viding employment, products, tax base, wildlife habitat, watershed protection and recreation. It is hereby declared to be the public policy of the State of Maine to encourage forest practices which maintain and enhance these benefits and resources. It is the purpose of this subchapter to insure that the suitability and capability of forest land to provide these benefits and resources on a perpetual basis are maintained and enhanced for the benefit of all concerned.

§ 542. Definitions

As used in this subchapter, the following words shall have the following meanings:

1. Forestry terms.

A. Forest land. "Forest lands" means contiguous parcels of land in excess of 10 acres, which are used for the growth of trees or forest products or on which forest practices are conducted.

B. Forest practices. "Forest practices" means any activity conducted on, or directly pertaining to, forest land and relating to harvesting trees including, but not limited to:

- (1) Harvesting;
- (2) Precommercial thinning;
- (3) Timber stand improvement cuts;
- (4) Construction of land management roads and bridges;
- (5) Skid roads and creation of skid trails; and
- (6) Salvage and pre-salvage operations.

C. Harvesting. "Harvesting" means the removal of timber crops from forest land for use, including without limitation, felling, limbing, bucking, skidding, slashing, chipping, yarding, decking, loading, treatment of slash and the use of machinery during such operations.

D. Landowner. "Landowner" means any person, persons, or other entities who own forest land, including the State and any political subdivision thereof.

E. Operation. "Operation" means the conduct of forest practices on forest land.

F. Operator. "Operator" means any person, persons or other entities who engage in the conduct of a forest practice, including the State and any political subdivision thereof, except a person who is engaged in forest practices as an employee with wages as his sole compensation.

G. Slash. "Slash" means branches, bark, tops, chunks, cull logs, uprooted stumps and broken or uprooted trees or shrubs larger than 3 inches in diameter, left on the ground as a direct result of harvesting, right-of-way construction or maintenance and land clearance.

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

I. Timber owner. "Timber owner" means any person, persons or other entities, other than a landowner, who owns an interest in any forest tree species on forest land, including the State and any political subdivision thereof.

2. Road terms.

A. Land management road: "Land management road" means a route or track of exposed mineral soil, gravel, crushed stone or other similar materials constructed for the repeated passage of cars, trucks or similar wheeled vehicles used primarily for access to an area for forest activity or for transportation of forest products. Land management roads shall be deemed to be used primarily for forest activity, notwithstanding multiple use for fire fighting, fisheries and wildlife management and public recreation.

B. Skid road. "Skid road" means a route or track located and constructed especially for the repeated passage of skidders, crawler tractors or other wheeled or tracked vehicles used as primary forwarders of forest products.

C. Skid trail. "Skid trail" means a route or track or trail created by the passage of skidders, crawlers or other wheeled or tracked vehicles in the process of primary forwarding of forest products.

3. Soil terms.

A. Accelerated erosion. "Accelerated erosion" means erosion of soil which is caused or increased by human activities in the course of forest practices.

B. Mineral soil. "Mineral soil" means soil material in which inorganic mineral constituents predominate.

4. Water related terms.

A. Class I waters. "Class I waters" means man-made and natural lakes and ponds of 10 acres or more as determined by the area within the normal high water mark, tidal waters and those portions of rivers, streams and brooks downstream from the point at which they provide drainage for a watershed of 50 square miles.

B. Class II waters. "Class II waters" means man-made and natural lakes and ponds smaller than 10 acres which are relatively permanent in nature, except where such body of water is man-made and completely surrounded by land of a single owner and all rivers, streams and brooks which are not class I waters.

C. River, stream or brook. "River, stream or brook" means continuous flowing water in a channel between defined banks characterized by the lack of terrestrial vegetation and by the presence of a bed, devoid of top-

soil, containing waterborne deposits or exposed soil material or bedrock. A natural watercourse, as designated by a solid line shown on the largest scale United States Geological Survey map most recently published, will be presumed to be a river, stream or brook unless the contrary is proven.

D. Unfrozen water. "Unfrozen water" means water not frozen sufficiently, even with reinforcing bridging structures added to the ice, to support the equipment and load to be placed upon it.

E. Waters of the State. "Waters of the State" means Class I or II waters as defined in paragraphs A and B of this subsection.

