

# MAINE STATE LEGISLATURE

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# 118th MAINE LEGISLATURE

## SECOND REGULAR SESSION-1998

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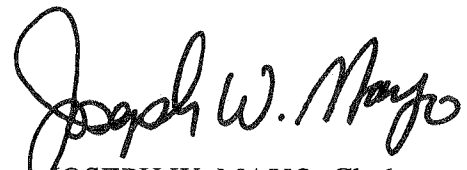
H.P. 1657

House of Representatives, March 24, 1998

**An Act to Implement the Recommendations of the Majority of the Joint  
Standing Committee on Agriculture, Conservation and Forestry  
Regarding Enhancing Forest Resource Assessment.**

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Reported by Report "A" from the Joint Standing Committee on Agriculture, Conservation  
and Forestry pursuant to Joint Order H.P. 1646.

  
JOSEPH W. MAYO, Clerk

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

4 **Sec. 1. 12 MRSA §8867**, as amended by PL 1991, c. 722, §4, is  
repealed.

6 **Sec. 2. 12 MRSA §8867-A** is enacted to read:

8 **§8867-A. Rulemaking**

10 No later than November 1, 1998, the Commissioner of  
12 Conservation shall provisionally adopt rules in accordance with  
14 Title 5, chapter 375 to implement this subchapter. Rules adopted  
16 pursuant to this subchapter are major substantive rules as  
defined in Title 5, chapter 375, subchapter II-A and must be  
submitted to the Legislature no later than January 1, 1999 for  
review.

18 The Commissioner of Conservation shall consult with the  
20 Commissioner of Environmental Protection and the Commissioner of  
Inland Fisheries and Wildlife to ensure that bureau rules are  
22 consistent with wildlife habitat and environmental protection.

24 **Sec. 3. 12 MRSA §8868, sub-§1**, as enacted by PL 1989, c. 555,  
§10, is amended to read:

26 **1. Clear-cut.** "Clear-cut" means any timber harvesting on a  
28 forested site greater than 5 acres in size which over a 10-year  
30 period that results in an average a residual basal area of trees  
32 over 6 4 1/2 inches in diameter measured at 4 1/2 feet above the  
ground of less than 30 square feet per acre, unless one or both  
of the following conditions exist condition exists:

34 ~~A. If, after harvesting, the average residual basal area of~~  
~~trees over 1 inch in diameter measured at 4 1/2 feet above~~  
~~the ground is 30 square feet per acre or more, a clear-cut~~  
~~does not occur until the average residual basal area of~~  
~~trees 6 inches or larger measured at 4 feet above the~~  
~~ground is less than 10 square feet per acre, or~~

40 B. After harvesting, the site has a well-distributed stand  
42 of trees acceptable growing stock as defined by rule of at  
44 least 5 feet in height that meets the regeneration standards  
defined under section 8869, subsection 1.

46 **Sec. 4. 12 MRSA §8868, sub-§2-A** is enacted to read:

48 **2-A. Parcel.** "Parcel" means a contiguous tract or plot of  
forest land owned by a landowner. Multiple contiguous tracts,  
50 plots or parcels of forest land owned by the same landowner are  
considered a single parcel for the purposes of this subchapter.

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Sec. 5. 12 MRSA §8868, sub-§3-A is enacted to read:

3-A. Separation zone. "Separation zone" means an area that surrounds a clear-cut and separates it from other clear-cuts.

Sec. 6. 12 MRSA §8868, sub-§4, as enacted by PL 1989, c. 555, §10, is amended to read:

4. Timber harvesting. "Timber harvesting" means the cutting or removal of at-least-50-percents-of timber for the primary purpose of selling or processing forest products.

Sec. 7. 12 MRSA §8869, sub-§2-A is enacted to read:

2-A. Separation zones. For a parcel of land 100 acres or less, a clear-cut must be separated from any other clear-cut by at least 250 feet.

For a parcel of land over 100 acres, a clear-cut must be separated from any other clear-cut by a defined area equal to at least the area contained within the perimeter of the clear-cut. For a parcel of land over 100 acres, each defined separation zone must be identified with a specific clear-cut and be a minimum of 250 feet in width and may not be designated to meet the separation zone requirements for any other clear-cut.

The Commissioner of Conservation may establish, by rule, more stringent separation zone standards for clear-cuts greater than 35 acres.

Sec. 8. 12 MRSA §8869, sub-§3, as enacted by PL 1989, c. 555, §10, is amended to read:

3. Forest management plans for clear-cuts over 35 acres. For clear-cuts--of--50 a clear-cut of 35 acres or more, the landowner, or agent of the landowner, shall develop, prior to harvest, a forest management plan for that clear-cut signed by a professional forester that conforms to the standards set forth in subsections 1 and 2. The plan must state the purpose of the clear-cut. This plan must be kept on file by the landowner or agent of the landowner and be available for inspection by the bureau until adequate regeneration in accordance with the standards set forth in subsection 1 is established.

