

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND NINTH LEGISLATURE

Legislative Document

No. 1498

H. P. 1127

House of Representatives, March 21, 1979

On Motion of Mr. Blodgett of Waldoboro, referred to the Committee on Taxation. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Mr. Blodgett of Waldoboro.

Cosponsors: Mr. Garsoe of Cumberland and Mr. Hall of Sangerville.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-NINE

AN ACT to Recodify and Resolve Minor Administrative Problems in the Forestry Statutes; and Reorganize the Maine Forestry District.

Be it enacted by the People of the State of Maine, as follows:

Sec. 1. 12 MRSA § 552, sub-§ 1, ¶A, as enacted by PL 1975, c. 339, § 6, is amended to read:

A. Have the care, custody, control and the responsibility for the management of all lands owned by the State, including public reserved lands, public domain lands, islands in inland and coastal waters, land beneath great ponds, rivers and streams, subtidal lands, lands acquired under section ~~512~~ **8003, subsection 3, paragraph N**, lands acquired by the bureau pursuant to other lawful authority and any other lands the management and control of which are not otherwise provided for by law.

Sec. 2. 12 MRSA § 558 is enacted to read:

§ 558. Submerged and intertidal lands owned by the State

1. Definitions. As used in this section, unless the context otherwise indicates, the following words shall have the following meanings.

A. Permanent. "Permanent" means occupying submerged and intertidal lands owned by the State during 7 or more months during any one calendar year.

B. Occupying. "Occupying" refers to the total area of the structure or alteration itself to the extent that the area within its boundaries is directly upon or over such state-owned lands.

2. Actions. The Director of the Bureau of Public Lands may take the following actions with respect to submerged and intertidal lands under his jurisdiction:

A. Lease, upon such terms and conditions and for such consideration as he deems reasonable, for a term of years not exceeding 30, the right to dredge, fill or erect permanent causeways, bridges, marinas, wharves, docks or other permanent structures on lands, including submerged and intertidal lands owned by the State;

B. Grant, upon such terms and conditions, but without valuable consideration, assignable easements for a term of years not exceeding 30 for the use of submerged and intertidal lands for the purposes permitted in paragraph A, provided that such use:

(1) Is for the exclusive benefit of the abutting upland owner for non-commercial recreational or improvement purposes only and is not intended as an amenity in furtherance of a commercial purpose;

(2) Occupies a total of not more than 100 square feet of state-owned land for any lawful purpose;

(3) Occupies a total of not more than 2,000 square feet of state-owned land for the exclusive purpose of landing or processing shellfish, finfish or other natural products of the sea or for other activities directly related to the purpose of landing or processing shellfish, finfish or natural sea products, including fueling, loading or selling these products; or

(4) Is for harbor improvement by the Federal Government;

C. Adjust from time to time the terms, conditions and consideration applicable to any leasehold or easement entered into under this section in any parcel of state-owned land, including submerged or intertidal land; or

D. Review from time to time, in the case of easements, the purposes for which the land conveyed has actually been used, and in the event any such purpose is found to be inconsistent with the criteria set forth in paragraph B for eligibility for an easement, such easement shall terminate and the director may enter into a leasehold agreement with the holder of the easement in accordance with the provisions of paragraph A.

3. Constructive easements. In the event the director fails to take final action on an application for an easement for a project eligible for such easement under

subsection 2, paragraph B, within 30 days after receipt of such application, then an easement for a term of 30 years on the state-owned land directly underlying the project shall be deemed to have been granted. The owners of all structures actually upon submerged and intertidal lands on the effective date of this Act shall be deemed to have been granted such an easement.

4. Consultation. The director shall consult with the Commissioners of Conservation, Marine Resources and Inland Fisheries and Wildlife and such other agencies or organizations as he may deem appropriate in developing and implementing terms, conditions and consideration for conveyances under this section. Notwithstanding section 551, the director may determine to make proprietary conveyances under this section solely on the basis of the issuance of environmental or regulatory permits by other appropriate state agencies.

Sec. 3. 12 MRSA Pt. 11 is enacted to read:

PART 11

CHAPTER 801

§ 8001. Bureau of Forestry established

There is established within the Department of Conservation to accomplish the purposes of this Part the Bureau of Forestry, also known as the Maine Forest Service and referred to as the "bureau."

§ 8002. Bureau of Forestry; powers and duties

1. Powers and duties. The bureau shall:

A. Have the responsibility for the control of forest fires in all areas of the State;

B. Conduct programs to protect the forest, shade and ornamental trees of the State against insects and diseases;

C. Conduct a program of service and community forestry in order to provide advice and assistance on forest management to small woodland owners and municipalities;

D. Provide advice and assistance on utilizing and marketing the wood products of the State, and regulate the utilization and marketing of wood products where authorized;

E. Have the responsibility for management of particular portions of land owned by the State when management is entrusted to the bureau by statute or is transferred by mutual agreement of the bureau and other state agencies; and

F. Conduct information, education, planning and research programs designed to promote the purposes of the bureau as set forth in this Part.

2. Administrative powers and duties

A. The bureau may, in conformity with the Administrative Procedure Act, Title 5, Chapter 375, adopt, amend, repeal and enforce reasonable rules and regulations, including emergency rules, necessary for the proper administration, enforcement and interpretation of those laws which the bureau administers.

B. The bureau is authorized to accept federal, municipal and private funds for the purposes set forth in this Part, except federal funds received under the Stennis-McIntire Act, Public Law 87-788. The Treasurer of State shall receive allowable funds, subject to the approval of the commissioner, and the State Controller shall authorize expenditures from these funds as approved by the bureau and the commissioner.

C. The bureau at the expense of the State, may print sufficient copies of the forestry and forestry-related laws to inform the public and the bureau's employees of the provisions of these laws. The compilation of laws may be revised biennially.

D. The bureau may also prepare and distribute printed and audio-visual materials on forestry and forestry-related issues. There is established within the bureau a revolving fund for the use of the bureau to cover the printing and distribution costs for forestry and related technical materials. The director shall fix the price at which publications of the bureau may be sold or delivered. The bureau shall retain, without charge, 10% of all publications for complimentary distribution. Income from the sale of publications shall be credited to the revolving fund to be used as a continuing carrying account to carry out the purposes of the printing fund.

§ 8003. Director of the Bureau of Forestry

1. Director. The executive head of the bureau shall be the director, who shall be qualified by training, experience and skill in forestry.

2. Conflict of interest. The director shall not, when appointed nor while in office, be directly or indirectly concerned in the purchase of state-owned lands, or the timber or grass growing or cut on these lands, except in an official capacity.

3. Powers and duties. The director shall exercise the powers of the office and be responsible for the execution and enforcement of the duties of the bureau as set forth in chapters 801-809.

A. The director shall administer the bureau in an efficient manner and, with the consent of the commissioner, shall organize the bureau as necessary to carry out the purposes of this Part.

B. The director is empowered to appoint and remove the staff of the bureau, subject to the Personnel Law, and prescribe their duties so as to implement the purposes of this Part.

- C. The director may, with the consent of the commissioner, accept grants and funds from and enter into contracts with federal, state, local or other public and private organizations to carry out the purposes of this Part.
- D. The director may, with the consent of the commissioner, employ or retain expert and professional consultants to assist in the duties of the bureau to the extent of funds available.
- E. The director may take measures to encourage an interest in forestry and shade trees in the schools, colleges and among the general public and to encourage some degree of elementary instruction in forestry and conservation of natural resources.
- F. The director shall on or before September 1st, annually, submit to the commissioner a report of the bureau's activities during the preceding fiscal year ending June 30th.
- G. The director shall biennially prepare a budget for the bureau and submit it to the commissioner.
- H. The director shall have prepared annually a forest fire plan for each administrative unit established according to the authority of section 8906, subsection 1. The plans shall incorporate the annual forest fire plans of municipalities.
- I. The director is authorized to collect and classify statistics relating to the forests and connected interests of the State and research the extent to which the forests of the State are being destroyed by fires, insects, diseases and by wasteful cutting. The director may also ascertain, to the extent possible, the effect of the diminution of the wooded surface of the land upon the watersheds of the lakes, rivers, water powers and other natural resources of the State.
- J. The director is authorized to conduct inspections and investigations on any lands to survey and inspect shade, ornamental or forest trees pursuant to the authority and procedures set forth in chapter 803.
- K. The director may issue and enforce any license or permit authorized by this Part.
- L. The director may, with the consent of the commissioner, acquire and hold any right or interest in real or personal property on behalf of the State.
- M. The director is authorized, with the consent of the commissioner, to sell, grant, lease, transfer or otherwise convey any real or personal property under the jurisdiction of the bureau and which has been determined by the director to be surplus to the needs of the bureau. This authority shall not apply to the state nursery or lands acquired under the authority of paragraph N.
- N. The director may, with the advice and consent of the Governor, purchase, when funds are available from bequests or trusts other than bequests made or

inter vivos trusts created by the late Percival Proctor Baxter, or accept on the part of the State gifts of parcels or tracts of land to the State, or may purchase land in the name of the State for state forest purposes and may also designate and set aside such lands or portions thereof as natural areas. The director shall not under this section acquire title by purchase to more than 4% of the land area within any one municipality without the written consent of the municipal officer thereof. The title to lands acquired under this section shall be investigated and approved by the Attorney General.

The purpose of acquisition of land under this paragraph is the preservation of scenic beauty and recreation as nearly unrestricted and general as is practicable for the people of the State and those whom they admit to the privilege, the production of timber for watershed protection, as a crop, as state forest demonstration areas for research purposes and for the application of model forestry techniques under a well defined criteria of full-use management. The lands acquired by the Bureau of Forestry and designated by it as state forests or natural areas shall never be sold, but may be exchanged for other land to permit consolidation, better access or more efficient administration. Net revenues including, but not limited to, stumpage shall be paid to the Treasurer of State by the director and constitute a fund to be applied to the care and improvement of these lands or for the acquisition of other lands for similar purposes, except that 25% of such revenues shall be returned by the Treasurer of State to the municipality wherein the land is located to be used for municipal purposes.

“Natural areas” means limited areas of land which have retained their wilderness character, although not necessarily completely natural and undisturbed, or have rare or vanishing species of plant or animal life or similar features of interest which are worthy of preservation for the use of present and future residents of the State. Natural areas held by the State shall include and be designated as one or more of the following 3 types and the location of each shall be described in the designation:

Type 1. Semiwilderness areas which by their size or location offer the experience of solitude and self-reliance. Whereas, lands at the higher elevations are important for protection of watersheds, are ecologically vulnerable if unwisely altered by human interference and often may be uneconomic for logging or construction, it is hereby found that such lands generally may be suitable for this classification;

Type 2. Units of importance for all the natural sciences, especially ecology, and with outstanding value for education and research and for the appreciation of natural processes. Preservation in the desired condition shall be the prevailing purpose of such holdings. Visitation shall be regulated so as to ensure this preservation on a permanent basis; and

Type 3. Areas which are not of ecological or semiwilderness stature but which have the appearance of being in an untouched natural state or which are capable of attaining that appearance if held and managed for this purpose.

Relating to natural areas of Type 1, 2 or 3, all land uses and practices shall be subject to regulations of the bureau, promulgated pursuant to Title 5, chapter 375, subchapter II, in carrying out the purposes of this paragraph to manage or maintain the areas for the preservation of their natural condition. Areas designated under these classifications can be removed from such designation only by approval of the director, with the advice and consent of the Governor, following public notice and hearing. All lands acquired and administered under this paragraph and all other state forests shall be managed under the same principles which govern the management of the public reserve lands, to the extent not inconsistent with this section and management of such state forests shall, in any event, be coordinated with the management of the public reserved lands in order to facilitate the accomplishment of applicable management objectives.