5. Other terms.

A. Director. "Director" means the Director of the Bureau of Forestry or his duly authorized representative.

B. Notifier. "Notifier" means the person, persons or other entity responsible for notifying the director before commencing forest practices. The notifier shall be the landowner unless the timber owner or operator assumes the notification responsibility by written notice to the director, stating the name and address of the party assuming the responsibility of notification and the areas or towns for which the notification responsibility is assumed.

C. These rules. "These rules" means the requirements set forth in this subchapter and in any regulations promulgated hereunder.

§ 543. General

1. Regulations. The director shall adopt regulations to interpret and implement this subchapter in accordance with Title 5, sections 2351 to 2354, unless the method of adoption is otherwise provided by this subchapter.

2. Consultation with other agencies. 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. Classification of state waters. The director shall designate all waters of the State as Class I or Class II waters, as defined in section 542, subsection 4, paragraphs A and B. 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.

4. Review. The director shall conduct a continuing review of the need and means for improving forest practices, and of the need and means for further regulation of activities on forest land; and shall report his recommendations on this subject to the Legislature from time to time.

5. Nonpoint source discharge program. Compliance with these rules shall constitute the State's program for controlling nonpoint source discharges from forest practices on forest land, except where other statutes or regulations constitute part of such program.

6. Supply of rules and forms. The director shall maintain a supply of these rules and of the notification forms provided in section 544, subsection 3, available at the Bureau of Forestry in Augusta, and at the various offices of the Bureau of Forestry elsewhere in the State.

7. Notices. Any notification or service of an order or other notice upon any operator, timber owner, landowner or the director shall be deemed to have been completed when deposited by the sender in the United States mail, first class postage prepaid, addressed to the operator, timber owner, landowner or director as the case may be, at the address shown on the notification form required by section 544, subsection 3; in the case of the operator, timber owner or landowner; or in the case of the director, to the Bureau of Forestry, State Office Building, Augusta, Maine 04330, or what may from time to time be his official address.

8. Study of fish and wildlife aspects. The director and the Commissioner of Inland Fisheries and Game shall conduct a review of this subchapter and of methods, practices, standards and research concerning the relationship between forest practices and fish and wildlife management and shall report their recommendations on this subject to the Legislature from time to time.

9. Public information program. The director shall implement a public information program to inform the public and persons regulated by these rules of their requirements.

10. Incentives, education and research. The director shall conduct a review of the opportunities to improve forest practices by incentives, education and research and shall report his recommendations on this subject to the Legislature from time to time.

§ 544. Notification of forest practices

1. Notification. The notifier shall notify the director at least 5 days prior to commencing forest practices if the operation involves the harvesting of more than 100 cords or 50,000 board feet. These rules shall be applicable to operations even where notification is not required. In an emergency, notification may be given to the director by telephone. If notification is given by telephone, the written notification procedure specified in this section shall be performed within 72 hours following such telephone notification.

2. Comments. The director shall maintain such notifications on file available to other interested state agencies and shall provide copies to such agencies upon their request. Any other state agency may advise the director of any contention that the proposed forest practices violate these rules or may request the director to obtain further information relating to the proposed operation from the operator. After review of such a notification, and of any comments received from state agencies, the director may advise an

operator of his opinion that a proposed forest practice operation appears to violate these rules. Any act or failure to act by the director hereunder shall not be deemed to be an approval by the director of the proposed operation.

3. Forms. The notification required by subsection 1 shall be on forms provided by the director and shall include the following information:

- A. Name and address of the landowner, timber owner and operator;
- B. Name, address and telephone number of the person who is responsible for the conduct of the operation and who may be contacted by the director in regard to inspection of the operation;
- C. Estimated acreage of the proposed operation and estimated volume of forest products to be removed;
- D. The name or number designation by which the area is commonly known, together with the name or designation of the public or private road providing access to the operation or in the alternative, a map or sketch showing the location of the area in which the operation will be conducted;
- E. Dates on which it is anticipated that the operation will commence and be completed;
- F. Notifier's certification that copies of the notification have been mailed to 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 being to inform all concerned and to prevent trespass;
- G. With respect to Protection or Conservation Districts as provided in section 545, subsection 6, a harvesting plan, with a content and on a form to be specified by the director, for approval by the director prior to commencement of operation, according to the procedure specified in section 545, subsection 6.