Sec. 9. 12 MRSA §8876, as enacted by PL 1989, c. 875, Pt. J, §10, is amended to read:

**§8876. Forest Resource Assessment Program**

2 There is established in the Bureau of Forestry a Forest  
Resource Assessment Program. ~~The purposes of this program are~~  
4 to: The purpose of the Forest Resource Assessment Program is to  
6 systematically and continually assess the ability of the State's  
forests to provide sustainable forest resources and socioeconomic  
benefits for the people of this State. The Director of the  
Bureau of Forestry, referred to in this subchapter as "the  
8 director," shall implement this program to:

10 1. **Current status.** Assess the current status of forest  
resources, ~~including, but not limited to, timber, forest-land~~  
12 ~~base, fiber, recreation, water, wildlife and soil~~ using standards  
14 of forest sustainability developed in accordance with section  
8876-A;

16 2. **Future demand.** Project future demand for these forest  
resources based on a common economic forecast developed by the  
18 State Planning Office and on other appropriate economic  
projections;

20 3. **Trends.** Identify trends in resource utilization and  
22 forecast supply available to meet the projected demands; and

24 4. **Potential shortfalls.** Identify potential shortfalls in  
forest resources and the management and policy actions necessary  
26 in the public and private sector to avoid shortfalls; and.

28 5. ~~Recommendations.~~ ~~Recommend to the Governor and the~~  
Legislature ~~the administrative and legislative policies or~~  
30 ~~actions needed to refine or redirect state agency programs and~~  
~~stimulate or remove obstacles to private sector action in a~~  
32 ~~manner that contributes to an adequate supply of natural~~  
~~resources.~~

34 ~~The Director of the Bureau of Forestry shall establish and~~  
36 ~~consult with technical working groups composed of members of the~~  
~~existing staff of the Department of Conservation and other~~  
38 ~~persons knowledgeable in the areas referenced in subsection 1 and~~  
~~related fields to carry out the purposes of this chapter.~~ ~~The~~  
40 ~~working groups must have expertise in forest management, forest~~  
~~utilization, recreation management, land use regulation, wildlife~~  
42 ~~and fisheries management, watershed management and other areas as~~  
~~determined appropriate by the director.~~

44 The director shall coordinate the efforts of this program  
46 fully with ongoing bureau and federal forestry program planning  
efforts and with the efforts of the Maine Economic Growth Council  
48 to develop a long-term plan for the State's economy pursuant to  
Title 10, section 929-B.

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2                   Sec. 10. 12 MRSA §8876-A is enacted to read:

4                   §8876-A. Forest sustainability

6                   The director shall establish a process to assess forest  
8                   sustainability. In developing this process, the director shall  
10                   build on the principles of sustainability developed by the  
                    Northern Forest Lands Council established by Congress in 1990 and  
                    the criteria developed by the Maine Council on Sustainable Forest  
                    Management pursuant to Executive Order #11 dated April 25, 1995.

12                   1. Standards. Standards must be established to assess each  
14                   of the criteria listed in this subsection by January 1st of the  
16                   year indicated. The following standards must be specific,  
                    measurable and understandable by both forest managers and the  
                    general public:

18                   A. Soil productivity by 2001;

20                   B. Water quality, wetlands and riparian zones by 1999;

22                   C. Timber supply and quality by 1999;

24                   D. Aesthetic impacts of timber harvesting by 2003;

26                   E. Biological diversity by 2002;

28                   F. Public accountability of forest owners and managers by  
30                   1999; and

32                   G. Traditional recreation by 2003.

34                   2. Process. The director shall identify individuals with  
36                   scientific background and practical experience in each of the  
38                   criteria areas listed in subsection 1 and convene technical  
40                   working groups. In the development of standards pursuant to  
42                   subsection 1, the director and working groups shall assess  
44                   current status and trends, the desired objectives and actions to  
46                   reach the objectives. Each working group shall identify a range  
                    of alternative standards and recommend a set of standards based  
                    on a comprehensive review of available information and an  
                    assessment of the economic impacts of implementing the  
                    standards. The director shall coordinate the efforts of each  
                    working group and provide an opportunity for public comment on  
                    the recommended standards prior to final adoption.

48                   3. Report. The director shall report to the joint standing  
50                   committee of the Legislature having jurisdiction over forestry  
                    matters with a recommendation for each set of standards and an  
                    articulated goal for each criterion by the date specified in

2 subsection 1. At the time of the report, the director shall  
3 indicate the recommended timetable for revisiting the particular  
4 criterion and standards.