O. The director may delegate the powers and duties of this Part to the director's agents and representatives, including municipal forest fire wardens appointed by the director.

CHAPTER 803

FOREST INSECT AND DISEASE CONTROL

SUBCHAPTER I

GENERAL PROVISIONS

§ 8101. Forest insect and disease control program

1. Powers and duties. The Director of the Bureau of Forestry shall maintain sufficient resources, both personnel and technical information, within the limit of funds available, so as to:

- A. Maintain a statewide surveillance system to detect insects and diseases potentially injurious to the forest resources of the State;
- B. Provide information and technical advice and assistance to individuals and other state and federal agencies on the identification and control of forest insects and diseases;
- C. Conduct and supervise control programs for forest diseases and insects where authorized; and
- D. Assist in the enforcement of federal and state quarantine laws relating to forest insects and diseases.

SUBCHAPTER II

DETECTION; TECHNICAL ASSISTANCE

§ 8201. Detection

The director may go on any land for the purpose of surveying, inspecting or detecting the presence of a forest insect or disease which may, in the judgment of the director, pose a danger or public nuisance to the shade, ornamental and forest trees of the State.

The director may do any work involved in ascertaining the presence of these organisms. If survey work involves the use of so-called "trap" material on developed lands, the landowner shall be notified of the intent to go on the land.

§ 8202. Information and recommendations

1. Resources. The director shall maintain sufficient resources, including research materials and technical expertise, within the limits of available funds, in order that the bureau may:

- A. Respond to requests to identify forest insects and diseases of concern to landowners and municipalities;
- B. Determine the severity of forest insect or disease problems;
- C. Provide advice on control measures;
- D. Refer individuals to other state or federal agencies for technical or financial assistance; and
- E. Determine the results of compliance or failure to comply with recommendations made according to this section.

2. Results of investigations. The director shall provide the results of any investigation completed pursuant to this section or section 8201 to the affected landowner and municipality.

SUBCHAPTER III SUPPRESSION ACTIVITIES

§ 8301. Emergencies

Responsibility for control of forest insect and disease outbreaks shall, in all but emergencies, rest with the owners of the property whether private or public.

Emergencies, for the purposes of this chapter, shall be so considered when, in the opinion of the director, the infestation or disease is likely to kill or seriously injure trees in large number, or is so localized that immediate control will prevent a large possible outbreak, or is of recent foreign origin or is apt to create a public nuisance.

In emergencies, the director may enter into agreement with municipal officials to pay up to ½ the cost of control if state funds are available for this purpose. Whenever the State does contribute funds for this purpose, it shall have the authority to determine the control methods to be used. The State may make similar agreements with groups of private owners if the project is approved by municipal officials.

In an emergency, control measures may be done directly by the State or may be done on a contract basis with responsible private companies or individuals.

§ 8302. Locally requested control work

Whenever any municipality shall appropriate or raise a sum of money and shall pay the same into the State Treasury for the purpose of controlling, within its borders, a forest insect or disease declared a public nuisance pursuant to section 8303, the director shall cause the amount to be expended in the municipality, together with such sum as may be determined by the director from the state appropriation made therefor. If the director finds it to be unnecessary or impracticable to expend the entire amount or any part thereof during the year following the payment to the Treasurer of State, the unexpended proportion shall be reimbursed to the municipality.

§ 8303. Declared a public nuisance

The following forest insects or diseases are declared a public nuisance and their suppression is authorized:

- 1. Gypsy moth and brown-tail moth. Gypsy and brown-tail moth;**
- 2. White pine blister rust, *Cronartium ribicola*. The fungus disease commonly known as white pine blister rust, *Cronartium ribicola*; and**
- 3. Other nuisances. Any insect or disease for which an emergency has been declared according to the requirements of section 8301.**

The director may carry out or supervise necessary control measures in cooperation with interested and affected local, state and federal agencies and individuals.

No owner or occupant of real estate infested with the gypsy moth or brown-tail moth shall by reason thereof be liable to any action, civil or criminal.

§ 8304. Control measures; protest

Any public agency or group of owners carrying on or planning control measures may appeal to the director for permission to carry out the project in case the owner or owners of property in or adjacent to the control area refuses to do control work or to allow control work to be done on their property. The director may, after careful inspection and survey has shown an emergency exists according to the requirements of section 8301, grant authority for control measures to be carried out on the protestors' lands.

§ 8305. Shipment prohibited

The director may prohibit, prevent or regulate the entry into or movement within the State, from any part thereof to any other part, of any plants of the genus *Ribes* or other nursery or wilding plants, stock or parts of plants which may cause the introduction or spread of a dangerous forest insect or disease. The director may issue the necessary orders, permits and notices necessary to carry out this

section which shall not be considered to require or constitute an adjudicatory proceeding under the Maine Administrative Procedure Act, Title 5, chapter 375.

**SUBCHAPTER IV
SPRUCE BUDWORM SUPPRESSION ACT**

§ 8401. Short title

This subchapter shall be known and may be cited as the "Maine Spruce Budworm Suppression Act."

§ 8402. Legislative policy

The Legislature declares that it shall be the policy of the State to undertake reasonable measures to control and suppress infestations of spruce budworm insects in the spruce and fir forests of the State during the years 1976-1981, including such measures as the minimization and equitable distribution of wood resources sufficient to permit the forest products industries of the State to operate as near to full production capacity as would be possible but for the existence of the budworm infestation; accomplishment of the maximum sustained yield harvest possible within a Maine forest comprised of the most valuable timber possible; utilization of the most cost-effective methods of budworm protection and control; and as the financing of the state share of suppression and control measures by the General Fund of the State to an extent commensurate with the public benefit accruing from a suppression and control program and by excise taxes on the privilege of owning and operating such forest land for the services of protection rendered to the forest lands to an extent commensurate with the benefits accruing to the owners of the lands from such a program.

§ 8403. Definitions

For the purposes of this subchapter, unless the context otherwise indicates, the following words shall have the following meanings.

1. **Contiguous.** "Contiguous" means in actual contact. Contiguous parcels of land are those which share a common boundary whether acquired by one or more deeds. Roads, streams and natural features shall not be deemed to interrupt a boundary which would otherwise be common.

2. **Forest land.** "Forest land" means land in contiguous parcels which are subject to mandatory taxation pursuant to Title 36, chapter 105, subchapter II-A.

3. **Hardwood.** "Hardwood" means forest land on which maple, beech, birch, oak, elm, basswood, poplar and ash, singly or in combination, comprise 75% or more of the stocking.

4. **Mixed wood.** "Mixed wood" means forest land on which neither hardwood or softwood comprise 75% of the stand but are a combination of both.

5. **New market.** "New market" means a wood-processing plant which did not utilize budworm infested or damaged wood on or before January 1, 1976 or the physical expansion of an existing wood processing plant, which expansion did not utilize budworm infested or damaged wood on or before January 1, 1976. The volume of spruce and fir used by an expanded wood processing plant in any one year shall have subtracted from the volume the average annual volume of spruce and fir utilized by that plant during the calendar years 1973-1975 to determine the volume which represents a new market.

6. **Nonfederal share per acre.** "Nonfederal share per acre" means the total amount of money raised from General Fund appropriations and excise tax revenues provided for the suppression and control of spruce budworm divided by the number of acres within the designated spray area.

7. **Person.** "Person" means any individual, partnership, joint venture, corporation or other legal entity, or any group of persons which acts as a tenancy in common or joint tenancy, for ownership purposes, except any government or any agency, bureau or commission thereof.

8. **Rebate.** "Rebate" means a payment by the State back to a person subject to taxation pursuant to this subchapter.

9. **Rule.** "Rule" means a duly adopted regulation of the Bureau of Forestry of general applicability. Such rules shall have the force and effect of law.

10. **Sawlog.** "Sawlog" means a log suitable in size and quality for producing one or more of the following products: Veneer, sawn boards and sawn timber.

11. **Softwood.** "Softwood" means forest land on which pine, spruce, fir, hemlock, cedar and larch, singly or in combination, comprise 75% or more of the stocking.

12. **Spray project.** "Spray project" means all operations connected with the application of insecticides or other materials against spruce budworms or bud moths within a single year.

13. **Spruce budworm.** "Spruce budworm" means the insect of the species known as *Choristoneura fumiferana*, Clem., at any stage of its biological development.

14. **Wood classification.** "Wood classification" means the typing of forest land into the categories of hardwood, mixed wood and softwood.

§ 8404. Spruce Fir Forest Protection District

There is established a Spruce Fir Forest Protection District consisting of each of the municipalities and townships within the State in which the softwood forest cover is, to a substantial extent, composed of spruce and fir trees and wherein such spruce and fir is now, or may reasonably be expected to become, subject to infestation and destruction by spruce budworm insects. The district shall consist of the following municipalities and townships:

Aroostook County. All municipalities and townships;

Franklin County. All municipalities and townships north of a line formed by the southern and eastern boundaries of the following municipalities and townships: Kingfield, Salem Township, Phillips and Weld;

Hancock County. All municipalities and townships east of a line formed by the western boundaries of the following municipalities and townships: Tremont, Mount Desert, Bar Harbor, Trenton, Lamoine, Hancock, Township 8, S.D. and Mariaville;

Oxford County. All municipalities and townships north of a line formed by the southern and eastern boundaries of the following municipalities and townships: Roxbury, Andover, Newry, and Township A, No. 1 (Riley);

Penobscot County. All municipalities and townships north of a line formed by the southern and western boundaries of the following municipalities: Clifton, Bradley, Old Town, Alton and LaGrange;

Piscataquis County. All municipalities and townships;

Somerset County. All municipalities and townships north of a line formed by the southern boundaries of the following municipalities and townships: Brighton Plantation, Bingham, Concord Township and Township 2, R. 1, B.K.P., E.K.R. (Lexington); and

Washington County. All municipalities and townships.

§ 8405. Funding

1. Advance budget planning. The Director of the Bureau of Forestry shall annually, prior to January 1st of each of the years 1977-1981, certify to the Bureau of the Budget his estimate of the cost, if any, of the nonfederal share for the implementation of this Part for the calendar year following that legislative session. The Bureau of the Budget shall include this recommended amount in the Part I budget, together with an estimate of the funds to be paid to the Budworm Suppression Fund pursuant to subsection 6. The Legislature shall annually, in its Part I budget, determine the amount, if any, which shall be expended for this program and the manner in which the amount shall be funded. The determination shall authorize the budworm suppression program provided for by this subchapter for such calendar year and shall supersede any requirements which may exist for the approval of this program by any other state agency. In the event that the director subsequently determines that the amount necessary to conduct the activities authorized by this subchapter in any calendar year exceeds the amount appropriated in the Part I budget, he shall inform the Bureau of the Budget and it shall certify the additional amount necessary. Any such additional amount shall become a part of the Part II budget, subject to increase, reduction or approval by the Legislature.

2. **General Fund.** On or before January 1, 1977, and on January 1st for the 4 years thereafter, the Commissioner of Conservation shall report in writing to the Legislature, recommendations of the department as to the percentage of the cost of the annual program for the control and suppression of spruce budworm which the Department of Conservation recommends to be paid out of the General Fund and the percentage from excise or other tax funds during 1977 and 1978 in the first instance and thereafter for the calendar year following the legislative session, the percentages to be based upon the benefits to the State and to private landowners, respectively. Prior to making the recommendations, the commissioner shall hold a public hearing to provide opportunity for public comment on these matters. Money appropriated from the General Fund to these purposes shall be paid into the Budworm Suppression Fund hereinafter established.

