



# Maine Forest Products Council

*The voice of Maine's forest economy*

## Testimony in Opposition to LD 1776

### **“An Act to Allow Citizen Oversight of Department of Environmental Protection and Department of Marine Resources Actions and Rulemaking”**

May 11, 2023

Patrick Strauch, Executive Director

Senator Reny, Representative Hepler and members of the Committee on Marine Resources, I am Patrick Strauch of Exeter, Maine, and the Executive Director of the Maine Forest Products Council (MFPC). I am submitting testimony today on behalf of the Council in strong opposition to LD 1776, “An Act to Allow Citizen Oversight of Department of Environmental Protection and Department of Marine Resources Actions and Rulemaking.”

We aren't before this committee often, so before I discuss the bill, here's a little bit of background about the Council. We are an organization representing more than 300 member companies from all facets of the forest products industry from the stump to the mill. Members include paper mills, sawmills, loggers, truckers, foresters, panel manufacturers, biomass and pellet facilities and secondary wood manufacturers. We also have more than 8 million acres of land owned by dues paying members.

We are in strong opposition to LD 1776 because it would allow any person to anonymously petition either department (DMR or DEP) to investigate a violation of law, or for a rule to be changed. If either department, or the Attorney General, does not respond to this anonymous petition, that person may file an action in court and be entitled to reimbursement for legal costs. If that isn't concerning enough, the bill takes a step further to establish a fund to pay the legal expenses, expert witness fees and other costs associated for people seeking to enforce a law or enforce or amend a department rule in adjudicatory and legal proceedings regarding agency rulemaking and the issuance of licenses and permits.

We have many concerns with the implications of this legislation, but here are a few issues to consider:

1. There is an existing process to petition the department for a rule making. This new anonymous petition process would duplicate that process.

2. The anonymous petitioner does not need to be a resident of Maine, which makes this provision ripe for abuse from out-of-state special interest groups and competitors who are seeking to

#### Companies represented on the MFPC Board

A & A Brochu Logging  
American Forest Mgmt.  
Baskahegan Co.  
BBC Land, LLC  
Columbia Forest Prod.  
Cross Insurance  
Family Forestry  
Farm Credit East  
Fontaine Inc.  
H.C. Haynes  
Huber Resources  
INRS  
J.D. Irving  
Katahdin Forest Mgmt.  
Key Bank  
Kennebec Lumber  
LandVest Inc.  
Louisiana Pacific  
Maibec Logging  
ND Paper  
Nicols Brothers  
Pingree Associates  
Prentiss & Carlisle  
ReEnergy  
Richard Wing & Son  
Robbins Lumber  
Sappi North America  
Southern Maine Forestry  
Stead Timberlands  
St. Croix Tissue  
St. Croix Chipping  
TD Bank  
Timber Resource Group  
Timberstate G.  
Wadsworth Woodlands  
Wagner Forest Mgt.  
Weyerhaeuser  
Woodland Pulp

oppose a permitted activity.

3. The petitioner may bring an action in court and be granted standing when they would not be qualified to do so under current law. This allows any out-of-state entity or person to file court actions when they do not have a particularized interest in the matter, or the case is without merit.
4. If the case survives a motion to dismiss, the petitioner would be entitled to legal and witness costs, even if the case is later found to be without merit.
5. The fund established to cover the legal fees of these anonymous complaints would be funded by entities holding discharge licenses or “engaging in consumptive commercial use of natural resources”, forcing license holders to fund both the appeal and defense of valid licenses issued by the State in accordance with the law. This provision will have a chilling and far-reaching impact on all of Maine’s heritage industries.
6. Under this bill, no license or permit issued by the State is safe from litigation. Any neighbor, competitor or special interest group would have the ability to block projects and investments in our state.

Finally, it is unclear what problem this bill is trying to address. The Maine Department of Environmental Protection already provides a form on their website to file a complaint if someone believes that a possible violation has occurred, or if they’d like to make an environmental complaint about direct impacts to protected natural resources. The form can be found at [www.maine.gov/dep/contact/complaint.html](http://www.maine.gov/dep/contact/complaint.html). It is easily found through a quick Google search.

The Department of Marine Resources has the Maine Marine Patrol, our oldest law enforcement organization, to conduct investigations and enforcement of Maine’s marine resource laws and regulations.

Maine is blessed with plentiful natural resources, and with strong laws and agencies that provide oversight and protections to these resources. There are many ways for Maine citizens to engage in both the lawmaking and rulemaking processes, and avenues for citizens to raise concerns with how these laws and rules are implemented. LD 1776 would create significant chaos for both the regulated and regulatory communities.

For these reasons, please vote **‘Ought Not to Pass’** on LD 1776. Thank you for your consideration.