4. Subsequent change. The notifier 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 one year from the date of the notification, except that notification for an operation for which a harvesting plan has been approved by the director in advance shall cover the period stated in the harvesting plan.

§ 545. Harvesting

1. Purpose. It is the purpose of this section to regulate harvesting so as to maintain the productivity of forest land for continuous production of forest crops, maintain or improve the quality of forest stands and tree species, minimize soil and debris entering streams and give proper consideration to fish and wildlife habitat and potential for multiple use. It is recognized that there are differences in forest types, stand, environmental conditions and soil types throughout the forest lands of Maine. Consequently, there

are a variety of methods which may be used in harvesting to meet the purposes of this subchapter.

2. Protection of residual stocking. Harvesting operations shall be so planned and conducted as to provide maximum protection for the trees remaining in the stand. This may be accomplished by proper layout and construction of skid trails, roads and landings, use of directional felling and supervision of equipment operations.

3. Treatment of waste materials. All debris, overburden and other waste materials 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, 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 operator with landowner approval or in some other lawful disposal area. Open disposal areas shall be covered over upon termination of operations. The provisions of sections 1551 to 1559, relating to restrictions in the disposal of slash and brush, remain fully applicable to persons obligated to comply with this subchapter.

4. Harvesting near highways. Harvesting operations within 100 feet from the right-of-way of the public roads referred to in section 519 shall comply with the requirements of that section.

5. Harvesting near waters of the State.

A. Class I waters. Harvesting operations within 250 feet of the normal high water mark 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) Maintain soil stabilization, shading and water filtering effects of vegetation along Class I waters within a buffer strip according to the following provisions:

(a) The buffer strip widths may vary according to the average slope and soil type of the land, but shall not be less than the following:

Average slope of land between exposed mineral soil and normal high water mark (percent)	Width of buffer 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

(b) Harvesting within the buffer strip shall not unduly disturb the soil nor raise water temperature beyond limits which shall be established by the director after public hearing and after consideration of the recommendations of the Department of Inland Fisheries and Game;

(3) Harvesting activities shall not create single openings in excess of 10,000 square feet in the forest canopy. No part of an opening in excess of 10,000 square feet shall be less than 50 feet from normal high water mark.

(4) In any stand, harvesting shall not remove more than 50% 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, for the purpose of conducting forest practices other than primarily harvesting is permitted in conformity with the preceding subparagraphs (1), (2) and (3).

(5) Skidders and similar equipment shall not be operated in or through Class I waters if unfrozen. When crossings are to be made, they shall satisfy the requirements of section 545, subsection 3.

(6) Remove all slash that gets into waters of the State as an ongoing process during the operation. No substantial accumulation of slash shall be left within 50 feet from the normal high water mark. At distances between 50 feet and 250 feet from the normal high water mark, all slash shall be disposed of in such a manner that it lies on the ground and no part thereof greater than 3 inches in diameter extends more than 4 feet above the ground.

(7) Harvesting operations shall be conducted so as to minimize accelerated erosion and so as to avoid sedimentation of waters of the State.

B. Class II waters. Harvesting operations within 250 feet of the normal high water mark shall meet the following requirements:

(1) Maintain soil stabilization, shading and water filtering effects of vegetation along Class II waters within a buffer strip according to the following provisions:

(a) The buffer strip widths may vary according to the average slope and soil type of the land, but shall not be less than the following:

Average slope of land between exposed mineral soil and normal high water mark (percent)	Width of buffer 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

(b) Harvesting within the buffer strip shall not unduly disturb the soil nor raise water temperature beyond limits which shall be established by the director, after public hearing, and after consideration of the recommendations of the Department of Inland Fisheries and Game.

(2) Avoid skidding and the operation of similar equipment in or through Class II waters in an unfrozen state. When Class II waters are to be crossed in an unfrozen state, cross perpendicular to the stream at point where the banks are low and where interference with the natural stream flow will not occur. If the crossing cannot be made without damaging sedimentation occurring, provide temporary or permanent structures adequate to keep equipment and logs out of the water and to carry water flow. Remove all temporary crossings immediately after use and, where applicable, water bar road ends adjacent to the stream.