3. **Excise tax funds.** Persons owning parcels of forest land, including persons claiming timber and grass rights in public reserved lands, which are classified as forest land pursuant to Title 36, chapter 105, subchapter II-A, of more than 500 acres within the Spruce Fir Forest Protection District, shall be subject to an excise tax on the privilege of owning and operating the parcels of forest land in 1976 and the 5 years thereafter, except as provided hereinafter or in the event the Legislature establishes an alternative method of taxation after 1976. In cases of divided ownership of the forest land, the persons owning or claiming timber rights shall be subject to the tax. The Legislature hereby finds that it would not be administratively feasible to apply this tax to smaller parcels of such forest land.

4. **Budworm Suppression Fund.** To accomplish the purposes of this subchapter, there is established a Budworm Suppression Fund. All income received by the State from the Government of the United States for spruce budworm programs shall be recorded on the books of the State in a separate account and shall be deposited with the Treasurer of State to be credited to the Budworm Suppression Fund. All moneys credited to the fund shall be used by the Bureau of Forestry for research, control and suppression programs related to the spruce budworm in accordance with this subchapter. As much of the money in this fund as may be necessary to pay the claims, accounts and lawful demands arising under the subchapter may be used to pay the same, and the Director of the Bureau of Forestry shall authorize the State Controller to draw his warrant therefor at any time. Any balance remaining shall continue from year to year as a fund available for the purposes set out in this subchapter and for no other purpose.

5. **Disposition of funds.** On December 31, 1981, or upon declaration of termination of the infestation as hereinafter provided, whichever occurs earlier, the Treasurer of State shall distribute any surplus remaining in the fund on the following basis and in the following order of priorities:

A. Payment of all debts and accounts outstanding;

B. Payment to the Government of the United States of all sums deposited in the fund and due thereto;

C. Payment to the General Fund of the State of a part of the remaining surplus on the basis that the proportion contributed out of the General Fund in 1981, or in the year immediately preceding the year of termination, as declared pursuant to section 8411, subsection 5, bears to the amount contributed pursuant to subsection 2 in the same year; and

D. Payment to each person subject to taxation pursuant to subsection 3 or a part of the remaining surplus on the basis that the proportion he has actually paid in 1981, or in the year immediately preceding the year of termination, bears to the total amount actually paid in pursuant to subsection 3 in the same year; provided, the treasurer shall pay amounts thus due which are less than \$25 only upon the written application of such person prior to January 1, 1982.

6. State property tax contribution. An amount equal to 1.5 mills multiplied by the state valuation of forest land, subject to taxation pursuant to Title 36, chapter 105, subchapter II-A, in the unorganized territory, shall be paid on or before October 31st of the respective year by the Treasurer of State to the Budworm Suppression Fund established by subsection 4.

§ 8406. Taxation

1. Method of calculation. The excise tax rate shall be calculated so as to provide revenues sufficient to pay the percentage of the total costs of spruce budworm suppression activities and spray projects for each year in which the Legislature has determined that a portion of the costs shall accrue from excise taxes on softwood and mixed wood within the Spruce Fir Forest Protection District. Each acre of forest land shall be subject to such tax, provided that each acre classified as mixed wood shall be taxed at half the rate for acres of softwood and that no acre classified as hardwood shall be subject to taxation under this subchapter.

2. Tax rate. The excise tax on parcels of softwood forest land shall be 37¢ per acre for 1978 and 38¢ per acre for 1979. The excise tax on parcels of mixed wood forest land shall be 18½¢ per acre for 1978 and 19¢ per acre for 1979.

3. Municipal assessors certification to the State Tax Assessor. The assessors of each municipality within the Spruce Fir Forest Protection District shall, on or before September 1, 1976, and on the anniversary date thereof in each of the 5 years thereafter for which an excise tax is in effect, certify to the State Tax Assessor the name and address of each owner of forest land within that town, based on its April 1, 1976, status for the tax year 1976, and its April 1st status in each of the 5 years thereafter, classified as forest land pursuant to Title 36, chapter 105, subchapter II-A, section 573, subsection 3 and the hardwood, mixed wood and softwood land acreage of each such parcel.

4. Determination of tax; notice to owners. The State Tax Assessor, on or before June 1, 1976, and on the anniversary date thereof in each of the 5 years thereafter for which an excise tax is in effect, with respect to the unorganized territory, and November 1, 1976, and on the anniversary date thereof in each of the

5 years thereafter for which an excise tax is in effect, with respect to municipalities within the Spruce Fir Forest Protection District, shall determine the amount of excise tax on the owner or owners of each parcel subject to taxation, based on the wood classification of the land on April 1, 1976, for the tax year 1976, and on April 1st in each of the 5 years thereafter for the purpose of determining the amount of the tax for that tax year, and shall give notice thereof to the owner or owners upon whom the tax is levied or to their authorized agents by a mailing to the owner at the address shown on the tax records. Notice hereunder shall be presumed complete upon mailing.

5. Due date; payment to State Tax Assessor. The tax determined pursuant to subsection 4 shall be payable on or before July 31, 1976, and on the anniversary date thereof in each of the 5 years thereafter for which an excise tax is in effect, with respect to the unorganized territory, and on December 31, 1976, and on the anniversary date thereof in each of the 5 years thereafter for which an excise tax is in effect, with respect to municipalities, to the State Tax Assessor.

6. Interest and penalty. Any such tax which is not paid when due shall accrue interest at the rate of 8% per year on the unpaid balance from time to time until paid and the person or persons subject to the tax, if not paid within 30 days of the due date, shall be liable for a penalty of \$25 or 10% of the unpaid tax, whichever is greater, in addition to the tax and interest due thereon.

7. Lien. There shall be a tax lien on all forest land owned by the person subject to this excise tax to secure the payment of all sums due hereunder, and it shall be enforced in the manner provided by Title 36, sections 1282 and 1283.

8. Collection by Attorney General. Whenever any owner or owners of such forest land shall fail to pay any tax, interest and penalty due under this subchapter within the time provided, the Attorney General shall enforce payment by civil action against the owner or owners for the amount of the tax, the interest and penalties thereon and costs in either the Superior or District Courts in Kennebec County or the judicial division in which the owner has a residence or established place of business.

§ 8407. Designated spray areas

1. Designation. The director shall, not later than October 15th of each year, designate the areas of the State upon which it is, in his judgment, necessary to apply chemical, biological or other material in order to suppress and control spruce budworm infestations. The designations made by the director shall be on the basis of data compiled for the Bureau of Forestry including, but not limited to, egg mass counts, evidence of defoliation, tree vigor, timber cruises, photography and similar information. The director shall provide forest land owners in the Spruce Fir Protection District with an opportunity to submit their recommendations and any information in support thereof with respect to what areas should be designated. The director shall annually prepare maps showing the

areas designated for spraying by him in the following year by the dates first stated in this section and shall report in writing the number of acres in each township designated for spraying.

2. **Notice.** Within 10 days of the preparation of the maps and reports required by subsection 1, the director shall cause to be published in the state paper and such other newspapers as he deems appropriate, notice of the designation of the spray areas pursuant to this section. The notice shall state that the designation is complete, shall indicate locations where area maps will be available for inspection and where further information may be obtained, and shall provide information concerning withdrawal procedures pursuant to sections 8408 to 8409.

§ 8408. Automatic withdrawals

1. **Conditions.** Any person owning or claiming rights in timber or land within the Spruce Fir Forest Protection District and subject to taxation hereunder may, by November 15th of each year, apply in writing to the director for the withdrawal of not less than 500 acres nor more than 1,000 acres. Each person who is an owner or claimant of real estate shall be entitled to only one withdrawal pursuant to this section and all acres withdrawn shall be contiguous.

2. **Consent.** Applications made pursuant to subsection 1 shall be granted by the director when he is satisfied that the information contained in the application is complete, truthful and accurate. In the event that he is not so satisfied within 30 days after submission of an application, it shall be deemed denied and the director shall state his reason for denial in writing to the applicant. Upon the granting of an application, the director shall notify the State Tax Assessor.

3. **Tax exemption.** Lands withdrawn pursuant to this section shall not be subject to taxation under this subchapter for the years in which such withdrawal is accepted. The director shall certify on or before December 31st of each year, to the State Tax Assessor and the acreages and owners exempt from taxation under this section.

§ 8409. Silvicultural treatment designation

1. **Conditions.** Any person owning or claiming rights in timber on land within the Spruce Fir Forest Protection District and subject to taxation hereunder may, by November 15th of each year, apply in writing to the Director of the Bureau of Forestry for designation of contiguous parcels of land not less than 500 acres as silvicultural treatment areas. Designation as a silvicultural treatment area shall be granted only upon the submission and approval of a plan for the area which provides for the adoption of silvicultural practices designed to minimize susceptibility and vulnerability to future spruce budworm infestations as those practices are defined by the rules.

2. **Consent.** Applications made pursuant to subsection 1 may be granted, or granted conditionally, by the director when he is satisfied that the information contained in the application is complete, truthful and accurate and that the plan

submitted conforms with the rules relating to such designation. In the event that the director is not so satisfied with 60 days after the submission of the application, it shall be deemed denied and the director shall state his reasons for the denial in writing to the applicant.

3. Tax exemption. Land designated by the director pursuant to this section shall be exempt from taxation under this subchapter so long as they retain such designation. For applications for designation made by April 25, 1976, if acceptance occurs after the tax imposed by this subchapter has been paid, the Treasurer of State shall rebate the tax payments out of the Budworm Suppression Fund. The parcels shall be exempt from taxation pursuant to this subchapter so long as they retain the designation. In the event that the director finds that the owner or claimant is in noncompliance with the terms upon which the application was granted, then an amount equal to the tax, interest and penalty as provided for in section 8406, subsection 6, for each year the parcel was designated as a silvicultural treatment area shall immediately become due and payable to his land shall be subject to a lien as provided for in section 8406, subsection 7.

§ 8410. General conditions for withdrawals

1. Forms. All applications for withdrawals and designations pursuant to sections 8408 to 8409 shall be made on forms prepared under the supervision of the director and shall contain the following information:

- A. The number of acres which are the subject of the application;
- B. The timber types thereon;
- C. Their location on maps of the same size and scale as those accepted by the State Tax Assessor in the administration of the Tree Growth Tax Law;
- D. Statement of ownership rights therein;
- E. Subject to the provisions of paragraph G, written authorization from each owner of, or claimant to, an interest therein, other than owners of easements and mortgages;
- F. Any other information relating to the suitability of the parcel for withdrawal or designation as the director may require, including, but not limited to, the age of the stands within the acreage, the timber volumes to be removed, the budworm hazard classes of the stand therein, management plans therefor and the basis for the application for withdrawal or designation; and
- G. In the case of applications for parcels of land within townships or portions of townships which are held in common and undivided ownership, the owners of a controlling interest in the parcel shall have the power to make applications authorized under this subchapter and the decisions of the director shall be binding on all owners of interests therein.

2. Limitations. The director shall not accept, nor shall he consider, any application for withdrawal or designation pursuant to sections 8408 to 8409 for any acre of land for which withdrawal or designation pursuant to any other of the aforementioned sections already has been granted.

3. Prohibition. No parcel of land for which withdrawal or designation has been granted pursuant to sections 8408 to 8409 shall be sprayed with insecticides by the Bureau of Forestry for the purpose of suppressing spruce budworm populations at any time following the grant, except following a finding by the director that the land has not been operated in accordance with an application or its rules, or as provided in subsection 4 or in section 8413, subsection 4.

