



Maine Forest Products Council

The voice of Maine's forest economy

Companies represented on the MFPC Board

American Forest Mgmt.
Baskahegan Co.
BBC Lands LLC
Bradbury Forest Mgmt.
Columbia Forest Prod.
Cross Insurance
Family Forestry
Farm Credit East
Fontaine Inc.
H.C. Haynes
Huber Resources
Innovative Natural
Resource Solutions
J.D. Irving
Katahdin Forest Mgmt.
Key Bank
LandVest Inc.
Limington Lumber
Louisiana Pacific
Maibec Logging
ND Paper
Nicols Brothers
Pingree Associates
Pixelle Specialty Sol.
Pleasant River Lumber
Prentiss & Carlisle
ReEnergy
Richard Wing & Son
Robbins Lumber
Sappi North America
Southern Maine Forestry
Stead Timberlands
TD Bank
Timber Resource Group
Timberstate G.
Wadsworth Woodlands
Wagner Forest Mgt.
Weyerhaeuser

Testimony supporting LD 1407 An Act To Provide That a Forestry Operation That Conforms to Accepted Practices May Not Be Declared a Nuisance

April 21, 2021

Patrick Strauch, Executive Director

Senator Dill, Representative O'Neil and distinguished members of the Agriculture, Conservation and Forestry Committee, I am Patrick Strauch from Exeter, Maine, and the executive director of the Maine Forest Products Council (MFPC). I represent Maine's forest product industry, which represents more than \$8 billion in economic contribution to the state's economy, and more than 33,000 direct and indirect jobs.

MFPC appreciates Senator Black's sponsorship of this bill and we support LD 1407.

Even though Maine is the most forested state in the nation, some people are surprised to find that not only is logging taking place across Maine, but that in more metropolitan settings it also presents a unique challenge.

There is a precedent for this right-to-practice concept with the laws that declare farm operation or agricultural composting operation not a nuisance¹ and the commercial fishing activities and commercial fishing operations protected from the limits imposed on private nuisance actions.²

It only makes sense that the committee think about a provision for defining when a forestry operation is not a nuisance. Natural resource

¹ §153. Farm; farm operation or agricultural composting operation not a nuisance
<https://legislature.maine.gov/statutes/7/title7sec153.html>

² §2807. Commercial fishing activities and commercial fishing operations, <https://www.mainelegislature.org/legis/statutes/17/title17sec2807.html>

businesses operating in increasingly urbanized areas are subject to nuisance complaints that can trigger actions by communities to discourage landowners from practicing active forest management.

We suggest several modifications to the bill for consideration:

1. Add a prohibition of private right of action for nuisance for forestry practices in compliance with laws and rules. Language in the commercial fishing provision³ may be appropriate.

- §2807. 2. **“Private nuisance actions limited.** A private nuisance action may not be maintained against a person engaged in a commercial fishing activity or commercial fishing operations so long as the activity or operation is undertaken in compliance with applicable licensing and permitting requirements and other applicable statutes., rules and ordinances.”

2. Subsection 9803. 1. A. the last sentence is confusing and should be evaluated:

“This paragraph does not apply in an activity associated with a forestry operation alleged to be a nuisance is found to be the result of negligence”

This provision is not found in the Agriculture of Fishing nuisance laws.

This bill is not about creating new rules. It’s about the Maine Forest Service being able to tell someone that they have no standing for a complaint for operations that are within the law.

We urge your consideration and support of LD 1407.

³ §2807. Commercial fishing activities and commercial fishing operations, <https://www.mainelegislature.org/legis/statutes/17/title17sec2807.html>