(3) Remove all slash that gets into the waters of the State as an on-going process during the operation.

(4) Harvesting operations shall be conducted so as to minimize accelerated erosion and so as to avoid sedimentation of waters of the State.

6. 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, or approved upon certain conditions, in advance by the director within 30 days of receipt of notification of such proposed operations, if such harvesting plan meets standards consistent with the purposes and provisions of this subchapter and consistent with the protection of the resource involved. If the harvesting plan does not meet these requirements, it shall be disapproved. This section shall not apply to Interim (P-2) and (P-9) Protection Subdistricts established by the Maine Land Use Regulation Commission nor 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, unless the proposed forest practices exceed the standards provided by the subsection 5 of this section. Harvesting plans may be approved for such periods of time as the director may deem appropriate.

B. The director shall circulate such harvesting plans to other state agencies concerned with the forest environment including without limitation 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 and the Department of Transportation. If the director receives comments in writing from any such agencies, he shall consider these comments before rendering his decision and such comments shall be kept on record in the Bureau of Forestry.

§ 546. Transportation

1. Purpose. The transportation system is an integral part of forest management and forest practices. Proper location, design, construction and maintenance of the forest transportation system is extremely important to prevent adverse environmental impacts. 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 and skid roads; location, design, construction and maintenance. All land management roads and skid roads shall be located, designed, constructed and maintained in such a manner as to minimize accelerated erosion. Adequate provision shall be made to prevent sedimentation of surface waters. All land management roads shall meet each of the following requirements:

A. Except where crossing waters of the State in compliance with the provisions of subsection 3, all land management roads shall be located so that areas of exposed mineral soil from such construction are not less than the following distances from the normal high water mark of such waters, the minimum distance depending on the slope of the land:

Average slope of land between exposed mineral soil and normal high water mark (percent)	Minimum distance 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

B. Adequate measures shall be employed to minimize accelerated erosion of land management roads during the period of use, which may include without limitation, construction of ditches, cross-drainage facilities, culverts, water turnouts, dips and out-slopes, and the maintenance of these facilities to keep them serviceable, where appropriate. A land management road shall be considered to be in use for the purposes of this subchapter until the requirements of paragraph C are met.

C. Upon discontinuance of use, adequate measures shall be employed to stabilize land management roads and minimize accelerated erosion, including without limitation removal of temporary culverts, construction of water bars and revegetation, where appropriate.

3. Land management road and skid road crossings. Crossings of Class I or II waters shall conform to the following requirements:

A. Crossings of unfrozen waters shall be kept to the minimum number practicable.

B. Crossings of unfrozen waters shall be provided with bridges or culverts of design, size and construction adequate to prevent accelerated erosion and sedimentation of waters of the State. Bottoms of culverts shall be installed at stream bed elevations.

C. Unless impracticable, crossings shall be constructed during periods of low flow.

D. Adequate measures shall be employed to minimize the sedimentation of Class I or II waters, which may include, without limitation, the stabilization or revegetation of cut and fill banks, diversion of surface runoff from roads into catch basins or filtering areas before discharging into waters of the State and the locating of the crossings so that there is sufficient grade on road approaches to prevent the stream from flowing down the road at high water.

E. Crossings are permitted over frozen waters, but any reinforcing structures placed on or imbedded in the ice for bridging purposes shall be removed prior to ice breakup.

4. Water bars on skid roads. Discontinued skid roads shall be water barred in accordance with the following provisions:

Grade of skid road (percent)	maximum distance between water bars (feet)
10	80
15	60
20	45
25	40
30	35

5. Prohibition of operation in waters. No person or persons shall operate or cause to be operated any wheeled or tracked vehicle in waters of the State, except in compliance with the requirements of section 2205.

§ 547. Alternate practices

These rules shall be complied with unless an operator, landowner or timber owner shall present to the director a plan for alternate practices and unless the director finds that the plan will result in accomplishing the purposes of this subchapter, but such alternate practices shall be approved by the director only if the notifier can demonstrate with respect to harvesting near waters, that the alternative plan will not result in siltation of waters of the State, adverse changes in water flows and temperatures or degradation of water quality and with respect to harvesting near any highways described in section 519, that the alternate harvesting plan will include provisions to minimize substantial adverse aesthetic impact when viewed from the road. Any approval may be granted upon such terms and conditions as the director deems necessary or desirable.