4. Petition. A landowner who determines that, notwithstanding the implementation of a plan accepted by the director, there exists a need for the application of insecticides, may petition the director for inclusion in future spray projects. In the event that the director accepts the petition, the applicant shall be assessed for excise taxes due for the year in which the application for exemption was made and each year thereafter. The director shall reject any petition made for the purpose of evading penalties for which the applicant might otherwise be liable for failure to comply with a plan submitted pursuant to section 8409 or the rules pertaining thereto.

5. Written notification. Owners of tracts under silvicultural or automatic withdrawals shall send written notification to the director within 30 days of any transfer of any interest, other than an easement or mortgage, in those tracts.

§ 8411. Duties and authority of the Director of the Bureau of Forestry

1. General. The director shall coordinate the activities of the bureau personnel and render all assistance practicable to the Committee on Spruce Fir Silviculture.

2. Rules. From time to time he shall adopt and amend rules for the implementation of this subchapter consistent with section 8413. These rules shall be adopted in accordance with the procedures set forth in Title 5, chapter 375, subchapter II.

3. Applications. He shall consider applications made pursuant to sections 8408 to 8409 and grant, conditionally or deny such applications.

4. Reduction. In the event that the director determines that the total number of acres remaining within the spruce fir forest type after applications have been made is not sufficient to provide the amount of wood necessary to meet the reasonably foreseeable future need for spruce and fir in the State, then he may reduce the acreage included in each otherwise acceptable application made pursuant to section 8409 in equal portions so that the total number of acres withdrawn does not exceed the number he deems necessary to supply such wood.

5. Declaration of termination of infestation. Upon receipt of satisfactory information to the effect that the severity of the infestation of spruce budworm

has declined to the extent that no spray program will be beneficial or cost effective in all of the years remaining during which this Part is in effect, he shall report the same to the Commissioner of Conservation and the Governor and shall recommend to the Legislature that it declare a termination of infestation.

6. **Markets and utilization.** He shall have the authority to conduct and contract for research relating to the marketing and utilization of wood resources which are or may be affected by spruce budworm infestation.

7. **Entry and inspection.** The director may enter, upon reasonable advance notice to the landowner, at any reasonable time in a reasonable manner, any tract of land for which application pursuant to section 8408 to 8409 has been made or granted in order to inspect the same free of any charge or cost imposed by the owner or his agents to assure compliance with the rules and order of the director.

8. **Inspection.** The director or his duly authorized representatives may likewise inspect the books and records of any applicant with respect to any information set forth in an application or verification thereof. He also may require periodic progress reports from applicants in connection with his verification procedures.

§ 8412. Committee on Spruce Fir Silviculture

1. **Committee created.** To perform the duties specified in this subchapter, there is established a Committee on Spruce Fir Silviculture.

2. **Membership.** The committee shall consist of 5 citizens of the State at least 3 of whom shall be registered foresters who are knowledgeable as to commercial forest land management. They shall be appointed for a term of 2 years each by the Commissioner of Conservation with the advice and consent of the Governor. Each member shall be entitled to his actual expenses and \$50 per diem to be drawn from the Budworm Suppression Fund. They shall be subject to removal for cause by the commissioner with the approval of the Governor.

3. **Duties.** The committee shall carry out the following duties:

A. Elect one of its members to serve as chairman for the year in which the election is conducted;

B. Approve the rules to be issued pursuant to sections 8411 to 8413;

C. Determine appeals as provided in section 8418, subsection 2; and

D. Provide advice and consultation to the Director of the Bureau of Forestry with respect to the subject matter of this subchapter.

§ 8413. Rules relating to silviculture

1. **Purpose.** The director shall adopt and may, from time to time, amend and repeal, subject to the approval of the Committee on Spruce Fir Silviculture, rules to carry out the purposes of this subchapter including, but not limited to, rules relating to the qualifications of parcels of forest land for silviculture treatment designation.

The purpose and scope of the rules shall be to reduce the vulnerability and susceptibility of the Maine spruce fir forest to spruce budworm depredations, to reduce the economic losses to the State from such depredations as do occur and to assure future supplies of spruce and fir. The rules shall establish standards for forest management including, but not limited to, timber stand improvement and harvesting in accordance with sound silvicultural principles. Economic considerations as well as all other relevant considerations shall be taken into account in determining the rules. The director shall promulgate only those rules directly related to the foregoing purposes. In particular, it is not the intent of this subchapter to regulate operational techniques including, but not limited to, road layout and construction, equipment use and erosion control.

2. Silvicultural designation rules. The director shall adopt rules relating to the eligibility of parcels of land for designation as silvicultural treatment areas to fulfill the objectives of subsection 1 including, as appropriate:

A. Standards for cutting by selection, shelterwood, clearcutting and such other methods as the director may allow including, but not limited to, the number of cuts, diameter and volumes under reasonable classifications of site conditions;

B. Minimum standards for seed tree retention including the number and location per acre under reasonable classifications of cutting methods and site conditions; and

C. Silvicultural practices reasonably related to the alteration of stand composition and the thrift and vigor of the resulting stand.

3. Spraying rules. The director may make rules requiring the mandatory inclusion of parcels within the designated spray area when, in his judgment, the action is necessary because of the intensity of the infestation or because it would be excessively costly or logistically difficult to avoid applying insecticides and for like reasons.

4. Verification. The director also may make rules for verification of compliance with the rules promulgated hereunder.

§ 8414. Forest Insect Manager

1. Position created. There is established within the Bureau of Forestry the position of Forest Insect Manager. Such position shall not be subject to the Personnel Law and shall terminate upon the expiration date hereinafter provided for by this Part. The manager shall be appointed by the Director of the Bureau of Forestry with the approval of the Commissioner of Conservation and may be removed by the director with the approval of the commissioner. He shall be directly responsible for the development, coordination and implementation of policies and programs of the State as they relate to the control and suppression of the spruce budworm epidemic. The Forest Insect Manager shall also be known as the coordinator of the spruce budworm program.

2. **Contractual authority.** The manager shall have the authority to enter into and administer contracts for the acquisition of chemicals, aircraft, personnel services and other goods and services necessary to carry out spruce budworm suppression operations subject to the provisions of Title 5, chapters 145 and 155.

3. **Spraying services.** The manager shall have the authority to enter into and administer contracts to spray with insecticides or similar materials parcels of spruce-fir forest land outside the designated spray area upon application for the provision of the services by the owner of the parcel, provided that:

A. The application is submitted within 30 days of the notice provided for in section 8407, subsection 2, for inclusion in spray projects in subsequent years;

B. He is satisfied that the area for which the application is made can benefit from the spraying and that spraying is practical; and

C. The applicant enters into a contract with the Bureau of Forestry to pay the actual per acre cost to the bureau to spray the land, less any amount which may be provided by the Government of the United States and less the amount of any excise tax paid or assessed under this subchapter on the parcel for the year in which spraying actually takes place.

Forest land under these contracts shall be included in Maine's spruce budworm suppression program.

4. Executive Director

A. The manager shall serve as Executive Director of the Committee on Spruce Fir Silviculture and carry out such duties as the committee may assign to him.

B. He shall certify to the State Tax Assessor on December 31st of each year the specific acreages, their locations and owners exempted by the director from liability for excise taxes pursuant to sections 8408 and 8409.

C. He shall certify any parcels which the director has found to be in noncompliance with an accepted application or its rules and therefore liable to taxation and penalties and any parcels which are liable to taxation pursuant to section 8410, subsection 4.

5. **Cooperation.** The manager shall consult with and cooperate with the United States Forest Service, the federal government of Canada, the governments of the Provinces of Quebec and New Brunswick and public and private landowners in Maine in developing joint research and operations projects to control and suppress spruce budworm infestations and on related matters.

6. **Report.** The manager shall each year after the completion of a spray program, make a complete financial review of the program, and make a full report to the next session of the Legislature. The report shall include, but not be limited to, source of funding, private, state or federal, and total expenditures broken down in the following categories: Chemicals, aircraft, research and other appropriate categories. Also to be included shall be a statement of any remaining balance by source, private, state and federal.

§ 8415. Service foresters

1. **Positions created.** There are established within the Bureau of Forestry 2 positions to be known as entomology service foresters. They shall be appointed by the Director of the Bureau of Forestry subject to the Personnel Law.

2. **Duties.** Entomology service foresters shall serve under the direction of the director. Their primary duty shall be to render advice and assistance to the landowners within the spruce fir forest area of the State with respect to forest management, including salvage, silviculture, utilization, marketing and related matters as they pertain to the spruce budworm infestation. They shall also conduct such inspections and make such reports to the Forest Insect Manager as the director may authorize and carry out other duties assigned to service foresters.

§ 8416. Other state and municipal agencies

1. **Withdrawal.** The chief executive officer of any state agency, authority, commission or that of any county or municipality, may withdraw any land, within the ownership or control of the agency, from the designated spray area upon application to the director in the form provided for by section 8410, subsection 1, within 30 days after notice, pursuant to section 8407, subsection 2.

2. **Research on public lands.** The commissioner or director of any agency of the State with jurisdiction over public land may make the land available on such terms and conditions as he deems reasonable to any public or private nonprofit entity engaged in spruce budworm control research and related silvicultural research. The Forest Insect Manager shall likewise encourage private landowners within the State to make their lands available for the same purposes.

§ 8417. Research

The Department of Conservation may make grants of up to \$100,000 a year in the aggregate, upon such terms and conditions as the commissioner deems reasonable out of funds available pursuant to section 8405, subsection 4, for the following purposes:

1. **Forest management.** The development of forest management strategies consistent with sustained yield which limit opportunities for increases in spruce budworm populations;

2. **Insecticides.** The development of new and safer biological and chemical control methods which reduce or eliminate budworm populations as well as tree mortality;

3. **Combinations.** The combination of the purposes provided for by subsections 1 and 2 into an effective long-term spruce and fir regional forest and insect management system to realize the forest potential, including timber, water, wildlife and recreation of the region at a minimum cost; and

4. Marketing and utilization. The development of uses and markets for spruce and fir timber.

§ 8418. Appeals

1. Abatement. Any owner or claimant aggrieved by the action of the State Tax Assessor in determining the tax on owners of forest lands, through error or mistake in calculating the same, may apply for abatement of any such excessive tax within 60 days of the notice of the tax and if, upon reexamination, the tax appears to be excessive through such error or mistake, the State Tax Assessor may thereupon abate the excess.

2. Appeal. Any person aggrieved by any final action of the director under this subchapter may take an appeal therefrom within 30 days of the date of the action to the Committee on Spruce Fir Silviculture and the committee may amend or reaffirm the action in accordance with the subchapter and may order such remedial action as is appropriate, including a refund in whole or in part of any taxes, interests or penalties which have been erroneously or unjustly paid. If the committee fails to give written notice of its decision within 90 days of the filing of the appeal, the appeal shall be deemed to have been denied and the appellant may appeal as provided unless the appellant shall in writing have consented to further delay. The appeal to the committee shall be filed with the Director of the Bureau of Forestry. The committee may adopt reasonable rules relating to the conduct of procedure under this subsection.

3. Appeal to Superior Court. Any party may appeal from the decision of the Committee on Spruce Fir Silviculture to the Superior Court in accordance with the Maine Rules of Civil Procedure, Rule 80B.

SUBCHAPTER V

PEST CONTROL COMPACT

§ 8501. Pest Control Compact

The Pest Control Compact is enacted into law and entered into with all other jurisdictions legally joining therein in the form substantially as provided in this subchapter.

§ 8502. Findings - Article I

The party states find that in the absence of the higher degree of cooperation among them possible under this compact, the annual loss of approximately \$7,000,000,000 from the depredations of pests is virtually certain to continue, if not to increase.

