

MAINE STATE LEGISLATURE

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114th MAINE LEGISLATURE

FIRST REGULAR SESSION - 1989

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No. 429

H.P. 315

House of Representatives, February 23, 1989

Reference to the Committee on Energy and Natural Resources suggested and ordered printed.

Ed Pert

EDWIN H. PERT, Clerk

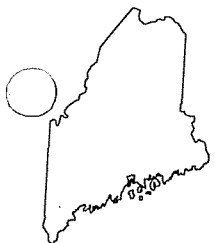
Presented by Representative MICHAUD of East Millinocket.

Cosponsored by Speaker MARTIN of Eagle Lake, Representative LORD of Waterboro and Senator PEARSON of Penobscot.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND EIGHTY-NINE

An Act Regarding State Forest Practice Laws.



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

3 Sec. 1. 12 MRSA §5101-B, first ¶, as enacted by PL 1985, c. 488,
5 §6, is amended to read:

7 Review and coordination of the Maine Forests for the Future
9 Program and implementation of the Forest Sustainability Act shall
11 be undertaken through the following mechanisms.

13 Sec. 2. 12 MRSA §5101-B, sub-§1, as enacted by PL 1985, c.
15 488, §6, is amended to read:

17 1. Citizens' Forestry Advisory Council. The Citizens'
19 Forestry Advisory Council, as established by Title 5, section
21 12004 12004-I, subsection 10 21, and in this chapter called the
"council" shall advise the Commissioner of Conservation on all
aspects of the program and shall review all interim and final
products and documents produced by the program. The council
shall adopt rules to implement the Forest Sustainability Act and
to carry out the provisions of this chapter.

23 A. The council shall consist of 7 members, appointed by the
25 Governor, subject to review by the joint standing committee
27 of the Legislature having jurisdiction over natural
resources and to confirmation by the Legislature. Members of
the council shall be chosen to represent the broadest
possible interest and experience which can be brought to
bear in the implementation of this chapter. Among the
members of the council at least 4 members shall be natural
resource professionals qualified by education or experience
in the areas of wildlife, forest ecology, forest economics
and operations or recreation.

33 B. The members shall be appointed for a term of 5 years and
35 until their successors are appointed and qualified, except
37 that at the time of the first appointments, 2 shall be
appointed for a term of 3 years, 2 for a term of 4 years and
39 3 for a term of 5 years. The council shall select its
chairman chair from its own members.

41 C. The council shall report annually to the Legislature and
43 the Governor on its activities, including any comments it
45 may have on the reports issued under section 5103 and on any
recommendations it may have for legislative actions needed
to achieve the purposes of this chapter.

47 D. The council shall meet at least twice per year.

49 E. No more than 2 members of the council may be an-employee
51 employees of a corporation, firm, partnership or other
organization with financial or other interest in the forest
resource.

1 Sec. 3. 12 MRSA §5101-B, sub-§§ 3, 4 and 5 are enacted to read:
3

5 3. Implementation of the Forest Sustainability Act. By
6 March 1, 1990, the council shall adopt rules, to be reviewed
7 periodically, to implement the Forest Sustainability Act. The
8 council shall incorporate the recommendations of the regional
9 forest committees in carrying out the following duties:

11 A. To regulate the size and arrangement of harvesting of
12 forest tree species in a manner that will maintain and
13 improve the diversity and sustainability of the forest land,
14 minimize soil and debris entering streams, protect wildlife
15 and fish habitat and aesthetic resources;

17 B. To assist in the adoption and maintenance of uniform
18 environmental standards that will ensure protection of
19 forest productivity, water quality and fish and wildlife
20 habitat during timber harvest operations, taking into
21 consideration rules pertaining to harvest operations
22 administered by the Department of Environmental Protection,
23 by towns through the shoreland zoning laws and by the Maine
24 Land Use Regulation Commission and, where possible, reduce
25 duplication and inconsistency in the application of rules
26 and regulations;

27 C. To establish regeneration stocking standards that will
28 maintain a continuous growing and harvesting of forest tree
29 species; and

31 D. To provide procedures and criteria for voluntary
32 incentive programs.

33 4. Regional forest committees. To assist in rulemaking,
34 the council may establish up to 5 regional forest committees for
35 different regions of the State. Each regional forest committee
36 shall recommend rules appropriate to the forest conditions within
37 its region to the council concerning regeneration requirements,
38 restrictions on the size and arrangement of clearcuts, preferred
39 commercial tree species and other information to assist the
40 council in implementing this chapter. The committees may also
41 recommend forest practice guidelines and management options to
42 encourage sound forestry appropriate to the region.

43 Composition of the regional forest committees shall include one
44 owner of a small woodlot, 2 municipal officials, 2 persons with
45 natural resource education or expertise, one forester and one
46 forest industry laborer. Members of the committees shall be
47 approved by the council.

1 In establishing regional forest committees, the council shall
3 take into consideration prevalent growing conditions and tree
species and geographic characteristics.

5 5. Staffing. The bureau shall staff the council and shall
7 provide such information as may be necessary in carrying out the
provisions of this chapter.

9 Sec. 4. 12 MRSA §5103, sub-§§2 and 3, as repealed and replaced
11 by PL 1985, c. 737, Pt. A, §26, are amended to read:

13 2. Recommendations. Recommendations for state and private
15 actions designed to address the needs identified in the
assessment.