Approval of alternate practices shall be effective for one year from the approval date, except that where the approval involves a harvesting plan or other forest practice plan extending by its terms beyond one year, it shall be effective for such longer period, provided that the landowner, timber owner or operator involved files with the director on or before each annual anniversary of the date of approval, a progress report on such plan or practice on a form to be supplied by the director for that purpose, setting forth information required thereon by the director relevant to evidence relating to conformance with the original notification or approval conditions and any changed circumstances requiring modifications thereof.

§ 548. Forest Resource Advisory Council

There is established a Forest Resource Advisory Council, hereinafter called "advisory council," which shall consist of 7 members, knowledgeable with respect to the forest resource and representative of the various areas of the State, to be appointed by the Governor with the advice and consent of the Council. Employment or other economic interest in the forest products industry or other economic activity shall not be a conflict of interest with service on the advisory council. Their terms shall be staggered, initially, 2 members serving for 4-year terms, 2 members serving for 3-year terms, 2 members serving for 2-year terms and one member serving for a one-year term, as designated by the Governor. Thereafter, members shall serve for 4-year terms. In the event of the death or resignation of 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 Practices Act. The advisory council shall hold a regular meeting with the Director of the Bureau of Forestry or his deputy at least 4 times 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 chairperson and one as vice-chairperson.

§ 549. Enforcement; access

1. Effect of law. The rules and orders issued by the directors pursuant to this subchapter shall have the force and effect of law. No forest practice may be undertaken contrary to this subchapter. This subchapter is not intended to render the provisions of any other statute or regulation inapplicable to forest land, except as expressly stated herein.

2. Access to forest lands. For the purpose of inspection and to insure compliance with these rules, authorized staff members of the Bureau of Forestry and the Department of Inland Fisheries and Game may conduct such investigations, examinations, tests and evaluations as they deem necessary to verify information presented to them and have the right to access to any lands regulated by this subchapter and shall not be liable for trespass. For the purpose of making any repair which the director is empowered to make

under this section, the director, his agents, employees and contractors shall have the right to cross and to enter upon private property, with necessary equipment, and shall not be liable for trespass.

3. Enforcement personnel. All foresters and rangers of the Bureau of Forestry shall enforce these rules and this subchapter.

§ 550. Persons obligated to comply with these rules

Unless the contrary is expressed, the landowner, the timber owner and the operator shall be jointly and severally liable for compliance with this subchapter. Nothing herein, however, shall be construed to affect the rights that may be established among them by contract or law or affect the right of any one of them to bring a civil action against any other one of them for breach of contract, tort or further civil cause.

§ 551. Exemption from liability for landowner and timber owner

Notwithstanding anything to the contrary in this subchapter, a landowner or timber owner shall be relieved from all liability under this subchapter if either of the following requirements are met:

A. The operator provides a bond payable to the Director of the Bureau of Forestry to insure compliance with the financial obligations imposed by this subchapter in a form and amount acceptable to the Director of the Bureau of Forestry; or

B. The operator has a current certification by the Director of the Bureau of Forestry that the operator has satisfied the director that the operator has the financial capacity to meet the financial obligations imposed by this subchapter and therefore is excused from providing such a bond. The director is authorized to require such information as he may consider relevant to make such determinations, and the director may impose such limitations and conditions, as may be reasonable, upon his determination as to whether an operator has the financial capacity to meet the financial obligations imposed by this subchapter.

§ 552. 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 which 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 that the order issued under subsection 2, paragraph A has not been complied with, the director, by temporary order, may direct the operator to cease any further activity in the area where the violation or damage 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 director certifies in writing that the violation has ceased, 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, within 10 days of the service of the temporary order, 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. Upon its affirmation, the temporary order shall become a permanent order.