Because of varying climatic, geographic and economic factors, each state may be affected differently by particular species of pests, but all states share the inability to protect themselves fully against those pests which present serious dangers to them.

The migratory character of pest infestations makes it necessary for states, both adjacent to and distant from one another, to complement each other's activities when faced with conditions of infestation and reinfestation.

While every state is seriously affected by a substantial number of pests and every state is susceptible of infestation by many species of pests not now causing damage to its crop and plant life and products, the fact that relatively few species of pests present equal danger to or are of interest to all states makes the establishment and operation of an insurance fund from which individual states may obtain financial support for pest control programs of benefit to them in other states and to which they may contribute in accordance with their relative interests, the most equitable means of financing cooperative pest eradication and control programs.

§ 8503. Definitions - Article II

As used in this compact, unless the context otherwise indicates, the following terms shall have the following meaning.

1. Executive committee. "Executive committee" means the committee established pursuant to Article V of this compact.

2. Governing board. "Governing board" means the administrators of this compact representing all of the party states when the administrators are acting as a body in pursuance of authority vested in them by this compact.

3. Insurance fund. "Insurance fund" means the Pest Control Insurance Fund established pursuant to this compact.

4. Pest. "Pest" means any invertebrate animal, pathogen, parasitic plant or similar or allied organism which can cause disease or damage in any crops, trees, shrubs, grasses or other plants of substantial value.

5. Requesting state. "Requesting state" means a state which invokes the procedures of the compact to secure the undertaking or intensification of measures to control or eradicate one or more pests within one or more other states.

6. Responding state. "Responding state" means a state requested to undertake or intensify the measures referred to in subsection 5.

7. State. "State" means a state, territory or possession of the United States, the District of Columbia and the Commonwealth of Puerto Rico.

§ 8504. The insurance fund - Article III

There is established the Pest Control Insurance Fund for the purpose of financing other than normal pest control operations which the states may be called upon to engage in pursuant to this compact. The insurance fund shall contain moneys appropriated to it by the party states and any donations and grants accepted by it. All appropriations, except as conditioned by the rights and

obligations of party states expressly set forth in this compact, shall be unconditional and shall not be restricted by the appropriating state to use in the control of any specified pest or pests. Donations and grants may be conditional or unconditional, provided that the insurance fund shall not accept any donation or grant whose terms are inconsistent with any provision of this compact.

§ 8505. The insurance fund; internal operations and management - Article IV

1. **Governing board.** The insurance fund shall be administered by a governing board and executive committee as provided. The actions of the governing board and executive committee pursuant to this compact shall be deemed the actions of the insurance fund.

2. **Votes.** The members of the governing board shall be entitled to one vote each on the board. No actions of the governing board shall be binding unless taken at a meeting at which a majority of the total number of votes of the governing board are cast in favor thereof. Action of the governing board shall be only at a meeting at which a majority of the members are present.

3. **Seal.** The insurance fund shall have a seal which may be employed as an official symbol and which may be affixed to documents and otherwise used as the governing board may provide.

4. **Officers.** The governing board shall elect annually, from among its members, a chairman, a vice-chairman, a secretary and a treasurer. The chairman shall not succeed himself. The governing board may appoint an executive director and fix his duties and his compensation, if any. The executive director shall serve at the pleasure of the governing board. The governing board shall make provisions for the bonding of such of the officers and employees of the insurance fund as may be appropriate.

5. **Personnel.** Irrespective of the civil service, personnel or other merit system laws of any of the party states, the executive director, or if there be no executive director, the chairman, in accordance with such procedures as the bylaws may provide, shall appoint, remove or discharge such personnel as may be necessary for the performance of the functions of the insurance fund and shall fix the duties and compensation of such personnel. The governing board, in its bylaws, shall provide for the personnel policies and programs of the insurance fund.

6. **Other personnel.** The governing board may borrow, accept or contract for the services of personnel from any state, the United States, or any other governmental agency, or from any person, firm association or corporation.

7. **Grants and donations.** The governing board may accept, for any of its purposes and functions under this compact, any and all donations and grants of money, equipment, supplies, materials and services, conditional or otherwise, from any state, the United States, or any other governmental agency, or from any person, firm, association or corporation and may receive, utilize and dispose of the same. Any donation, gift or grant accepted by the governing board pursuant to

this subsection or services borrowed pursuant to subsection 6 of this Article shall be reported in the annual report of the insurance fund. The report shall include the nature, amount and conditions, if any, of the donation, gift, grant or services borrowed and the identity of the donor or lender.

8. **Bylaws.** The governing board shall adopt bylaws for the conduct of the business of the insurance fund and shall have the power to amend and rescind these bylaws. The governing board shall publish its bylaws in convenient form and shall file a copy thereof and a copy of any amendment thereto with the appropriate agency or officer in each of the party states.

9. **Report.** The governing board annually shall make to the Governor and Legislature of each party state a report covering its activities for the preceding year. The governing board may make such additional reports as it may deem desirable.

10. **Other powers.** In addition to the powers and duties specifically authorized and imposed, the governing board may do such other things as are necessary and incidental to the conduct of its affairs pursuant to this compact.

§ 8506. Compact and Insurance fund administration - Article V

1. **Administration.** In each party state there shall be a compact administrator who shall be selected and serve in such manner as the laws of his state may provide and who shall:

- A. Assist in the coordination of activities pursuant to the compact in his state; and
- B. Represent his state on the governing board of the insurance fund.

2. **United States representatives.** If the laws of the United States specifically so provide, or if administrative provision is made therefor within the Federal Government, the United States may be represented on the governing board of the insurance fund by not to exceed 3 representatives. Any such representative or representatives of the United States shall be appointed and serve in such manner as may be provided by or pursuant to federal law, but no such representative shall have a vote on the governing board or on the executive committee thereof.

3. **Meetings.** The governing board shall meet at least once each year for the purpose of determining policies and procedures in the administration of the insurance fund and, consistent with the compact, supervising and giving direction to the expenditure of moneys from the insurance fund. Additional meetings of the governing board shall be held on call of the chairman, the executive committee or a majority of the membership of the governing board.

4. **Applications.** At such times as it may be meeting, the governing board shall pass upon applications for assistance from the insurance fund and authorize disbursements therefrom. When the governing board is not in session, the executive committee thereof shall act as agent of the governing board with full authority to act for it in passing upon such applications.

5. **Executive committee.** The executive committee shall be composed of the chairman of the governing board and 4 additional members of the governing board chosen by it so that there shall be one member representing each of 4 geographic groupings. If there is representation of the United States on the governing board, one such representative may meet with the executive committee. The chairman of the governing board shall be chairman of the executive committee. No action of the executive committee shall be binding unless taken at a meeting at which at least 4 members of the committee are present and vote in favor thereof. Necessary expenses of each of the 5 members of the executive committee incurred in attending meetings of the committee, when not held at the same time and place as a meeting of the governing board, shall be charges against the insurance fund.

§ 8507. Assistance and reimbursement - Article VI

1. **Efforts.** Each party state pledges to each other party state that it will employ its best efforts to eradicate or control, within the strictest practicable limits, any and all pests. It is recognized that performance of this responsibility involves:

A. The maintenance of pest control and eradication activities of interstate significance by a party state at a level that would be reasonable for its own protection in the absence of this compact; and

B. The meeting of emergency outbreaks or infestations of interstate significance to no less an extent that would have been done in the absence of this compact.

2. **Requests.** Whenever a party state is threatened by a pest, not present within its borders but present within another party state, or whenever a party state is undertaking or engaged in activities for the control or eradication of a pest or pests and finds that such activities are or would be impracticable or substantially more difficult of success by reason of failure of another party state to cope with infestation or threatened infestation, that state may request the governing board to authorize expenditures from the insurance fund for eradication or control measures to be taken by one or more of the other party states at a level sufficient to prevent or to reduce, to the greatest practicable extent, infestation or reinfestation of the requesting state. Upon the authorization the responding state or states shall take or increase such eradication or control measures as may be warranted. A responding state shall use moneys made available from the insurance fund expeditiously and efficiently to assist in affording the protection requested.

3. **Application.** In order to apply for expenditures from the insurance fund, a requesting state shall submit the following in writing:

A. A detailed statement of the circumstances which occasion the request for the invoking of the compact;

B. Evidence that the pest on account of whose eradication or control assistance is requested constitutes a danger to an agricultural or forest crop, product, tree, shrub, grass or other plant having a substantial value to the requesting state;

C. A statement of the extent of the present and projected program of the requesting state and its subdivisions including full information as to the legal authority for the conduct of the program or programs and the expenditures being made, or budgeted therefor, in connection with the eradication, control or prevention of introduction of the pest concerned;

D. Proof that the expenditures being made or budgeted as detailed in paragraph C do not constitute a reduction of the effort for the control or eradication of the pest concerned or, if there is a reduction, the reasons why the level of program detailed in paragraph C constitutes a normal level of pest control activity;

E. A declaration as to whether, to the best of its knowledge and belief, the conditions which in its view occasion the invoking of the compact in the particular instance can be abated by a program undertaken with the aid of moneys from the insurance fund in one year or less, or whether the request is for an installment in a program which is likely to continue for a longer period of time; and

F. Such other information as the governing board may require consistent with this compact.

4. Notice of meeting. The governing board or executive committee shall give due notice of any meeting at which an application for assistance from the insurance fund is to be considered. The notice shall be given to the compact administrator of each party state and to such other officers and agencies as may be designated by the laws of the party states. The requesting state and any other party state shall be entitled to be represented and present evidence and argument at the meeting.

5. Support. Upon the submission as required by subsection 3 and such other information as it may have or acquire, and upon determining that an expenditure of funds is within the purposes of this compact and justified thereby, the governing board or executive committee shall authorize support of the program. The governing board or the executive committee may meet at any time or place for the purpose of receiving and considering an application. Any and all determinations of the governing board or executive committee, with respect to an application, together with the reasons therefor, shall be recorded and subscribed in such manner as to show and preserve the votes of the individual members thereof.

6. Review. A requesting state which is dissatisfied with a determination of the executive committee shall, upon notice in writing given within 20 days of the determination with which it is dissatisfied, be entitled to receive a review thereof

at the next meeting of the governing board. Determinations of the executive committee shall be reviewable only by the governing board at one of its regular meetings or at a special meeting held in such manner as the governing board may authorize.

7. **Claims.** Responding states required to undertake or increase measures pursuant to this compact may receive moneys from the insurance fund, either at the time or times when the state incurs expenditures on account of the measures or as reimbursement for expenses incurred and chargeable to the insurance fund. The governing board shall adopt and, from time to time, may amend or revise procedures for submission of claims upon it and for payment thereof.

8. **Federal Government assistance.** Before authorizing the expenditure of moneys from the insurance fund pursuant to an application of a requesting state, the governing board shall ascertain the extent and nature of any timely assistance or participation which may be available from the Federal Government and shall request assistance and participation from the appropriate agency or agencies of the Federal Government.

9. **Memorandum of understanding.** The governing board may negotiate and execute a memorandum of understanding or other appropriate instrument defining the extent and degree of assistance or participation between and among the insurance fund, cooperating federal agencies, states and any other entities concerned.

§ 8508. Advisory and technical committees - Article VII

The governing board may establish advisory and technical committees composed of state, local and federal officials, and private persons to advise it with respect to any one or more of its functions. Any such advisory or technical committee or any member or members thereof, may meet with and participate in its deliberations. Upon request of the governing board or executive committee an advisory or technical committee may furnish information and recommendations, with respect to any application for assistance from the insurance fund being considered by such board or committee and the board or committee may receive and consider the same, provided that any participant in a meeting of the governing board or executive committee held pursuant to Article VI, subsection 4 of the compact shall be entitled to know the substance of any such information and recommendations, at the time of the meeting if made prior thereto or as part thereof or, if made thereafter, no later than the time at which the governing board or executive committee makes its disposition of the application.