17 A. State action recommendations shall be defined in terms
of necessary policies, programs, staff and budgetary
19 requirements to achieve specific goals.

21 B. Recommendations for actions on privately held forest
lands shall be developed separately for large, industrial
23 ownerships and small, nonindustrial ownerships. These
recommendations shall be defined in terms of actions needed
25 to achieve specific goals.

27 C. This report shall be prepared on a 5-year cycle with the
first report due no later than January 1, 1988; and

29 3. Annual progress report. An annual progress report on
31 implementation of the program and its recommendations along with
recommendations for administrative or legislative actions needed
33 during the current 5-year cycle. The progress report shall be
due on January 1st; and

35 Sec. 5. 12 MRSA §5103, sub-§4 is enacted to read:

37 4. Documentation and prevention of forest land conversion.
39 Based on reporting data, harvest plans and other information, an
assessment of the cumulative effects of parceling and development
41 on traditional uses of the State's forest, timber production,
public recreation and wildlife habitat. Specifically, the
assessment shall include:

43 A. An analysis of the extent of land conversion to
45 nontimber uses, the ownership patterns and types of forest
land most susceptible to conversion and the causes for such
47 conversion; and

49 B. Possible mechanisms to curb forest land conversion
including, but not limited to, purchase of development
51 rights, purchase of conservation easements, improved zoning
and development review by land use management agencies.

1 providing state or municipal governments with rights of
2 first refusal on selected forest lands, support for a bond
3 issue to acquire forest lands of high value or interests in
4 those lands.

5
6 Sec. 6. 12 MRSA §5107 is enacted to read:

7
8 §5107. Education

9
10 1. Enhance education in economics. The commissioner may
11 work with faculty from the College of Forest Resources and the
12 College of Business Administration in the University of Maine
13 System, representatives from the forest industry and
14 representatives from the business and finance community to
15 develop curricula for a joint Master of Business Administration
16 and Master of Science in Forestry degree program and to develop
17 initiatives for forest products marketing including continuing
18 education courses for foresters in marketing and finance and a
19 faculty position in forest products marketing.

20
21 2. Increase the public's understanding of the forest. The
22 commissioner may work with the Department of Educational and
23 Cultural Services and private and nonprofit organizations to
24 encourage forest science study programs in public schools.

25
26 3. Enhance forest industry and labor information and
27 training. The commissioner may establish a program to provide
28 training in timber harvesting equipment operation, safety and
29 basic forest management skills to be offered as continuing
30 education courses. The commissioner shall ensure that reliable
31 and timely information on the utilization, makeup and growth of
32 the forest resource is made available.

33
34 Sec. 7. 12 MRSA c. 432 is enacted to read:

35
36 CHAPTER 432

37
38 FOREST SUSTAINABILITY ACT

39
40 SUBCHAPTER I

41
42 GENERAL PROVISIONS

43
44 §5211. Short title.

45
46 This chapter shall be known and may be cited as the "Forest
47 Sustainability Act."

48
49 §5212. Legislative findings; forest policy; liberal construction

50
51 1. Legislative findings. The Legislature finds that the
forest resources and timberlands of the State are among the most

1 valuable of the natural resources of the State and the public has
3 an interest in a healthy, diverse and sustainable forest resource
5 for the present and for the future. The forest resources and
7 timberlands of the State furnish numerous wood products,
9 employment, recreational opportunities and aesthetic enjoyment
11 while providing watershed protection and fisheries and wildlife
13 habitat. The forest resources of the State are threatened by
15 unbalanced age classes of trees, loss of quality of trees, too
17 many instances of unsound forest practices, lack of concern for
19 health and vitality of the next generation of trees, loss of
21 natural habitat diversity, inadequate data about utilization and
23 regrowth of wood, intensifying pressures from all user groups of
25 the forest and insufficient state-sponsored education, assistance
27 and research programs.

2. Forest policy. It is the policy of this State to assume
17 leadership in ensuring the long-term sustainability of the forest
19 resource as a supplier of jobs, high-value timber products and
21 for watershed and soil protection; in creating and maintaining
23 forests that are naturally diverse in age, species composition,
25 and spatial pattern to serve the public's need for timber and
27 other forest products and as fisheries and wildlife habitat; in
29 preserving special and unique areas that possess high scientific,
31 ecological or recreational value; in regulating forest practices
33 to protect water and soil quality, wildlife habitat and forest
35 productivity while avoiding unnecessary duplication in regulation
37 of those areas; in encouraging a varied and stable investment
39 climate and market for wood products; in maintaining a forest
41 that is accessible to the public and that contains large,
43 undeveloped tracts of land as well as small woodlots for
45 wildlife, dispersed recreation and efficient forest management;
47 and in encouraging forest stewardship on every citizen's part
49 through research, education and technical assistance.

3. Liberal construction. The provisions of this chapter
35 shall be construed liberally to implement the policies
37 established in this section.

39 §5213. Definitions

41 As used in this chapter, unless the context indicates
43 otherwise, the following terms have the following meanings.

1. Bureau. "Bureau" means the Bureau of Forestry, also
45 known as the Maine Forest Service.

2. Clearcut. "Clearcut" means a logging technique that
47 removes most or all of the merchantable timber from a forest
49 stand greater than 2 acres in size resulting in or necessitating
51 complete regeneration of the stand. "Clearcut" also means seed
tree harvests where the removal of the seed trees takes place

1 within 5 years of the original seed tree harvest. "Clearcut"
2 does not mean shelterwood harvests.

