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DEPARTMENT OF CONSERVATION
MAINE FOREST SERVICE
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AUGUSTA, MAINE
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**Sample Subdivision Review Process for
New Criterion #20 for Municipal Planning Boards**

A new law, Public Law Chapter 622, An Act to Improve Subdivision Standards, prohibits a municipality or the Land Use Regulation Commission from approving a subdivision application if the parcel has been harvested in violation of Liquidation Harvesting rules adopted by the Maine Forest Service on January 2, 2005. The new law adds a twentieth criterion to the existing list of subdivision review criteria.

Review Criteria *(Existing language from top of list of review criteria):* When adopting any subdivision regulations and when reviewing any subdivision for approval, the municipal reviewing authority shall consider the following criteria and, before granting approval, must determine that:

20. Lands subject to liquidation harvesting. Timber on the parcel being subdivided has not been harvested in violation of rules adopted pursuant to Title 12, section 8869, subsection 14. If a violation of rules adopted by the Maine Forest Service to substantially eliminate liquidation harvesting has occurred, the municipal reviewing authority must determine prior to granting approval for the subdivision that 5 years have elapsed from the date the landowner under whose ownership the harvest occurred acquired the parcel. A municipal reviewing authority may request technical assistance from the Department of Conservation, Bureau of Forestry to determine whether a rule violation has occurred, or the municipal reviewing authority may accept a determination certified by a forester licensed pursuant to Title 32, chapter 76. If a municipal reviewing authority requests technical assistance from the bureau, the bureau shall respond within 5 working days regarding its ability to provide assistance. If the bureau agrees to provide assistance, it shall make a finding and determination as to whether a rule violation has occurred. The bureau shall provide a written copy of its finding and determination to the municipal reviewing authority within 30 days of receipt of the municipal reviewing authority's request. If the bureau notifies a municipal reviewing authority that the bureau will not provide assistance, the municipal reviewing authority may require a subdivision applicant to provide a determination certified by a licensed forester.

For the purposes of this subsection, "liquidation harvesting" has the same meaning as in Title 12, section 8868, subsection 6 and "parcel" means a contiguous area within one municipality, township or plantation owned by one person or a group of persons in common or joint ownership. This subsection takes effect on the effective date of rules adopted pursuant to Title 12, section 8869, subsection 14." (30-A MRSA §4404, sub-§20)

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The Maine Forest Service suggests that municipalities consider the following series of questions when considering subdivision review criteria #20.

Questions to assess mandatory Subdivision Review Criterion 20 concerning subdivision of liquidated forestland.	Yes/No	Optional Additional Data	Action
1. Has the parcel changed ownership within 5 years prior to the date of the subdivision application?		Date of last conveyance:	"No" – end of Criterion 20 review "Yes" - Proceed to 2
2. Has timber been harvested on the parcel within 5 years prior to the date of the subdivision application?		Indicate date(s) of timber harvest(s):	"No" – end of Criterion 20 review "Yes" - Proceed to question 3
3. Did the timber harvesting result in a violation of liquidation harvesting rule, based on a request for technical assistance from the Maine Forest Service? ¹ If MFS has not agreed to provide assistance proceed to next question.		Date request forwarded to MFS: Date MFS indicated ability to provide technical assistance:	"No" – end of Criterion 20 review "Yes" - Deny Subdivision
4. Has a violation occurred based on a determination that is certified by a licensed forester? <u>Note:</u> Applicant to obtain this information and provide to municipality.		Date of determination by MFS or licensed forester.	"No" – end of Criterion 20 review "Yes" - Deny Subdivision

Questions may be directed by email to forestinfo@maine.gov.

The Maine Forest Service wishes to thank Judy East, Principal, Washington County Council of Governments, for her suggestion to develop this checklist.

¹ "The bureau shall respond within 5 working days regarding its ability to provide assistance. If the bureau agrees to provide assistance, it shall provide a written copy of its finding and determination as to whether a rule violation has occurred to the municipal reviewing authority within 30 days of receipt of the municipal reviewing authority's request. If the bureau notifies a municipal reviewing authority that the bureau will not provide assistance, the municipal reviewing authority may require a subdivision applicant to provide a determination certified by a licensed forester."