§ 8509. Relations with nonparty jurisdictions - Article VIII

1. **Application.** A party state may make application for assistance from the insurance fund with respect to a pest in a nonparty state. The application shall be considered and disposed of by the governing board or executive committee in the same manner as an application with respect to a pest within a party state, except as provided in this Article.

2. **Nonparty state.** At or in connection with any meeting of the governing board or executive committee held pursuant to Article VI a nonparty state shall be entitled to appear, participate and receive information only to such extent as the governing board or executive committee may provide. A nonparty state shall not be entitled to review of any determination made by the executive committee.

3. **Expenditures.** The governing board or executive committee shall authorize expenditures from the insurance fund to be made in a nonparty state only after determining that the conditions in the state and the value of the expenditures to the party states, as a whole, justify them. The governing board or executive committee may set any conditions which it deems appropriate with respect to the expenditure of moneys from the insurance fund in a nonparty state and may enter into such agreement or agreements with nonparty states and other jurisdictions or entities as it may deem necessary or appropriate to protect the interests of the insurance fund with respect to expenditures and activities outside of party states.

§ 8510. Finance - Article IX

1. **Budget.** The governing board shall submit to the executive head or designated officer or officers of each party state a budget for the insurance fund for such period as may be required by the laws of that party state for presentation to the legislature thereof.

2. **Recommendations.** Each of the budgets shall contain specific recommendations of the amount or amounts to be appropriated by each of the party states. The requests for appropriations shall be appropriated among the party states, as follows: One tenth of the total budget in equal shares and the remainder in proportion to the value of agricultural and forest crops and products, excluding animal and animal products, produced in each party state. In determining the value of the crops and products the insurance fund may employ such source or sources of information as in its judgment present the most equitable and accurate comparisons among the party states. Each of the budgets and requests for appropriations shall indicate the source or sources used in obtaining information concerning value of products.

3. **Accounts.** The financial assets of the insurance fund shall be maintained in 2 accounts to be designated respectively as the "operating account" and the "claims account." The operating account shall consist only of those assets necessary for the administration of the insurance fund during the next ensuing 2-year period. The claims account shall contain all moneys not included in the operating account and shall not exceed the amount reasonably estimated to be sufficient to pay all legitimate claims on the insurance fund for a period of 3 years. At any time when the claims account has reached its maximum limit, or would reach its maximum limit by the addition of moneys requested for appropriation by the party states, the governing board shall reduce its budget request on a pro rata basis in such manner as to keep the claims account within the maximum limit. Any moneys in the claims account by virtue of conditional

donations, grants or gifts shall be included in calculations made pursuant to this subsection only to the extent that the moneys are available to meet demands arising out of claims.

4. **Pledge of credit.** The governing board shall not pledge the credit of any party state. The governing board may meet any of its obligations in whole or in part with moneys available to it under Article IV, subsection 7 provided that the governing board takes specific action setting aside such moneys prior to incurring any obligation to be met in whole or in part in such manner. Except where the insurance fund makes use of moneys available to it under Article IV, subsection 7, the governing board shall not incur any obligation prior to the allotment of moneys by the party states adequate to meet the same.

5. **Records.** The governing board shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the insurance fund shall be subject to the audit and accounting procedures established under its bylaws. All receipts and disbursements of funds handled by the insurance fund shall be audited yearly by a certified or licensed public accountant and a report of the audit shall be included in and become part of the annual report of the insurance fund.

6. **Inspection of accounts.** The accounts of the insurance fund shall be open at any reasonable time for inspection by duly authorized officers of the party states and by any persons authorized by the governing board.

§ 8511. Entry into force and withdrawal - Article X

This compact shall enter into force when enacted into law by any 2 of the following 3 states: Massachusetts, New Hampshire and Vermont. Thereafter, this compact shall become effective, as to any other state, upon its enactment thereof.

Any party state may withdraw from this compact by enacting a statute repealing the same, but no withdrawal shall take effect until 2 years after the executive head of the withdrawing state has given notice in writing of the withdrawal to the executive heads of all other party states. No withdrawal shall affect any liability already incurred by or chargeable to a party state prior to the time of the withdrawal.

§ 8512. Construction and severability - Article XI

This compact shall be liberally construed so as to effectuate the purposes thereof. This compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any state or of the United States, or the applicability thereof, to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating herein, the compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the state affected as to all severable matters.

§ 8513. Cooperation

Consistent with law and within available appropriations, the departments, agencies and officers of this State shall cooperate with the governing board of the Pest Control Insurance Fund established by the Pest Control Compact.

§ 8514. Bylaws filed

Pursuant to Article IV, subsection 8, copies of bylaws and amendments thereto shall be filed with the Secretary of State.

§ 8515. Compact administrator

The compact administrator for this State shall be the Director of the Bureau of Forestry. The duties of the compact administrator shall be deemed a regular part of the duties of his office.

§ 8516. Request

Within the meaning of Article VI, subsection 2 or Article VIII, subsection 1, a request or application for assistance from the insurance fund may be made by the Governor whenever in his judgment the conditions qualifying this State for assistance exist and it would be in the best interest of this State to make the request.

§ 8517. Appropriations

The department, agency or officer expending or becoming liable for an expenditure on account of a control or eradication program undertaken or intensified pursuant to the compact shall have credited to his account in the State Treasury the amount or amounts of any payments made to this State to defray the cost of such program, or any part thereof, or as reimbursement thereof.

§ 8518. Definition

As used in the compact, with reference to this State, the term "executive head" shall mean the Governor.

CHAPTER 805**COOPERATIVE FORESTRY MANAGEMENT****SUBCHAPTER I****TECHNICAL ASSISTANCE****§ 8601. Advice; recommendations**

The director of the Bureau of Forestry may establish a program to advise municipalities and small woodland owners concerning forest, shade and ornamental tree management and recommend programs for tree and stand improvement.

§ 8602. Foresters

The director may appoint foresters, subject to the Personnel Law, who shall provide technical guidance and service to small woodland owners, municipalities and wood processors in order to bring about improvement in the growing, harvesting, marketing and utilization of forest products, as well as such other duties as the director prescribes.

§ 8603. Annual timber-cut report

Owners or operators of all primary wood-using sawmills and primary processors of veneer wood, cordwood, boltwood, pulpwood, posts, poles, piling and fence rails, except for domestic use and not for sale or conversion into products for sale, shall render an annual report to the director during the month of January of each year of the amount of softwoods and hardwoods processed by species within the State by them during the preceding calendar year and showing the county or counties from which the wood was taken. Forms for this report shall be provided by the director. Information contained in the reports shall not be made public by reference to individuals.

§ 8604. Reports by forest landowners

Any owner of forest land who sells stumpage during a calendar year shall render an annual report to the director during the month of January of the following year, stating the species, volume and stumpage price per unit of measure for each transaction and the municipality or township where the stumpage was located. Any owner of forest land who cuts stumpage for his own business use during a calendar year shall render an annual report to the director during the month of January of the following year, stating the species and volume per unit of measure of each municipality or township where the stumpage was located. Forms for this report shall be provided by the director. Information contained in the reports shall not be made public but shall be available for the use of the State Tax Assessor pursuant to Title 36, chapter 105, subchapter II-A, and chapter 803, subchapter IV.

Nothing herein contained shall be construed to prevent the disclosure of information to duly authorized officers of the United States and of other states, districts and territories of the United States and of the provinces and Dominion of Canada. The information shall be given only on the written request of the duly authorized officer when that officer's government permits the exchange of like information with the taxing officials of this State and when that officer agrees that the information shall be used only for tax collection purposes.

SUBCHAPTER II

MATERIAL ASSISTANCE

§ 8701. Establishment of nurseries

The director may establish within the State one or more forest nurseries, the operation of which shall be paid for from the appropriation for that purpose, the object of which is to furnish at cost forest tree seedlings and transplants for use in planting the waste, cut over lands and potential forest lands of the State and he

may furnish at cost shrub material for wildlife development to other state agencies. No such seedlings, transplants or shrub material with their roots attached shall be resold at a profit by those receiving them from the State or their assigns.

§ 8702. Public shade trees

To promote aesthetic and environmental values of trees to communities and to restore those values lost through death of trees from insect and disease depredation, soil depletion, adverse growth factors and old age, the director may enter into agreement with municipal officials and Penobscot and Passamaquoddy tribal governments to pay, so far as funds are available, up to 50% of the costs of procuring young tree-planting stock and planting and general care of public shade trees. Whenever the State does contribute funds for this purpose, it shall have the authority to establish requirements for a municipal tree care program and requirements and procedures relative to selecting, planting and care of such trees. This program is not intended to extend beyond village or community limits, except for municipal parks or cemeteries.

§ 8703. Municipal forests

The director may establish a program to provide, at cost, forest seedlings or transplants for use on lands acquired by municipalities for forest purposes as allowed in Title 30, chapter 227. Application for such material shall be made on forms as the director prescribes. The director, whenever providing forest seedlings or transplants, shall recommend procedures for the planting, management and protection of the municipal forest lands.

§ 8704. Rehabilitation program

The director may carry out a forest rehabilitation program on unstocked and poorly stocked potential forest land either public or private with first priority to burned areas. He shall make use of federal funds as and if available and of inmates of state institutions, including penal, whenever possible or feasible. The State shall participate in the cost of such forest rehabilitation up to 50% of the total cost on private land including the value of trees, any such rehabilitation on private lands to be only at the landowner's request.

SUBCHAPTER III

REGULATION

Article I. Roadside harvesting practices

§ 8801. Prohibited areas

In order to promote maximum safety of the users of public roads; to protect the public investment in such roads; to preserve and enhance the natural scenic beauty and aesthetic features of public roads; to prevent unreasonable distraction of motorists using public roads; to prevent erosion of the land bordering public roads; to prevent the accumulation of slash from clear cutting operations, which

slash contributes to the danger of forest fires; and to promote the general health, safety and welfare of the public, the Legislature declares it to be in the public interest, for the public benefit and for the good order of the people of the State, to regulate roadside clear cutting practices.

It is unlawful for any person, firm, corporation or other legal entity to cut down trees on land within a distance of 100 feet from the right-of-way limits of any numbered highway generally used by the public, except:

1. Land used for agricultural purposes. Land used for agricultural purposes and for the cultivation of crops other than forest products;

2. Other purposes. Land used for residential, nonwoodland commercial, industrial or recreational purposes or with respect to which development for such purposes has already been commenced by application for applicable permits or by equally definitive steps, prior to harvesting in excess of the limits imposed by this section;

3. Thinning and clearing purposes. Thinning and clearing in connection with public improvement and public utility projects, or pursuant to any order of the Public Utilities Commission issued under Title 35, section 1189;

4. Access to abutting land. Land used for access to abutting land, but in such case the severance shall be limited in width to that authorized under Title 23, section 704;

5. Removal of dead or dying trees. In connection with the removal of dead or dying trees or the removal of trees affected by fire, excessive wind, insect or disease epidemics;

6. Selective cutting. Selective cutting which removes not more than 50% of the volume of trees 6 inches in diameter or larger, measured at 4½ feet above ground level, in any 15-year period within the 100-foot strip and returns a well distributed stand of tree foliage, except that more than 50% may be removed, if a state forester so recommends or if a private forester with the approval of the bureau so recommends;

7. Improvement cutting. Improvement cuttings for purposes of beautification, improving species composition and distribution; and

8. Christmas trees. Cultured Christmas tree areas.

Article II. Commercial Standard for Maine White-Cedar Shingles

§ 8821. Purpose

The purpose of this Article is to establish a standard method of testing, rating, labeling and certifying of Maine white-cedar shingles and to provide a uniform base for fair competition.