3 3. Commercial tree species. "Commercial tree species"
4 means any species of tree normally marketable.

5 4. Commissioner. "Commissioner" means the Commissioner of
6 Conservation.

7 5. Council. "Council" means the Citizens' Forestry
8 Advisory Council.

9 6. Department. "Department" means the Department of
10 Conservation.

11 7. Director. "Director" means the Director of the Bureau
12 of Forestry.

13 8. Landowner. "Landowner" means a person, partnership,
14 corporation or association of whatever nature that holds an
15 ownership interest in forested land, including the State
16 Government and Federal Government.

17 9. Professional forester. "Professional forester" means
18 anyone licensed pursuant to Title 32, chapter 75.

19 10. Regeneration. "Regeneration" means the new growth of
20 trees after a timber harvest operation that occurs either
21 naturally or artificially.

22 11. Stocking. "Stocking" means a measure of the degree to
23 which a given space is occupied by well-distributed countable
24 tree seedlings.

25 12. Timber harvest operations. "Timber harvest operations"
26 means the cutting or removal or both of timber or other solid
27 wood forest products from timberlands for commercial purposes
28 with the intent to sell or gain other consideration, together
29 with all the work incidental to that operation, including, but
30 not limited to, construction and maintenance of roads, stream
31 crossings, landings and skid trails, but excluding preparatory
32 work, such as tree marking, surveying or road flagging.

33 13. Timber operator. "Timber operator" means a person who
34 conducts or is required to conduct a timber harvest operation.

35 14. Timber owner. "Timber owner" means a person,
36 partnership, corporation or association of whatever nature that
37 holds an ownership interest in timber, including the State
38 Government and Federal Government.

1 15. Timber stand improvement. "Timber stand improvement"
2 means pre-commercial activities including, but not limited to,
3 planting, thinning, spacing and pruning of commercial tree
4 species.

5 §5214. Relationship to other rules and regulations

6 Nothing in this chapter shall be construed to preempt or
7 otherwise limit the existing authority of municipalities or other
8 governmental entities to regulate harvesting operations.

9 SUBCHAPTER II

10 TIMBER HARVEST DATA COLLECTION AND HARVEST PLAN

11 §5221. Notification of intent to harvest

12 1. Notification to State; exemption. All landowners
13 conducting timber harvest operations or having them conducted on
14 their land shall first file with the service a notification of
15 intent to harvest. The notification shall include the name and
16 address of the landowner, the name and address of the operator,
17 the location and size of the proposed harvest operation, a
18 description of the silvicultural method to be used and
19 information to comply with the requirements of a harvest plan if
20 applicable. The bureau shall develop procedures for
21 notification. For purposes of this section, individuals
22 harvesting wood for personal use shall be exempt from this
23 section.

24 2. Confirmation of notice. The bureau shall, upon receipt
25 of a notice of intent to harvest, send a confirmation of the
26 notice to the landowner to be kept by the landowner until the
27 completion of the harvest, along with a description of other
28 landowner reporting requirements and any educational or
29 informational materials the bureau deems appropriate.

30 §5222. Reporting after completion of timber harvest operation

31 1. Annual report. Landowners and forest products
32 processors shall annually report to the bureau information on the
33 health and status of the forest resource as required by the
34 bureau.

35 2. Reporting system. The bureau shall develop a reporting
36 system to collect the following information:

37 A. Total species and product volumes or weight harvested;

38 B. Total species and product stumpage rates;

1 C. Total species and product volumes or weight sold outside
2 of the State, but within the United States;

3
4 D. Total species and product volumes or weight sold outside
5 the United States, by country or province;

6
7 E. Total species and product volumes or weight sold within
8 the State;

9
10 F. Acreage and type of harvesting methods used such as
11 clearcut, biomass cut or partial cut; and

12
13 G. Total species and product volumes or weight imported
14 from other states or countries.

15 **§5223. Registration**

16
17 To assist in complying with the reporting requirements of
18 this chapter, the bureau shall, by rule, develop procedures for
19 registration of businesses involved in the harvesting, processing
20 or selling of timber and primary forest products in the State.
21 The registration shall apply to business entities harvesting
22 stumpage within the State, primary processing mills, business
23 entities selling roundwood or chipwood, including biomass, to
24 markets outside the State or importing those products from
25 outside the State.

26
27 **§5224. Harvest plans**

28
29 1. Timber harvest plans. Landowners conducting timber
30 harvest operations or having them conducted on their land,
31 exceeding 100 cords of wood on any parcel of land at any one
32 time, shall first prepare or have prepared a timber harvest plan
33 and shall file the plan with the bureau. The plan shall be
34 signed by a professional forester or by a state forester through
35 the state technical assistance program. The filing of a harvest
36 plan satisfies the requirements of a notice of intent to harvest.

37
38 2. Contents of the harvest plan. The timber harvest plan
39 shall be a public record and shall include the following
40 information:

41
42 A. The name and address of the landowner and timber owner
43 if different from the landowner;

44
45 B. The name and address of the timber operator;

46
47 C. The expected dates of commencement and completion of
48 timber harvest operations.

