



**Natural Resources Council of Maine**  
3 Wade Street • Augusta, Maine • 04330 • [www.nrcm.org](http://www.nrcm.org)

**Adjacency Rule Public Hearing**  
**Testimony of Catherine B. Johnson**  
**June 20, 2018**

My name is Cathy Johnson and I am the Forests and Wildlife Director for the Natural Resources Council of Maine (NRCM). NRCM has over 20,000 members and supporters including people who reside in each of Maine's sixteen counties.

NRCM has major concerns about both the substance of the proposed rule changing the adjacency principle and about the process for making changes. Some of the concerns with the substance of this proposal include:

- The primary development areas would allow strip development in ten mile by two mile corridors along currently forested undeveloped roads.
- The primary development areas would green light the entire shoreline of all Class 3 lakes not already permanently protected for unlimited development. Class 3 lakes were designated as "potentially suitable for development" but should be considered on a case-by-case basis to determine if they are actually suitable for development.
- The primary and secondary development areas not already permanently protected through conservation measures constitute at least 1.7 million acres. Adding the unknown amount of development which would be allowed outside the primary and secondary development areas on Class 7 lakes and near permanent trails, this proposal would likely open up around two million acres of the jurisdiction to development.
- This rule would allow, once again, large-lot/low-density residential subdivisions that were abolished by the Legislature in 2001 because they eat up large parcels of productive forest land, limiting or eliminating their use for forest products, dispersed recreation (like hunting), and wildlife habitat.
- The rule would attract commercial and residential development to high value recreation areas including permanent trails, such as the Appalachian Trail, Tumbledown, Mt. Abram, Big Spencer, and the Allagash Wilderness Waterway, degrading the most important resources on which the tourism- based economy relies.
- The rule would allow development on an unknown number of the 1145 Class 7 lakes but there is no information available to tell us which lakes would be vulnerable to

development. Many of the Class 7 lakes have outstanding or significant natural resources.

- The rule would cut protection for remote ponds in half by allowing commercial development within ¼ mile of Class 6 remote ponds. Currently development is not allowed within ½ mile of remote ponds.
- Subdivisions of up to 14 lots and 30 acres would be allowed without rezoning in all primary locations (over 1.2 million acres). Currently these subdivisions are only allowed in a small portion of specifically identified townships.

In addition, we have many concerns about how this proposal would impact residents of “rural hubs” based on conversations we have had with residents in towns adjoining the jurisdiction. We have heard concerns that:

- Primary development areas stretching ten miles along the roads leading out of “rural hubs” would attract development out of the rural hubs, depriving the towns of tax revenue and local businesses of customers.
- Mill rates in the UT vary by county but are generally in the range of 6 – 8 mills. Every organized town has a different mill rate. Generally towns neighboring the UT are in the 15 – 25 mill range, with Millinocket and East Millinocket among the highest in the state at 33 – 34 mills. The variation from town to town and county to county aside, it is clear that tax rates in organized towns are 2 – 6 times what they are in the UT – a clear incentive to develop in the UT.
- Primary development areas are proposed for five State Scenic Byways and one National Scenic Byway. This would harm both the scenic character of the Byway and local tourism dependent businesses.
- These ten mile by two mile primary development areas would strain local fire, police, and emergency services which could be located much further than ten miles by road from the development. Fire and emergency service providers dependent on volunteers are particularly concerned.

This is a very complex rule with many sections that interrelate with the currently unwritten revised subdivision rule. This adjacency proposal also includes sections which are incomplete and, therefore, impossible to fully evaluate. In addition to our concerns about the impact of the parts of the rule that do seem clear on the jurisdiction, there are a number of issues I would characterize as drafting or legal issues with the rules. As I have said in other contexts, words matter, and, in particular, verbs matter. A few examples:

- The rule says that recreation-based residential subdivisions “may” be located within ½ mile of various lakes and trails, but there does not appear to be any provision that would limit them from locating anywhere in the jurisdiction.
- The rule would permit large-lot/low-density residential subdivisions to be located anywhere in the jurisdiction.
- Provisions in this rule are dependent on provisions in the revised subdivision rule which has not yet been drafted, so are impossible to fully evaluate.
- Terms like “near” and “close connection” are used to describe where certain activities could be located but there is no definition of these words.
- The standards for natural resource processing development and recreation supply facilities in the proposed new “Resource-Dependent Development Subdistrict” (D-RD) have not been provided. It is impossible to fully evaluate this proposed new development sub-district without knowing what standards would apply.

This is the biggest proposed policy change in the Commission’s history. Most people in Maine don’t even know about it. Most of those who do know about it do not fully understand it. Given the many issues it raises, both substantive and legal drafting, we strongly recommend:

- Release of all of the proposed rules that are interrelated with this rule, including the subdivision rule and the resource-based commercial development standards, prior to further action on this rule;
- The complete draft rules be sent to the same people, all taxpayers in the UT, who received the survey when this process began and to municipal officials (including town councilors, selectmen, planning board members, and fire, police and emergency service providers) in all organized towns that border the UT;
- Significant and specific outreach to municipal officials in each of the proposed rural hubs to ensure that they understand the impacts of the proposal and have the time and understanding to respond to the proposal;
- Public information sessions in each of the counties with land in the UT after the complete draft rule is available to explain the proposed changes to the public ;
- Provide a list of the Class 7 lakes that would be affected by this proposal;
- Provide a map showing the Class 3 lakes (that are not under permanent protection) that would become primary development locations;
- One or more additional public hearings once all of the pieces of this policy proposal are available for review and evaluation, after municipal official and public information sessions, and after members of the public and municipal officials have had time to fully digest and respond to these proposals.

There surely are ways to improve the adjacency “one-mile-by-road” rule in LUPC jurisdiction, but this proposal is a “one size fits all” proposal that doesn’t take into account the differences in the landscape, local economies, and the individual character of the different regions across the 10.4 million acre jurisdiction. The proposal jeopardizes the very characteristics that make the jurisdiction unique. It threatens both the natural resources and the tourism and other forest-based economies of neighboring towns.

We would be happy to work with LUPC staff to improve the current one-mile-by-road rule, but this proposal throws the baby out with the bathwater.

Until there is a complete rule with all the inter-related provisions available for evaluation, information about which Class 3 and 7 lakes would be affected by the proposed changes, broader understanding by the public and municipal officials of the proposed changes, and additional public hearing opportunities for the public to share their reactions to the complete proposed rule, we urge the Commission to maintain the existing one-mile-by-road adjacency rule.

Thank you for your consideration of these comments.