§ 8822. Raw material

Shingles labeled under this chapter shall be sawn from wood of the tree, *Thuja occidentalis* L., Northern White-Cedar also known as Eastern Arborvitae.

§ 8823. Maine commercial standard shingles

1. Maine commercial standard shingles. "Maine commercial standard shingles," MCST, shall mean northern white-cedar shingles that are graded by producers authorized by the Bureau of Forestry to label northern white-cedar shingles under this Article.

2. Application. The Maine commercial standard for northern white-cedar shingles shall apply only to those bundles of shingles which are imprinted as described under section 8830.

§ 8824. Grades

Five grades of shingles shall be used and the grade shall be determined from poorer face of a shingle. Not more than 5 shingles in a bundle may be below the grade designated on the bundle.

1. Extra. "Extra" means heartwood shingles which are completely clear with no defects or sapwood. No wane is permitted.

2. Clear. "Clear" means heartwood shingles which are clear of defects for 6 inches from the butt end. Sound red knots no wider than $\frac{1}{3}$ the width of the shingle and unsound defects such as holes, black knots and slightly decayed knots not more than $\frac{3}{4}$ inch in diameter are permitted between 6 inches and 11 inches of the butt end. Above 11 inches from the butt end, any combination of defects is permitted which will not impair the use of the shingle. Sapwood is permitted above 11 inches from the butt end.

3. 2nd clear. "2nd clear" means heartwood shingles which may contain sound red knots no larger than a United States 50¢ piece for 6 inches from the butt end. No other defect is permitted for 6 inches from the butt end. Sound red knots up to $\frac{1}{2}$ the width of the shingle are permitted between 6 and 11 inches of the butt end. Holes, black knots, decayed knots, rot pockets or streaks are permitted between 6 inches and 11 inches of the butt end if no more in width or length than $\frac{1}{2}$ the width of the shingle. Sapwood is permitted above 6 inches from the butt end. Above 11 inches from the butt end any combination of defects is permitted which will not impair the use of the shingle. Wane is permitted above 6 inches from the butt end.

4. Clear wall. "Clear wall" means heartwood and sapwood shingles which are clear of defects for 6 inches from the butt end. Sound red knots up to $\frac{1}{2}$ the width of the shingle are permitted between 6 inches and 11 inches of the butt end. Holes, black knots, decayed knots, rot pockets or streaks shall be permitted between 6 inches and 11 inches of the butt end if no more in width or length than $\frac{1}{2}$ the width of the shingle. Wane is permitted above 6 inches from the butt end. Above 11 inches from the butt end any combination of defects is permitted which will not impair the use of the shingle.

5. **Utility.** "Utility" means heartwood and sapwood shingles which may contain sound red knot and other small defects in the entire length of the shingle, but no holes, black knots, decayed knots, rot pockets or streaks shall be permitted within 4 inches of the butt end. Holes, black knots, decayed knots, rot pockets or streaks shall be permitted between 4 inches and 11 inches of the butt end if no more in width or length than $\frac{1}{2}$ the width of the shingle. Wane is permitted above 4 inches from the butt end. Above 11 inches from the butt end any combination of defects is permitted which will not impair the use of the shingle.

§ 8825. **Nomenclature and definitions**

The following terms and definitions shall apply to the grading of Maine northern white-cedar shingles under this Article.

1. **Black knot.** "Black knot" means a knot which results when a dead branch is surrounded by wood. It is generally black in color and it is not grown in its entirety into the surrounding wood.

2. **Commercial standard.** "Commercial standard" means that standard which is set up and established by authority as a rule for the measure of quantity, quality, weight, extent or value of a commodity.

3. **Defects.** "Defects" shall include holes, knots, rot pockets, rot streaks, wane, uneven feather tip, splits and checks, shake, stain and pith.

4. **Even feather tip.** "Even feather tip" means a condition of manufacture found on the thin ends of some shingles where the saw comes out of a piece prematurely, producing a thin, flimsy, feather-like edge which extends across the entire width of the shingle.

5. **Rot and decay.** "Rot and decay" means a disintegration of the wood which occurs through the action of wood-destroying fungi. Dote shall be deemed synonymous with rot and decay.

6. **Sapwood.** "Sapwood" means wood containing wood cells which were alive at the time the tree was cut in contrast to the inactive heartwood cells. Sapwood is distinguished from heartwood by its light color in contrast to the reddish to reddish-brown color of heartwood.

7. **Shake.** "Shake" means a lengthwise separation of the wood which usually occurs between and parallel to the growth rings. It is a defect.

8. **Shingle.** "Shingle" means a piece of sawn wood of various widths, with nearly parallel sides, which tapers so that the butt end is thicker than the other.

9. **Sound red knot.** "Sound red knot" means a knot which is solid across its face, as hard as the surrounding wood, shows no sign of decay and is in its entirety firmly grown into the wood.

10. **Split or check.** "Split or check" means a lengthwise separation of the wood usually occurring across the growth rings. A split or check over $\frac{1}{2}$ inch in length at the butt end is a defect.

11. Uneven feather tip. "Uneven feather tip" means a condition similar to "even feather tip" except that the feather-like edge is coarse and irregular in outline across the width of the shingle. It is a defect.

12. Wane. "Wane" means bark or the lack of wood or bark on the edge of a shingle.

§ 8826. Dimension of shingles

All measurements for the standard established under this Article shall be based upon green fresh sawn shingles.

1. Length. All shingles under this standard will have a minimum measurement of 16 inches in length with a tolerance of one inch allowed.

2. Width. The minimum width of the butt end of a shingle in the first 4 grades shall be 3½ inches and the maximum width shall be 12 inches. The minimum width of the butt end of a shingle in grade "utility" shall be 3 inches and the maximum width shall be 12 inches. In the first 4 grades, the tip ends of shingles shall be no wider than the butt ends and the maximum difference in width shall not exceed 1/8 inch at 11 inches from the butt end.

3. Breadth. The butt end of shingles of the 5 grades when measured green shall be no less than 5/2 (5 shingles = 2 inches).

§ 8827. Dimension of bundles

A standard bundle of Maine northern white-cedar shingles shall contain 40 courses of shingles overlapping under the band stick with 20 courses on each side of the stick. When green, a bundle shall measure 22½ inches long with a tolerance of ½ inch; 20 inches wide with a tolerance of ½ inch; 8½ inches thick with a tolerance of ½ inch. The minimum lineal of butts in a course in a bundle shall be 18½ inches. When the shingles are air-dry, 12% to 15% moisture content, the minimum bundle thickness when bunched tightly shall be no less than 7 3/4 inches.

§ 8828. Sawing

All shingles of the higher 4 grades shall be sawed with sufficient care so as to yield reasonably smooth surfaces.

§ 8829. Area coverage

The shingles in a standard bundle, when laid 5 inches to the weather, shall cover 25 square feet. Four standard bundles shall equal one square and one square shall cover 100 square feet when the shingles are laid 5 inches to the weather.

§ 8830. Labeling

Maine northern white-cedar shingle producers ascribing to the standard established by this Article shall be authorized to imprint on one or both ends of the shingle bundle the proper grade name for the quality of northern white-cedar shingles in the bundle. The grade name (EXTRA, CLEAR, 2ND CLEAR, CLEAR

WALL, UTILITY) for the grade of shingle contained in the bundle shall be precisely as given in the standard under section 8824 and the name shall be imprinted in black letters one inch high and also, below the grade designation, shall be imprinted the letters "MCST" in black, for Maine Commercial Standard in letters of a height equal to those used for the grade name. Following the designation "MCST" they shall imprint their registered mill number assigned to them by the bureau in numerals of equal heights to the letters "MCST." The numerals shall be separated from the letters "MCST" by a hyphen.

Northern white-cedar shingles manufactured or purchased by a registered mill may be graded and the bundles imprinted with the proper grade designations Maine Commercial Standard (MCST) and the registered mill number of the grading mill. The mill whose number is designated on the bundle shall be responsible for the accuracy of the grade designated on the bundle.

§ 8831. Registration

The privilege to use the Maine Commercial Standard grades shall depend on proper mill registration with the bureau and the assignment by the director of a MCST mill number to the shingle producer. The initial mill registration fee shall be \$25 for each Maine shingle mill desiring to identify their shingles as being of Maine Commercial Standard with the right given to imprint the letters "MCST" on their bundles of northern white-cedar shingles, as well as their registered mill number. Subsequent annual registration fees shall be \$10 for each calendar year payable to the bureau before January of that year. Registration fees shall be credited to the General Fund.

Those mills who wish to follow the grade names as given in section 8824 may do so, but those who are unwilling to agree to the specifications of each grade as to measurements, tolerances, defects and definitions, including dimensions of shingles and bundles, shall not imprint either the letters "MCST" or a registered mill number on the bundle, band, tie or on any label affixed to the bundle or shingle. Nor will such unwilling mill state, imply or infer that the shingles they are selling are Maine Commercial Standard (MCST) shingles in correspondence, publicity or solicitations.

§ 8832. Grading and reinspection

1. **Inspection.** The Bureau of Forestry may authorize the use of the standard and shall periodically verify the proper use of this standard by shingle manufacturers registered under this Article.

2. **Reinspection.** Grade complaints, not reconciled by the parties concerned, shall be handled by the bureau and a reinspection shall be made when requested. Grade complaints shall be recognized by the State for the purpose of reinspection when made by a producer, wholesaler, retailer or consumer, within 10 days of his receipt of MCST shingles. The expense of reinspection by the bureau when such request is initiated by either the buyer or seller shall be divided between the buyer and seller or paid by either, according to their agreement.

§ 8833. Penalties and revocation

1. **Penalties.** In addition to the penalty established in section 9701, the penalties for misgrading or unauthorized use of Maine Commercial Standard grades shall include the following.

A. The mill whose registered mill number appears on the bundle shall replace with bundles of the proper grade all bundles of shingles proven by reinspection to have been misgraded under this Article.

B. A 2nd and subsequent offense of this Article shall result in a civil violation for which a forfeiture of \$200 may be adjudged for each violation.

2. **Revocation.** The director may revoke, suspend or refuse to renew any registration of any mill for violation of sections 8830 and 8831 under the authority granted in Title 5, section 10004. The Administrative Court, acting pursuant to Title 4, chapter 25, may revoke the registration granted to any mill for violation of sections 8830 and 8831 for a period not to exceed 2 years, after which time the mill may make application for reinstatement as a registered mill.

Article III. Transportation or Cutting of Christmas Trees**§ 8841. Definitions**

For the purpose of this Article the following terms shall have the following meanings.

1. **Christmas tree.** "Christmas tree" means any species of coniferous tree severed from the stump and cut for commercial purposes as a Christmas tree.

2. **Evergreen boughs.** "Evergreen boughs" means boughs or tips of all species of coniferous trees cut for commercial purposes.

3. **Roadside.** "Roadside" is defined as the nearest public way accessible to the cutting area or initial loading point.