49
50 D. The location and size of the land on which the work is
51 proposed to be done, the location of all proposed and

1 existing haul roads and landings, the location of lakes,
2 streams and public waters in the operating area and the
3 proposed plan for erosion control;

5 E. A description of the silvicultural methods to be applied
6 and the size and arrangement of each, the type of logging
7 equipment to be used and any fertilizers, pesticides or
8 other materials planned to be applied to the harvested area;

10 F. Provisions to protect any sensitive wildlife habitat or
11 natural resources within the timber operation site;

13 G. The plan for regeneration and compliance with
14 restrictions on clearcutting, projected stocking by species
15 in 5 years and efforts to improve the balance of age of the
16 stand;

17 H. Whether any land included in the timber harvest plan
18 will be converted or is intended to be converted to a use
19 other than timber production within 3 years after completion
20 of the timber harvest operations described and any
21 anticipated changes in ownership;

23 I. An affirmation that the statements contained in the
24 notification are true; and

26 J. Any other information the council requires by rule to
27 meet the standards of this chapter. The council shall adopt
28 criteria by which long-term management plans prepared by a
29 professional forester or review by certified wildlife
30 biologists or other certified land managers will satisfy the
31 provisions of this section for a harvest plan.

33 **§5225. Expiration of notification and harvest plan**

35 The notification and harvest plan is valid for a period not
36 to exceed 2 years from the date of original notification to the
37 bureau. At the expiration of the 2-year period, if the timber
38 harvest operation is continuing, the notification and harvest
39 plan shall be renewed annually from the date of the original
40 notification using the same procedures provided in this section.

42 **§5226. Changes in notification and harvest plan**

44 A landowner shall carry out a commercial harvest in
45 accordance with the notification and harvest plan. If the
46 landowner decides to deviate from the filed notification or
47 harvest plan, a notice of change must first be filed with the
48 bureau.

50 **§5227. Nonresident operators; bond**

1 Prior to commencing any timber harvest operation,
3 nonresident operators who do not own real property in this State
5 shall submit to the bureau a bond in a form acceptable to the
7 council, to ensure the performance of the duties of the operator
9 under this chapter in the amount of \$200 per acre for each acre
11 in the contract area, with a maximum bond of \$15,000.

13 SUBCHAPTER III

15 FOREST SUSTAINABILITY AND ENVIRONMENTAL PROTECTION

17 §5231. Coordination of environmental protection standards

19 The bureau shall coordinate the adoption and maintenance of
21 uniform standards applicable to forest management activities
23 throughout the State. These standards shall include standards
25 found in this Title and Titles 36 and 38 and rules promulgated
27 under those titles which pertain to forest management
29 activities. The Department of Conservation, the Maine Land Use
31 Regulation Commission, the Department of Inland Fisheries and
33 Wildlife, the Department of Environmental Protection and other
35 state agencies shall cooperate with the bureau in its effort to
37 implement this section. The bureau shall be responsible for
39 coordinating and ensuring the adequacy of enforcement and shall
41 work with other enforcement agencies to carry out the purposes of
43 this section.

45 §5232. Forest regeneration and productivity

47 1. Stocking. To ensure a productive and sustainable forest
49 resource and the regeneration of commercial tree species
51 sufficient to utilize suitable and available growing space after
53 timber harvest operations, any timber harvest operation must
55 either:

57 A. Use harvesting methods that leave a residual stand that
59 retains or regains full canopy cover within a reasonable
61 period of time determined by the council through rulemaking;
63 or

65 B. Use harvesting methods that will result in adequate
67 stocking of commercial tree species within 5 years to be
69 determined by the council through rulemaking.

71 2. Council standards. The council shall establish, through
73 rulemaking, minimum regeneration standards for canopy cover
75 subsequent to a timber harvest operation and stocking standards
77 based on the growing conditions of the State's forest, the need
79 to fairly and realistically enforce this provision and regional
81 differences in the State. These rules shall include methods to
83 mitigate inadequate regeneration. The council may adopt
85 nonbinding standards for preferred commercial tree species to

1 encourage the growth of specific tree species determined to be of
3 high economic value to the State but in low supply.

5 3. Regeneration requirements in forest land transfers. In
7 any transaction for the conveyance of an ownership interest in
9 forest land, the transferor must provide to the transferee, prior
11 to the date of execution of the conveyance, written notice of any
13 regeneration requirements. The succeeding landowner shall be
15 responsible for compliance with the requirements of this section.

17 For any such failure to comply with the notice of any
19 regeneration requirements, the transferee may bring against the
21 transferor an appropriate action to recover the costs of
23 complying with the regeneration requirements.

25 4. Natural disaster. In the event of destruction by fire,
27 disease, insect infestation or other natural disaster during the
29 5-year regeneration period, the regeneration requirement shall
31 not apply if vegetative cover sufficient to prevent accelerated
33 erosion is established within 3 years following a natural
35 disaster.

37 §5233. Size and arrangement of harvest areas

39 1. Size and arrangement. Any timber harvest operation
41 involving clearcutting must:

43 A. Not contain harvested blocks exceeding a size determined
45 by the council through rulemaking and must have harvested
47 blocks separated by a distance of 300 feet, or if adjacent,
49 by a period of 15 years; and

51 B. Not exceed in total area harvested by clearcutting 1/3
53 of the area of a parcel, or land in contiguous ownership
55 above 1000 acres up to a maximum size of one township,
57 during a 20-year period.

59 2. Regional considerations. The council shall adopt
61 standards limiting the size of clearcuts for regions of the
63 State, taking into consideration prevalent growing conditions,
65 tree species, site quality, wildlife and fisheries
67 considerations, soil and water quality factors, the potential for
69 aesthetic impacts and to further the purposes of this chapter.

