

Maine Forest Service

REPORT REGARDING AUTHORITY OF MUNICIPALITIES TO REGULATE TIMBER HARVESTING

[Resolves 2021, Chapter 70]

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Resolves, Chapter 70 Report

- Legislative direction
- What MFS did (process)
- Team members
- Meetings
- Current law
- Issues discussed and addressed
- Issues discussed but not addressed
- Recommendations
- Questions

Resolve, Chapter 70

- ▶ MFS to convene a group of stakeholders:
 - ▶ Municipalities
 - ▶ Family woodland owners
 - ▶ Logging contractors
 - ▶ Farmers
 - ▶ Outdoor recreation interests
 - ▶ Environmental interests
 - ▶ Consulting foresters
- ▶ Review and assess 12 M.R.S. §8869 (8) - the process relating to a municipal proposal to adopt or amend a timber harvesting ordinance.
- ▶ Report the findings and recommendations of the stakeholder group to the ACF Committee.

LD 1407 Stakeholder Group Membership

- ▶ Patty Cormier, Director, Maine Forest Service, Chair
- ▶ Bob and Mary Burr, Tree Farmers and Woodland Owners
- ▶ Will Cole, Logging Contractor
- ▶ Tom Doak, Maine Woodland Owners Association
- ▶ Dana Doran, Professional Logging Contractors of Maine
- ▶ Gregory Foster, Consulting Forester, Association of Consulting Foresters
- ▶ Rebecca Graham, Maine Municipal Association
- ▶ Don Kleiner, Maine Professional Guides Association
- ▶ Jonathan Labonte, Maine TREE Foundation
- ▶ Paul Larrivee, Consulting Forester
- ▶ Mike St. Peter, Certified Logging Professional Program
- ▶ Nancy Sferra, The Nature Conservancy
- ▶ Pat Sirois, Maine Sustainable Forestry Initiative
- ▶ Heather Spalding, Maine Organic Farmers and Gardeners Association
- ▶ Patrick Strauch, Maine Forest Products Council
- ▶ Rep. Nathan Wadsworth, State Representative and Forestry Business Owner
- ▶ Donald Mansius, Maine Forest Service, Staff

Process

- ▶ Committee met four times virtually.
- ▶ Meeting notice via department listservs and web calendar.
- ▶ Created website specifically for the task force's work.
- ▶ All meetings recorded and video posted to the website.

Current Law

- ▶ Current law regarding process required for adoption or amendment of municipal forestry ordinances enacted in 1999 as part of the reform of the Forest Practices Act (FPA):
 - A licensed forester must participate in the development or amendment of the ordinance.
 - The Maine Forest Service (MFS) must be consulted during the development or amendment of the ordinance.
 - The municipality must hold a public hearing, and MFS must be accorded the opportunity to speak.
 - Landowners must be notified of the proposed ordinance or amendment.
- ▶ Also required municipalities that had forestry ordinances at the time to ensure that definitions used in those ordinances were consistent with state law or rule by 01 January 2001.

Issues discussed/addressed

- ▶ Communications between MFS and municipalities.
- ▶ Outreach from MFS to municipalities and public.
- ▶ Statutory clarifications.
- ▶ Establish reporting/certification deadlines.
- ▶ Address establishment and maintenance of ordinance list.

Issues discussed/not addressed

- ▶ Unreasonable permit fees.
- ▶ Penalties for frivolous lawsuits against timber harvest activities conducted in compliance with all applicable laws and regulations.
- ▶ Time of day issues.
- ▶ Road issues.

Recommendations

Recommendation #1- Communications

- MFS, MMA, and partner organizations should coordinate a regular and continued education and outreach effort designed to:
 - Inform municipalities of current/amended law via newsletter.
 - Offer outreach to municipalities known to have forestry ordinances to:
 - help them comply with the legally mandated process;
 - provide advice on consistency of an existing ordinance with the municipality's comprehensive plan; and,
 - advise on amending existing ordinances to help the municipality achieve its goals consistent with its comprehensive plan, and/or repeal the ordinance.
- Continue public outreach regarding:
 - the value of sound forest management to forest ecosystem health, urban and rural economies; and,
 - what timber harvests entail and what they look like.
- Regularly communicate with other state agencies to ensure consistent messaging, policies, and procedures regarding MFS authorities over timber harvesting activities.

Recommendations #2 & #3 - Statutory Clarifications

- ▶ Clarify what constitutes a forestry ordinance that requires MFS review - limit review to “timber harvesting activities” as now defined.
- ▶ Make a clearer distinction between “timber harvesting activities” as now defined and clearing for development.

Recommendation #4 - Certification of Process

Establish process in statute for:

- ▶ Municipality to certify to MFS that it has followed the process; or,
- ▶ MFS to certify that a municipality has followed the process, and the ordinance is approved. (Preferred)

Recommendation #5 - Definitions

- ▶ Establish new deadline for municipalities with existing forestry ordinances to make all definitions consistent with definitions in law or MFS rule by a date certain (recommend 01 January 2025) - or ordinance is void.
- ▶ Municipalities need to provide documentation of updating definition.

Recommendation #6 - Review Process for Non-Compliant Municipalities

- ▶ Municipalities that have not previously followed the adoption/amendment process prescribed in law would have until 30 June 2023 to submit ordinances to MFS for review and comment; follow the process.
- ▶ Must complete by 30 June 2026 or ordinance is void.

Recommendation #7 - Ordinance Consistency With Comprehensive Plan

- ▶ **Require that local forestry ordinances be consistent with policies in a state-certified comprehensive plan.**

Recommendation #8 - Ordinance Listing

- ▶ Provide additional direction in statute for MFS to maintain list of local ordinances similar to statute addressing municipal ordinances regulating pesticides.

Questions?