5 4. Monitoring. As each set of standards is adopted, the  
6 director shall develop a system to monitor statewide progress in  
7 achieving those standards and begin monitoring. Standards and  
8 monitoring systems must be in place for all criteria by July 1,  
9 2004.

10 Sec. 11. 12 MRSA §8877-A is enacted to read:

11 **§8877-A. Determination of supply and demand for timber resources**

12 The director shall use a variety of methods, including  
13 those specified in this section, to assess the status of timber  
14 resources, project future demand for these resources and forecast  
15 the supply available to meet the projected demands.

16 1. Forest inventory. The director, in cooperation with the  
17 United States Forest Service, shall conduct a forest inventory  
18 and analysis program. The inventory must be based on plot data  
19 collected annually in a manner that provides for the entire State  
20 to be inventoried on a cycle of not more than 5 years. Plot data  
21 must be collected and compiled to provide for analysis by  
22 ownership class and geographic region. The director shall  
23 provide for collection of supplemental plot data when needed to  
24 assess the impact of catastrophic events on the State's forests  
25 or significant changes in harvesting levels or methods.

26 2. Remote sensing data. The director shall review data  
27 collected using remote sensing technology to determine the area  
28 of forest types and gross changes in forest types.

29 3. Timber supply modeling. The director shall coordinate  
30 efforts to project future timber supply using forest models based  
31 on growth, harvest and other dynamic factors affecting the  
32 forest. The models must allow for statewide projections and  
33 projections for geographic regions and landowner classes.

34 Sec. 12. 12 MRSA §8878, as enacted by PL 1989, c. 875, Pt. J,  
35 §10, is repealed.

36 Sec. 13. 12 MRSA §§8878-A and 8879 are enacted to read:

37 **§8878-A. Annual report on clearcutting**

38 The director shall prepare and publish an annual report that  
39 summarizes clearcutting statewide by geographic region and by  
40 ownership class. For the purposes of this section,

2 "clearcutting" means harvesting that results in an area meeting  
3 the definition of a clear-cut in section 8868, subsection 1.

4 1. Information. For landowners owning 100,000 acres or more  
5 of forest land statewide, the summary must include aggregate data  
6 and frequency distributions and must present the following  
7 information:

8 A. Total area clear-cut;

10 B. Area clear-cut as a percentage of a landowner's  
12 statewide land ownership;

14 C. Stated purposes for clearcutting;

16 D. The number of clear-cuts over 75 acres in size;

18 E. Total acres planted; and

20 F. Total acres precommercially thinned.

22 2. Sources of information. The summary must be based on  
23 landowner harvest reports required under section 8885. The  
24 director may request additional information and provide field  
25 verification as resources allow.

26 **§8879. Biennial report on the state of the State's forests**

28 The director shall publish a biennial report on the state of  
29 the State's forests. The director must submit a copy of the  
30 report to the joint standing committee of the Legislature having  
31 jurisdiction over forestry matters by January 1st of odd-numbered  
32 years beginning January 1, 1999.

34 1. Content. The report must describe the condition of the  
35 State's forests based on historical information and information  
36 collected and analyzed by the bureau for the biennium. The  
37 report must provide an assessment at the state level of progress  
38 in achieving the standards developed pursuant to section  
39 8876-A. The director shall also provide observations on  
40 differences in achieving standards by landowner class. The  
41 report must summarize importing and exporting of forest products  
42 for foreign and interstate activities. The director shall obtain  
43 public input during the preparation of the report through public  
44 hearings and other appropriate methods.

46 2. Recommendations. The report must include  
47 recommendations for state and private actions designed to address  
48 the needs identified in the assessment.

50



2 A. State action recommendations must be defined in terms of  
3 necessary policies, programs, staff and budgetary  
4 requirements to achieve specific goals.

6 B. Recommendations for actions on privately held forest  
7 lands may be developed separately for large, industrial  
8 ownerships and small, nonindustrial ownerships. These  
9 recommendations must be defined in terms of actions needed  
10 to achieve specific goals.

11 **Sec. 15. 12 MRSA §8885, sub-§1**, as enacted by PL 1989, c. 555,  
12 §12 and affected by c. 600, Pt. B, §11, is amended to read:

14 **1. Harvest report.** Any Except as provided in subsection  
15 1-A, an owner of forest land who sells forest products or  
16 harvests forest products for that owner's commercial use shall  
17 submit a report to the director stating the species, volume and  
18 stumpage price per unit of measure for each transaction, the  
19 municipality or township where the stumpage was located, the  
20 estimated acreage of the harvest, the harvest method employed and  
21 the extent of whole-tree harvesting of both solid and chipped  
22 wood. For lump-sum sales, the purchaser shall be responsible for  
23 submitting the report.