71 §5234. Voluntary incentive program

73 1. Pilot program. A pilot program, the Voluntary Forest
75 Practices Program, is established to encourage private forest
77 landowners to improve public, timber and nontimber values through
79 a state-sponsored voluntary program. The program shall
81 compensate participating landowners for managing forest land,
83 organized into management units, to provide special public

1 benefits for wildlife, recreation and aesthetics, to encourage
3 landowners to keep large tracts of forest land owned individually
5 or by groups of landowners in a forested state and to prevent
7 loss of the State's timber base to development.

9 2. Application procedures. The council shall promulgate
11 rules to establish specific criteria and procedures for
13 application and approval to participate in the program. Special
15 consideration shall be given to encouraging small landowners to
17 form cooperative management units of contiguous land. Approval
19 shall be dependent on the applicant meeting the goals of this
21 chapter and the criteria established by this section.

23 3. Requirements. In order to qualify for inclusion in the
25 program, participants must meet the following criteria:

27 A. Proposed management units shall be sufficiently free
29 from development. The participating forest landowner must
31 agree not to develop units for residential, commercial or
33 industrial purposes;

35 B. A management plan for each management unit must be
37 submitted to and approved by the council, taking into
39 account the degree of guaranteed access to lands, protection
41 of wildlife habitat, management for high-value tree species
43 and protection of recreational uses;

45 C. Participating forest landowners must agree to provide
47 the State with the right of first refusal to purchase land
49 within the program; and

51 D. Management of land shall be according to rules adopted
by the council and the following guidelines.

(1) Harvesting and silvicultural activities shall
maintain or restore natural distribution of forest
types in order to enhance wildlife populations and to
provide a forest that appears natural to
recreationists. Selective cutting of only high-value
species leading to low-value stands shall be limited.
Large-scale conversions of mixed stands to coniferous
plantations shall also be limited.

(2) Harvesting and regeneration activities shall
promote spatial forest diversity and shall include
even-aged management practiced on large, medium and
small scales and management for continuous cover in
approximately even proportions and even geographic
distribution.

(3) Harvesting and silvicultural activities shall
ensure a forest with a balanced age structure for

1 wildlife diversity and a continuous supply of wood
3 products. Four or more different age classes should be
distributed evenly throughout the unit.

5 (4) The species mix of harvested stands shall maintain
7 the species composition of the previous stand or be
changed in a manner that will increase the natural
9 species diversity on the management unit.
Silvicultural techniques shall ensure uniformly
11 distributed stocking of the natural forest type.

13 (5) To prevent site fertility loss, whole-tree removal
and harvesting techniques used in even-aged management
15 that do not leave logging residues well-distributed on
a site, unless the site is fertilized, should at a
17 minimum be restricted to once in every 3 crop rotations
or once every 100 years, whichever is longer.

19 (6) Silvicultural activities shall ensure adequate
21 buffers around water bodies, campgrounds, roads,
recreational areas, visually sensitive areas, critical
23 areas and snag sources, shall prevent forest
fragmentation and protect riparian zones and sensitive
25 wildlife habitat.

27 (7) In order to assure public access to, and
traditional uses of, the State's forest resources,
29 participating forest landowners shall not post land
except for safety reasons or to protect sensitive
31 resources; enter into exclusive recreational leases; or
gate or close roads to public use except as required in
33 selected locations to protect sensitive natural
resources from excessive recreational use and to
35 maintain traditional remote recreational areas.
Participating landowners shall cooperate with state
37 recreation officials to prevent conflicts between
different recreational activities, in particular,
39 motorized and nonmotorized activities.

41 4. Incentives. Participation in the program shall entitle
participants to incentives on a per acre basis in the amount of
43 one to 2 dollars per acre per year.

45 5. Disqualification. Disqualification from the program
shall occur when landowners do not comply with management plans,
47 participating landowners develop their land or for any other
reasons established through rulemaking to further the purposes of
49 this subchapter.

51 6. Transfer. If a management unit is sold or ownership is
otherwise transferred, participation in the program continues
unless action is taken by the new owner to withdraw.

1 7. Withdrawal. Withdrawal of a management unit or units
3 from the program, whether by the owner who originally entered the
5 program or by a subsequent owner, shall require payment of the
7 value of the incentives received for up to a 20-year period after
which the penalty shall decrease annually one dollar per acre per
year.

9 Sec. 8. 12 MRSA §8002, sub-§1, ¶¶E and F, as enacted by PL
11 1979, c. 545, §3, are amended to read:

13 E. Have the responsibility for management of particular
15 portions of land owned by the State when management is
entrusted to the bureau by statute or is transferred by
mutual agreement of the bureau and other state agencies; and

17 F. Conduct information, education, planning and research
19 programs designed to promote the purposes of the bureau as
set forth in this Part.; and

21 Sec. 9. 12 MRSA §8002, sub-§1, ¶¶G to K are enacted to read:

23 G. Administer and enforce this chapter in cooperation with
25 the Department of Environmental Protection, the Maine Land
27 Use Regulation Commission, the Department of Inland
Fisheries and Wildlife, the Department of Economic and
Community Development, the University of Maine System and
municipalities;

29 H. Advise and assist the Citizens' Forestry Advisory
31 Council in the discharge of its duties as set forth in
33 chapter 429 and provide assistance to regional forest
committees established by the council;

