



STATE OF MAINE
DEPARTMENT OF AGRICULTURE, CONSERVATION & FORESTRY
MAINE FOREST SERVICE
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TESTIMONY BEFORE THE JOINT STANDING COMMITTEE ON AGRICULTURE,
CONSERVATION AND FORESTRY

IN OPPOSITION TO LD 417

*An Act Regarding the Confidentiality of Certain Records Belonging to the Department of
Agriculture, Conservation and Forestry Related to the Bureau of Forestry*

February 27, 2025

Senator Talbot Ross, Representative Pluecker, and members of the Joint Standing Committee on Agriculture, Conservation and Forestry, my name is Patty Cormier. I am the Director of the Maine Forest Service (MFS), and I am speaking on behalf of the Department of Agriculture, Conservation and Forestry (DACF) in opposition to LD 417, "*An Act Regarding the Confidentiality of Certain Records Belonging to the Department of Agriculture, Conservation and Forestry Related to the Bureau of Forestry.*"

MFS respects the need for appropriate safeguards to protect the confidentiality of investigative records. However, MFS already follows existing public record and confidentiality laws when conducting investigations.

MFS's primary tasks relate to forest health issues, forest monitoring and research, the forest industry, and forest conservation and management. We provide education and technical assistance to multiple audiences, including woodland owners, loggers, foresters, municipalities, schoolchildren, and other audiences and entities. To give you a perspective of the volume, in 2024, forest rangers completed 10,697 logger and landowner visits. Our foresters interacted with or assisted 10,452 landowners, loggers, and foresters. Collectively, MFS staff conducted 571 training sessions and workshops. In other words, all our work is in service to the public.

MFS also has regulatory and law enforcement authorities related to timber harvesting, open burning, arson, unauthorized tree cutting, timber theft, and other related activities within MFS's Forest Protection and Forest Policy and Management divisions. In 2024, forest rangers were dispatched to 5,403 cases. This enforcement activity is governed by other statutes that address investigations, public records, and the confidentiality of records, including the Freedom of Access Act (Title 1 M.R.S. Chapter 13) and the Intelligence and Investigative Record Information Act (Title 16 M.R.S. Chapter 9). When rangers receive a complaint, the type of complaint is determined (civil action, civil violation, or criminal violation), information is gathered, and if a summons is issued, a report and summons information can be provided by the

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District Attorney, not by MFS. If a summons is not issued, and it turns out to be an intervention, for example, the records can be requested through the FOAA process. We would then redact information, such as certain identifying information, as required by statute.

MFS foresters respond to a wide range of concerns and complaints and gather information as needed to determine whether formal enforcement is warranted. Frequently, initial assessment reveals that no violation has occurred or minor issues can be readily corrected. When it is determined that further investigation or enforcement is needed, staff share related information and documentation only with MFS staff and other involved agencies or authorities, if appropriate, until the case is resolved.

MFS's investigative responses are similarly varied and pursued on a case-by-case basis. We prioritize understanding each unique situation. We do this by obtaining the facts, providing information, educating those involved, and, where needed, seeking to mitigate impacts to natural resources. In most instances, investigative activities generally do not lead to formal enforcement action. In all situations, MFS personnel work with all parties to an investigation respectfully, professionally, and collaboratively to meet our responsibilities and accomplish the regulatory purpose of protecting forest resources and property.

LD 417 focuses primarily on the confidentiality of records gathered during an investigation and when and how such records may be disclosed publicly during or after the end of the investigation. It first establishes that records obtained during MFS' investigation of a complaint become public when completed unless otherwise deemed confidential. LD 417 goes on to allow the disclosure of an investigative record *during* an investigation under certain circumstances, including where the Commissioner determines that confidentiality is no longer warranted due to "general public knowledge," when disclosure is necessary to avoid harm, and when requested by the person subject to an investigation if that wouldn't prejudice the investigation. This bill, as written, would create a ponderous new process of determining if these subjective thresholds have been met, and involving solely the Commissioner.

Finally, we are concerned that the bill also designates as confidential all "records of the department" that are "obtained through provision of services to the public." As noted earlier, MFS is charged by statute to provide a wide range of non-regulatory services to the public. This assistance includes referrals to other agencies, organizations, and natural resource professionals. The bill's inclusion of virtually all such agency activities and records in this requirement would be unnecessarily onerous to implement. The provision also puts at risk all employees, partner entities, and clients who disclose information about non-regulatory matters to others in apparent violation of this statute, including landowners who may or may not be involved in an investigatory case.

Lastly, I would like to point out that in 2018, there was an incident where information was shared in a way that was outside of MFS policy. We recognize that, and subsequently, we continue to reinforce our protocols to MFS staff and will continue to hold them to a high standard.

That said, we do not believe statutory changes in this regard are appropriate. We believe LD 417 is overly broad and unworkable. MFS supports existing public record and confidentiality laws as they currently stand. I urge you to vote ought not to pass.

Thank you for your time. I would be happy to answer any questions now or at the work session.