§ 553. Failure to comply with order to repair damage

1. Failure to comply. In the event an order issued pursuant to section 552, subsection 2, paragraph B, directs the repair of damage or correction of any unsatisfactory condition and if the operator, timber owner or landowner requests a hearing on such repair order within 7 days following notice of such repair order, the director shall hold a hearing on the alleged violation to determine the nature and severity of the violation, any 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 and 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 552, 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 any 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 may 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, together with an allowance to the Bureau of Forestry for administrative expense equal to the greater of \$250 or 15% of said direct expenditures, 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 set forth in subsection 2, but would benefit from corrective action, the director may, within 60 days of the close of the hearing, enter 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 may 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, together with an allowance to the Bureau of Forestry for administrative expenses equal to the greater of \$250 or 15% of said expenditures, 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. Civil action. The expenditures in cases covered by this section, together with administrative expenses equal to the greater of \$250 or 15% of said expenditures, shall constitute a debt to the State. Any such amount which is not paid when due shall accrue interest at the rate of 8% per year on the unpaid balance from time to time until paid and the person or persons liable for such debt, if not paid within 30 days of the date on which written demand is made, shall be liable for a penalty of \$500 or 10% of the amount unpaid, whichever is greater. The Attorney General shall enforce payment of such debt, interest or penalty by civil action against those liable hereunder in either the Superior Court in Kennebec County or the Superior Court or any District Court in the county in which the land involved, or any part thereof, is located.

§ 554. 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 for further proceedings. Appeals from all other orders or de-

cisions of the director, unless otherwise specified by statute, shall be taken pursuant to the Maine Rules of Civil Procedure, Rule 80B.

§ 555. Conversion

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

§ 556. Operations underway

With respect to operations which are underway on the effective date of this Act, the notification required by § 544 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.

§ 557. Injunctions

In the event of any failure to comply with an order of the director, the director may in addition to or instead of any other powers he has under this subchapter, 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 rules or to require compliance with any order issued by the director.

Sec. 3. 12 MRSA § 682, sub-§ 7, as last amended by PL 1973, c. 569, § 5, is repealed and the following enacted in place thereof:

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, skid roads, skid trails and bridges.

Sec. 4. 12 MRSA § 685-A, sub-§ 5, as last amended by PL 1973, c. 569, § 10, is further amended by adding after the 2nd paragraph, the following new paragraph:

Land use guidance 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, skid roads, skid trails 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. 12 MRSA § 4815 is enacted to read:

§ 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. 30 MRSA § 4962, sub-§ 1, ¶ I is enacted to read:

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.

Sec. 7. Appropriation. There is appropriated from the General Fund to the Department of Conservation, Bureau of Forestry the sum of \$425,000 to carry out the purposes of this Act. The breakdown shall be as follows:

	1975-76	1976-77
CONSERVATION, DEPARTMENT OF BUREAU OF FORESTRY		
Personal Services	(12) \$115,000	(12) \$130,000
All Other	50,000	55,000
Capital Expenditures	65,000	10,000
	\$230,000	\$195,000

Sec. 8. Effective date. This Act shall become effective January 2, 1976.

STATEMENT OF FACT

Section 1 exempts the small forest landowner who sells or cuts for his own business use, less than 100 cords from the requirement of reporting to the Bureau of Forestry.

Section 2 creates a Maine Forest Practices Act and sections 3 to 7 amend the statutes which provide for zoning regulation in the municipalities and in the unorganized territory, to provide for the exclusive regulation of forest practices by the Director of the Bureau of Forestry. Section 7 provides January 2, 1976 as an effective date.

The purpose of the Maine Forest Practices Act is to provide state-wide harvesting regulation where necessary to protect the waters and other resources of the State without unduly burdening forest operations. Rules are provided to minimize erosion and to avoid siltation of waters.

The bill provides for advance notification of forest practices on forest lands, if the operation involves the harvesting of more than 100 cords or 50,000 board feet, so that the rules can be enforced. The rules apply to operations even where notification is not required. The director is given broad powers of enforcement.

It provides for consultation with other state agencies, classification of state waters, review of the need for further regulation of forest practices, study by the Bureau of Forestry and the Department of Inland Fisheries and Game of the relationship between forest practices and fish and wildlife man-

agement, and review of the opportunities to improve forest practices by incentives, education and research.

There has been eliminated from earlier drafts the provisions for liens, fines and a number of other provisions, so as to reduce the burden of such regulation on the small forest landowner and operator.

This bill is not drafted by the Bureau of Forestry. Cost figures are estimated based on full implementation of the provisions of this bill.