35 I. Administer the forest management incentive grant program;

37 J. Collect data on harvests and forest practices to monitor
39 and analyze trends in forest management in conjunction with
the Maine Forests for the Future Program; and

41 K. Undertake other activities in accordance with the
43 purposes of this chapter.

45 Sec. 10. 12 MRSA §8601, as enacted by PL 1979, c. 545, §3, is
repealed and the following enacted in its place:

47 §8601. Bureau outreach, education and research

49 1. Information. The Director of the Bureau of Forestry
51 shall expand the bureau as needed to become a one-step forest
management information clearinghouse. The information shall
include, but not be limited to:

1 A. Notification, reporting, development of harvest plan,
3 regeneration, clearcut and environmental protection
5 standards requirements;

7 B. Timber and forest management options;

9 C. Soil conservation practices;

11 D. Insect and disease management;

13 E. Recreation management options; and

15 F. Wildlife management options.

17 2. Forest technical assistance program. The director shall
19 work with the University of Maine Cooperative Extension Service
21 to establish a forest technical assistance program. Under this
23 program, foresters shall be located in each county extension
25 office to provide professional forestry assistance.
27 Specifically, the foresters shall assist landowners in reporting
 data, reviewing harvest plans, complying with environmental
 standards, promoting involvement in grants and incentive programs
 and shall disseminate educational material including material
 developed by the Citizens' Forestry Advisory Council, the
 regional forest committees, the extension service and the bureau.

29 3. Forest management incentive grant program. The director
31 shall administer a forest management incentive grant program to
 improve forest management on forest lands and ensure future
 availability of high quality.

33 A. The program shall award a matching amount of money to
35 eligible landowners who expend money for timber stand
37 improvement administered on their lands under the
39 supervision of a professional forester. No grants may be
41 awarded to any landowner for pesticide use or whose total
43 land ownership in the State exceeds 50,000 acres. At least
45 1/2 of the total grant money awarded shall be made to
 landowners whose total land ownership in the State is less
 than 1,000 acres. Grant awards shall be based on a
 dollar-to-dollar match of state money to landowner
 expenditure and shall be limited to \$100 per acre per year
 and shall not be awarded based on more than 100 acres per
 landowner per year.

47 B. It is the intent of the Legislature that the amount of
49 \$500,000 be appropriated annually for the forest management
 incentive grant program.

51 C. The Citizens' Forestry Advisory Council shall adopt
 rules to implement the forest management incentive grant

1 program encouraging, wherever possible, preferred commercial
2 tree species listed by the council.

3 4. Cooperation with other agencies. The director shall
4 administer this section in cooperation with applicable state
5 agencies.

6 Sec. 11. 12 MRSA §8603, as amended by PL 1987, c. 861, §11,
7 is repealed.

8 Sec. 12. 12 MRSA §8604, as amended by PL 1987, c. 402, Pt. A,
9 §99, is repealed.

10 Sec. 13. 12 MRSA §9701, as enacted by PL 1979, c. 545, §3, is
11 amended to read:

12 §9701. Penalty

13 Unless otherwise specifically stated, any person who
14 violates any requirement of this Part, the condition or terms of
15 any permit or license issued by the director or the provision of
16 any rule or regulation of the bureau commits a civil violation
17 for which a forfeiture not to exceed \$1,000 may be adjudged. Each
18 day of a violation shall be considered a separate offense. Any
19 person who repeatedly and willfully violates any provision of
20 this Part or rule of the bureau is guilty of a Class E crime and,
21 notwithstanding Title 17-A, sections 1252 and 1301, shall be
22 punished by a fine of not more than \$1,000 or by imprisonment in
23 the county jail for not more than 6 months, or by both fine and
24 imprisonment.

25 Sec. 14. 12 MRSA §§9701-A to 9701-E are enacted to read:

26 §9701-A. Temporary suspension of operations pending judicial
27 remedies; procedures; violations; penalties

28 The following administrative procedures shall apply to the
29 temporary suspension of timber operations while judicial remedies
30 are pursued pursuant to this chapter.

31 1. Stop order. An inspecting forest officer may issue a
32 written timber operations stop order if, upon reasonable cause,
33 the officer determines that a timber operation is being conducted
34 or is about to be conducted in violation of this chapter and the
35 rules adopted by the council and that the violation or threatened
36 violation would result in imminent and substantial harm to soil,
37 water or timber resources, or to fish and wildlife habitat. A
38 stop order shall apply only to those acts or omissions that are
39 the proximate cause of the violation or threatened violation.
40 The stop order shall be effective immediately and throughout the
41 next day.

1 2. Extension of stop order. A supervising forest officer
2 may, after an on-site investigation, extend a stop order issued
3 pursuant to subsection 1 for up to 5 days, excluding Saturday and
4 Sunday, provided that the officer finds that the original stop
5 order was issued upon reasonable cause. A stop order shall not
6 be issued or extended for the same act or omission more than once.

7
8 3. Contents of stop order. Each stop order shall identify
9 the specific act or omission that constitutes the violation or
10 threatened violation, any timber operation that is to be stopped
11 and any corrective or mitigative actions that may be required.

12
13 4. Termination of stop order. The department may terminate
14 the stop order if the responsible parties enter into a written
15 agreement with the department assuring that the parties will
16 resume operations in compliance with this chapter and the rules
17 adopted by the Citizens' Forestry Advisory Council and will
18 correct the violations. The department may require a reasonable
19 cash deposit or bond payable to the department as a condition of
20 compliance with the agreement.