24 **Sec. 16. 12 MRSA §8885, sub-§1-A** is enacted to read:

26 **1-A. Alternate harvest report.** The director may develop  
27 alternate forms for or methods of collecting harvest information  
28 from landowners who do not harvest timber on a regular basis.  
29 The director shall define landowners subject to the provisions of  
30 this subsection and provide report forms pursuant to section  
31 8883, subsection 2.

34 **Sec. 17. 12 MRSA §8885, sub-§2-A** is enacted to read:

36 **2-A. Report on clear-cuts.** When timber harvesting produces  
37 a clear-cut as defined in section 8868, the landowner shall  
38 report to the director the acreage of the clear-cut and the  
39 purpose of the clear-cut.

42 **Sec. 18. 12 MRSA §8885, sub-§3**, as enacted by PL 1989, c. 555,  
43 §12 and affected by c. 600, Pt. B, §11, is amended to read:

44 **3. Reports.** Reports required under subsections  
45 1 shall be and 2 are due January 1st and July 1st. Reports  
46 required under subsection 2 shall be due during the month of  
47 January. If the period of cutting under subsections  
48 subsection 1 or 2 extends beyond December 31st of any calendar year, a report  
49 shall be submitted during the month of January for the preceding  
50 year. A person filing a harvest notification form pursuant to

2 section 8883 must complete and return to the bureau a harvest  
3 report whether or not the landowner has harvested that year.

4 **Sec. 19. 12 MRSA §8886, sub-§2**, as enacted by PL 1989, c. 555,  
5 §12 and affected by c. 600, Pt. B, §11, is amended to read:

6  
7 **2. Annual price reports.** The bureau shall publish,  
8 semiannually annually, a report on prices as specified below.  
9 These reports shall must be reported by zones as determined by  
10 the director and shall must include a statewide average of all  
11 zones.

12  
13 A. The reports shall must include stumpage prices paid for  
14 forest tree species of the State as reported pursuant to  
15 section 8885. Prices for other forest products may be  
16 collected using acceptable survey techniques.

17  
18 B. The reports shall must include mill delivered prices  
19 paid by primary processors, wood wholesalers and wood  
20 brokers of the State.

## 22 FISCAL NOTE

23  
24 The Department of Conservation will incur some minor  
25 additional costs to adopt certain rules and to publish certain  
26 rules. These costs can be absorbed within the department's  
27 existing budgeted resources.

28  
29 The additional workload and administrative costs associated  
30 with the minimal number of new cases filed in the court system  
31 can be absorbed within the budgeted resources of the Judicial  
32 Department. The collection of additional fines may increase  
33 General Fund revenue by minor amounts.

## 36 SUMMARY

37  
38 This bill is the majority report of the Joint Standing  
39 Committee on Agriculture, Conservation and Forestry. It does the  
40 following.

41  
42 1. It reauthorizes rulemaking to implement the forest  
43 practices laws.

44  
45 2. It amends the definition of "clear-cut" to simplify  
46 implementation and enforcement of restrictions on clear-cuts.

47  
48 3. It enacts definitions for "parcel" and "separation zone."

- 2           4. It removes the requirement that 50 cords be harvested to  
qualify as timber harvesting.
- 4           5. It creates minimum standards for separation zones and  
allows more stringent standards to be adopted by rule for  
6 clear-cuts greater than 35 acres.
- 8           6. It requires a management plan for clear-cuts over 35  
acres and requires the plan to state the purpose of the clear-cut.  
10
- 12          7. It makes revisions to the provisions of the Forest  
Resource Assessment Program.
- 14          8. It directs the Bureau of Forestry to establish a process  
to assess forest sustainability including the development of  
16 standards in 7 areas and a monitoring system.
- 18          9. It provides for annual collection of inventory data and  
for an inventory cycle of not more than 5 years. It provides for  
20 the use of remote sensing technology and modeling to assess  
timber supply.
- 22          10. It repeals the current provisions for reports and  
24 recommendations from the Forest Resources Assessment Program.
- 26          11. It requires the Director of the Bureau of Forestry to  
prepare and publish an annual report summarizing clearcutting  
28 activities.
- 30          12. It requires a biennial report on the State's forests.
- 32          13. It allows alternate forms for reporting harvesting  
information.  
34
- 36          14. It requires a landowner to state the purpose of a  
clear-cut on the landowner harvest report.
- 38          15. It requires a person filing a notification of intent to  
harvest to complete and submit the harvest report whether or not  
40 timber was harvested during the year.
- 42          16. It changes from semiannually to annually the required  
report on stumpage prices published by the Bureau of Forestry.  
44