21
22 5. Notice. Notice of the issuance of a stop order or an
23 extension of a stop order shall be deemed to have been made to
24 all persons working on a timber operation when a copy of the
25 written order is delivered to the person in charge of operations
26 at the time the order is issued, or, if no persons are present at
27 that time, then by posting a copy of the order conspicuously on
28 the yarder or log loading equipment at a currently active landing
29 on the timber operations. If no persons are present at the site
30 of the timber operation when the order is issued, the issuing
31 officer shall deliver a copy of the order to the landowner either
32 in person or to the landowner's address of record prior to the
33 commencement of the next working day.

34
35 6. Violation. Failure of the landowner, timber operator or
36 an employee of the timber operator, after receiving notice, to
37 comply with a stop order is a violation of this chapter and is
38 punishable as provided in section 9701.

39
40 In determining the penalty for any landowner, timber operator or
41 employee found guilty of violating a validly issued stop order,
42 the court shall take into consideration all relevant
43 circumstances, including, but not limited to, the following:

44 A. The extent of harm to soil, water or timber resources or
45 to fish and wildlife habitat; and

46 B. Corrective action, if any, taken by the defendant.

47
48 Each day or portion of a day that the violation continues shall
49 constitute a new and separate offense.
50
51

1 7. Claim to void stop order. If a landowner or timber
2 operator believes that a forest officer lacked reasonable cause
3 to issue or extend a stop order pursuant to this section, the
4 landowner or timber operator may present a claim to the council
5 to void the stop order.

6 §9701-B. Action to enjoin violations; temporary restraining order

7 The department may bring an action to enjoin the violation,
8 or threatened violation, of any provision of this chapter or the
9 rules of the Citizens' Forestry Advisory Council. If in the
10 proceeding it appears from facts shown by affidavit or verified
11 complaint that a violation has occurred or is threatened, the
12 court may issue a temporary restraining order restraining and
13 ordering the immediate discontinuance of any timber operation in
14 which the violation has occurred or is threatened, pending a
15 hearing on the matter.

16 Upon finding that immediate and irreparable harm is threatened to
17 soil resources or the water of the State by virtue of erosion,
18 pollution or contamination, the court may order the defendant to
19 take appropriate emergency corrective action, authorize the
20 department to order the defendant to take such action or
21 authorize the department to take emergency action to correct a
22 violation of this chapter. Any expense incurred by the
23 department in taking action in conformity with the order shall be
24 a lien upon the property upon which the action was taken when
25 notice of the lien is recorded. The court may require a bond
26 payable to the department in such amount as the court determines
27 proper to ensure correction of any violation in accordance with
28 the agreement or any other provisions required by the court. The
29 court may make any other orders that are reasonable and necessary
30 to carry out the intent of this chapter.

31 §9701-C. Correction of violations; expenses

32 The department may take such appropriate steps as are
33 necessary and incur expenses to correct any violation.

34 1. Notice; recording lien. Prior to taking any corrective
35 action, the department shall serve a written notice upon the
36 person responsible for the violation. The notice shall include a
37 statement of the corrective action to be taken, a date not less
38 than 30 days from the date of service of the notice by which such
39 corrective action is to be taken and a statement that if the
40 corrective action is not taken on or before the date specified
41 the department may take corrective action and charge the person
42 for the costs of the corrective action. The notices shall also
43 include a statement that if the person disagrees for any reason
44 with the proposed corrective action or with the charging of the
45 person with the costs of the corrective action, the person may,

1 within 10 days from the service of the notice, request a public
2 hearing before the council.

3
4 The department may record the notice in each county of the land
5 where the violation occurred, together with a statement that any
6 and all expenses incurred by the department in taking corrective
7 action pursuant to the provisions of this chapter shall be a lien
8 against the land. Upon satisfactory proof that corrective action
9 has been completed, the department shall record a notice to that
10 effect.

11
12 Any expenses incurred by the department in taking corrective
13 action shall be a lien upon the real property upon which the
14 action was taken when notice of the lien is recorded. Notice of
15 the lien, particularly identifying the real property upon which
16 the action was taken and the amount of the lien and naming the
17 owner of the property, shall be recorded by the department in the
18 office of the county recorder of each county in which the
19 property is situated within one year after the first item of
20 expenditure by the department or within 90 days after the
21 completion of the action, whichever occurs first. Upon
22 recordation, the lien shall have the same force, effect and
23 priority as a judgment lien, except that it shall attach only to
24 the real property described in the notice and shall continue for
25 10 years from the time of the recording of the notice, unless
26 released sooner or otherwise discharged. Within 10 years of the
27 time of the recording or within 10 years from the date of the
28 last extension of the lien in the manner provided in this
29 section, the lien may be extended by recording a new notice in
30 the office of the county registrar where the original notice is
31 recorded and from the time of the recordation the lien shall be
32 extended to the real property for 10 years, unless released
33 sooner or otherwise discharged. The department may, at any time,
34 release all or any portion of the real property subject to the
35 lien from that lien or subordinate it to other liens and
36 encumbrances, if it determines that the amount owed is
37 sufficiently secured by a lien on other property or that the
38 release or subordination of the lien will not jeopardize the
39 collection of the amount owed. A certificate by the department
40 to the effect that any real property has been released from the
41 lien or that the lien has been subordinated to other liens and
42 encumbrances shall be conclusive evidence that the real property
43 has been released or that the lien has been subordinated as
44 provided in the certificate.

45
46 2. Corrective action by department; public hearing. If the
47 corrective action is not taken on or before the date specified in
48 the notice served, the department may take, or contract for the
49 taking of, corrective action and recover the expenses of the
50 corrective action. When the person responsible makes a request
51 for public hearing, the Citizens' Forestry Advisory Council,
after at least 15 days' written notice, shall hold a public

1 hearing to hear the objections to the proposed action. The
3 council may, but need not, conduct the hearing in accordance with
5 the applicable provisions of the Maine Administrative Procedure
7 Act, Title 5, chapter 375. At the conclusion of the hearing, the
9 council may make an order specifying the action to be taken by
11 the person responsible to correct the violation, setting the time
13 limits for the action, and authorizing the taking of the action
15 by the department if the person responsible does not do so within
17 the specified time.

11 3. Department expenses. The expenses incurred by the
13 department in taking any corrective action pursuant to this
15 chapter shall be increased by \$250 or 10%, whichever sum is
17 higher, as administrative costs and shall constitute a debt of
19 the person responsible and, if not paid within 10 days after
21 written demand therefor, may be recovered by the department in a
23 civil action.

19 §9701-D. Entry upon land to take corrective action; civil
21 liability

21 Neither the council, the department nor any person
23 authorized by the council or the department to enter upon any
25 lands for the purpose of taking any corrective action pursuant to
27 this chapter is liable in a civil action for trespass for any
29 acts which are necessary to carry out the provisions of this
31 chapter.

29 §9701-E. Report on enforcement and penalties applied

31 The director shall report to the council and the Legislature
33 by January 1st of each year on the enforcement and penalties
35 applied under this chapter. The report shall specifically
37 identify the location and ownership of all properties where
39 persons were cited for violations requiring corrective action by
41 the department, the nature and cost of the corrective actions and
43 whether all related expenses incurred by the State have been
45 reimbursed by the responsible party.

41 Sec. 15. 12 MRSA §9707 is enacted to read:

43 §9707. Action to enforce compliance

45 The Attorney General may, on the Attorney General's own
47 motion or the request of the council, bring an action to enforce
49 compliance with the rules of the council and the provisions of
51 this chapter.

49 Sec. 16. 36 MRSA §2728 is enacted to read:

51 §2728. Unorganized territories

1 To distribute more equitably the commercial forest excise
3 tax burden for forest fire control among landowners in the
5 unorganized and deorganized portions of the State, the
7 commissioners shall assign a portion of the tax to all property
9 owners in unorganized territories that reflect first response
11 costs consistent with municipal fire control costs assessed to
13 town property owners in the organized portions of the State. All
15 other fire suppression costs shall be covered by the General Fund.

17 Sec. 17. 36 MRSA §5219-C is enacted to read:

19 §5219-C. Forest management tax credit

21 For the taxable year beginning in 1990, an income tax credit
23 of up to \$200 per person is available to a taxpayer once every 10
25 years for the purpose of hiring a licensed forester to develop
27 forest management plans.

29 **STATEMENT OF FACT**

31 The Forest Sustainability Act establishes a policy including
33 a regulatory and educational framework to ensure that Maine's
35 forest resource will be sustained.

37 Sections 1, 2 and 3 give to the Maine Forests for the Future
39 Citizens' Forestry Advisory Council authority to implement the
41 Forest Sustainability Act.

43 Sections 4 and 5 add to the Maine Forests for the Future
45 mandate the documentation and prevention of forest land
47 conversion.

49 Section 7 establishes the state policy for protecting
51 Maine's forest resource by:

1 1. Outlining the importance of the resource, the threats
3 facing it and needed action;

5 2. Establishing a timber harvest data collection system to
7 obtain vital information on forest harvesting activities and the
9 vitality of forest resources;

11 3. Requiring the preparation of harvest plans prior to
13 cutting that include a strategy for returning the land to
15 productive forest;

17 4. Encouraging the coordination and maintenance of uniform
19 environmental standards applicable to forest management
21 activities throughout the State;

1
2 5. Requiring that minimum regeneration standards be met
3 after any timber harvest operation to ensure a productive and
4 sustainable forest;

5
6 6. Placing restrictions on the use of clearcutting to
7 encourage a more diverse and better balanced age structure,
8 reduce potential for environmental and aesthetic degradation and
9 ensure sustainability of timber growth and naturally diverse
10 wildlife habitat within the forest;

11
12 7. Creating a pilot voluntary incentive program to
13 encourage private forest landowners to improve public benefits
14 for wildlife recreation, aesthetics and to keep large tracts of
15 land in a forested state; and

16
17 8. Making it clear that the Act does not preempt local
18 authority to enact forest-related ordinances.

19
20 Sections 6, 8, 9, 10, 11 and 12 rearrange, delete and add to
21 the Bureau of Forestry mandate to conduct outreach, education and
22 research programs. In particular, the forest technical
23 assistance program is increased to assist small and medium
24 woodlot owners in managing their forested property. A forest
25 management incentive grants program is also created.

26
27 Sections 13, 14 and 15 upgrade the enforcement capabilities
28 of the Department of Conservation.

29
30 Section 16 amends the allocation of commercial forest excise
31 tax to distribute more equitably fire control tax burdens among
32 landowners.

33
34 Section 17 makes available an income tax credit on a
35 periodic basis for the purpose of hiring licensed foresters to
develop forest management plans.