§ 8842. Owner's permission required

It shall be unlawful for any person, firm or corporation to cut Christmas trees or evergreen boughs on land of another without securing written permission from the owner of the land or the owner of the growth thereon, or his authorized agents. Only one permit is needed for men working in crews. Any officer authorized to make inspections and investigation under this Article may require of each person, firm or corporation to show, on request:

1. **Cutting.** A current written landowner or owner of growth permit when cutting on land or growth of another;

2. **Transit.** A current landowner permit or owner of growth permit or other written proof of ownership and state Christmas tree registration when transporting trees loosely or in bundles, or boughs, loose or baled, and in the case of over the highway transportation, each driver shall carry such permit and

registration on person or in vehicle. Dealers using more than one truck may obtain duplicate copies of their registration for use by the drivers at a charge of 25¢ each. In the case of railroad transportation of Christmas trees, loosely or in bundles, or boughs, loose or baled, a certificate shall be posted on both sides of each railroad car.

§ 8843. Forgery

Every permit, registration or affidavit specified in this Article shall be deemed to be a written instrument subject to the laws relating to forgery.

§ 8844. Seizure of attachment

Any officer authorized to make inspections, investigations and arrests under this Article may seize and hold Christmas trees or evergreen boughs until written proof of ownership permission and state registration has been established, and if no written proof of ownership permission and state registration has been established, then the officer shall try to determine where such trees or boughs were cut and notify the landowner. In case the owner does not want the trees or boughs, or ownership cannot be determined, the State may then dispose of them and any money derived from the disposition of the trees and boughs shall be paid over to the landowner if his identity can be established otherwise, to the Treasurer of State and credited to the General Fund.

§ 8845. Federal quarantine regulations

Under this Article, no person, firm or corporation issued such registration is in any way relieved or exempt from legal responsibility for complying with the federal regulations concerning the gypsy moth or other quarantine law.

§ 8846. Trees from out-of-state

When Christmas trees and evergreen boughs harvested in any Canadian Province or other state are transported over the highways in this State to points outside the State, some proof of ownership will be required such as customs clearance at points of entry or landowner or owner of growth permit. No certificate of registration is required for vehicles hauling only Canadian or other state Christmas trees, boughs or tips over the highways of this State, if no transfer of the load from one vehicle to another is made within the State of Maine.

§ 8847. Enforcement agencies

Bureau of Forestry personnel and all state, county and municipal law enforcement officers shall be authorized officers to make inspections, investigations, arrests and disposals of trees and boughs under this chapter and shall report violations to the Director of the Bureau of Forestry.

§ 8848. Registration

It shall be unlawful for any person, firm or corporation, for commercial purposes, to transport Christmas trees or evergreen boughs from private, state or

federal lands to any place or places within or outside this State without first registering with the Bureau of Forestry or persons designated by the Director of the Bureau of Forestry, but no registration will be required of landowners or holders of written permits from landowners for cutting or bundling or hauling such trees and boughs to roadside. Forms for registering shall be provided by the director. The annual fee for such registration, when obtained from the bureau, shall be \$11 payable to the Treasurer of State and credited to the General Fund; and if such registration is obtained from any municipal clerk, the annual fee shall be \$12, \$11 of which shall be payable to the Treasurer of State and credited to the General Fund, and \$1 shall be retained by the clerk for the service of issuing the certificates of registration. All such registrations shall expire on December 31st of the year issued. A record of all registrations issued shall be kept by the director at his office and shall be open to inspection by any person during reasonable business hours. No certificate of registration will be required for transporting Christmas wreaths, wired sprays, roping or other similar manufactured products.

§ 8849. Revocation; appeals; penalties

The Administrative Court, acting pursuant to Title 4, chapter 25, may, at any time for sufficient cause after notice and hearing, suspend or revoke any registration for a period of not more than 2 years for any of the following violations of this Article.

1. Cutting without permission. Cutting Christmas trees or evergreen boughs without written permission of the landowner or owner of the growth;
2. Failure to pay. Failure to pay for Christmas trees or evergreen bough stumpage; or
3. Proof of ownership required. Buying, accepting or receiving Christmas trees or evergreen boughs from persons without proof of ownership.

In addition, the director may revoke, suspend or refuse to renew any registration for any enumerated violation of this Article under the authority granted in Title 5, section 10004.

No registration shall be issued to any person, firm or corporation whose registration has been revoked. The Administrative Court may, for good cause, terminate such suspension or revocation.

In addition to the penalty of a suspension or revocation of registration, any person violating this Article, except for subsection 1, or who offers any resistance to carrying out this Article, except for subsection 2, shall be subject to the penalty set forth in section 9701.

**CHAPTER 807
FOREST FIRE CONTROL
SUBCHAPTER I
GENERAL PROVISIONS**

§ 8901. Forest rangers

1. Appointment. The Director of the Bureau of Forestry shall appoint forest rangers, subject to the Personnel Law.

2. Powers and duties. Forest rangers shall:

A. Subject to supervision of the director, supervise the state forest fire control program, including personnel and facilities of all types;

B. Have the final on-site authority and responsibility for the control of forest fires;

C. Develop and carry out a comprehensive program of forest fire prevention education and training of persons at all levels of command in order to meet supervisory needs during forest fire emergencies;

D. Enforce all laws relating to forests and forest preservation;

E. Investigate and gather evidence regarding the cause of forest fires;

F. Have the authority to set backfires to control forest fires; and

G. Carry out such other duties as the director prescribes.

3. Law enforcement powers. Forest rangers, for the purpose of enforcing forest and forest preservation laws, shall have the law enforcement powers equivalent to a sheriff or sheriff's deputy, including the right to arrest violators, prosecute the same, serve criminal process against offenders, require aid in executing forest ranger duties and deputize temporary aides.

§ 8902. Forest fire wardens

The director shall appoint a forest fire warden in each organized municipality within the State outside the limits of the Maine Forestry District for the control of forest fires. The municipal fire chief shall be appointed as forest fire warden if practicable and no other person shall be appointed without the approval of the municipal officers. All appointed forest fire wardens shall serve at the pleasure of the director and shall be sworn to the faithful discharge of these duties and a certificate thereof shall be returned to the bureau. Whoever has been notified of this appointment shall file with the director his acceptance or rejection within 10 days. The appointed forest fire warden may appoint one or more deputy forest fire wardens subject to approval of the municipal officers.

The State shall pay the appointed forest fire warden an annual fee of \$100. This payment shall be made contingent upon attendance at forest fire training schools, preparation of an annual forest fire plan for his town and such reports as the director may require. This fee in no way limits payment to the warden from his town. His services for work on actual forest fires, as well as that of deputy forest fire wardens, shall be paid by the town and at a rate determined by the town.

§ 8903. General deputy wardens

The director may appoint general deputy wardens as an adjunct to the personnel regularly employed in the forest fire control program. They shall aid in forest fire

prevention and shall take immediate action to control any unauthorized forest fires, employ assistance when required and notify the nearest forest ranger or town forest fire warden with dispatch. Such general deputy wardens and those they employ may receive the prevailing local fire fighting wages for the period so engaged.

§ 8904. Coordinating protective agencies

The director shall formulate emergency plans of action to establish staffing pools, equipment reserves, facilities for feeding, transportation and communication on forest fires. In preparing the plan other agencies and organizations having needed facilities should be contacted such as fire chiefs, civil defense units, the American Red Cross, sheriffs, the American Legion, the State Police, the Maine National Guard, the Department of Transportation, the Department of Inland Fisheries and Wildlife, the State Grange, colleges, the Civil Air Patrol and any other protective group as determined by the director. Whenever or wherever a major forest fire occurs or threatens, the bureau shall be the coordinating agency until the Governor declares an emergency.

§ 8905. Chain of command

The director shall be responsible for the control of forest fires in all areas of the State. In carrying out these duties, the director shall have an unbroken chain of command down to, and including, town forest fire wardens.

§ 8906. Other authority

1. **Administrative units.** The director shall have the authority to divide the State into administrative units so as to most effectively provide for protection against loss or damage by forest fires.

2. **Equipment.** The director may establish lookout stations connected by telephone and radio, and construct, equip and maintain office - storehouse headquarters for necessary supplies, tools and equipment and provide for any other facilities essential for forest fire control. Within the Maine Forestry District the director may, in addition to this subsection, construct and maintain roads and trails.

3. **Contingency.** If the funds available for forest fire control are not sufficient to meet actual suppression costs in any year, the Governor may make additional funds available from the treasury not otherwise appropriated.

SUBCHAPTER II

FIRE PREVENTION EMERGENCY

§ 9001. Proclamation by Governor

1. **Determination by director.** Whenever the director determines that:

- A. A high degree of forest fire danger exists in any part of the State; and
- B. Human activity in connection with hunting or fishing is likely to pose a forest fire menace, the director shall communicate such determination to the Governor.

2. **Proclamation.** The Governor may, by proclamation, suspend the open season for hunting or fishing or prohibit out-of-door smoking or building or using out-of-door fires or other human activity likely to be a menace to the forests for such time and in such sections of the State as considered necessary. The type and manner of hunting and fishing or other human activity that is prohibited shall be designated in the proclamation.

3. **Out-of-door fires at campgrounds.** The Governor may exempt from the prohibitions specified in subsection 2 out-of-door fires at public campsites maintained by the Department of Conservation. Other public, private and commercially-operated campsites may also be exempted if they have received an on-site inspection and approval from the bureau.

§ 9002. **Posting and publishing**

Such proclamation shall be published in such newspapers of the State and posted in such places as the Governor deems necessary and a copy of such proclamation shall be filed with the Secretary of State. A like copy shall be furnished to the director who shall attend to the posting and publication of the proclamation. All expense thereof and all the expense of enforcing the proclamation shall be paid by the director, after allowance by the State Controller, from the appropriation for general forestry purposes.

§ 9003. **Annulment**

If, after issuing the proclamation provided for in section 9001 by reason of rains or otherwise the Governor is satisfied that the occasion for the issuance of the proclamation has passed, he may annul it by another proclamation affecting the sections covered by the original proclamation, or any part thereof, which proclamation shall be published and posted in the same manner as provided for the issuance of the original proclamation.

§ 9004. **Penalty**

Notwithstanding section 9701, any person who violates the provisions of a proclamation issued under section 9001 shall be guilty of a Class E crime.

SUBCHAPTER III

MAINE FORESTRY DISTRICT

§ 9101. **Designation**

The administrative district known as the Maine Forestry District shall include all unorganized territory within the State, any areas which may subsequently become a part thereof and any municipality which is or becomes a part of the Maine Forestry District pursuant to the procedures set forth in sections 9104 and 9105.

§ 9102. **Purpose**

Within the Maine Forestry District the bureau shall assume governmental responsibility for the control of forest fires.

§ 9103. Funding

1. **Unorganized territory.** There shall be appropriated from the Unorganized Territory Education and Services Fund, as part of the municipal cost component established in Title 6, section 1601 to 1605, an amount equal to the state valuation of property within the unorganized territory, multiplied by 4¼ mills.

2. **Municipalities.** Any municipality which becomes a member of the Maine Forestry District shall be assessed a tax for forest fire services pursuant to Title 36, section 451.

§ 9104. Municipal members of the Maine Forestry District

1. **Membership.** Any municipality contiguous to unorganized territory may become a member of the Maine Forestry District by following the procedures of subsection 2. Any other municipality may become a member, subject to the requirements of subsection 2, if the director determines that the services set forth in section 9102 can be efficiently provided by the bureau.

2. **Vote.** A municipality may, by vote at any meeting of its legislative body, become a part of the Maine Forestry District. A copy of such vote, certified by the municipal clerk, shall be forwarded to the State Tax Assessor and the director before August 31st of any year for membership beginning the next state fiscal year following the vote.

3. **Withdrawal.** A municipality may withdraw from the Maine Forestry District in the same manner described in subsection 2.

4. **Term of membership.** Any request for membership submitted for the fiscal year beginning July 1, 1980 and thereafter shall be for a minimum period of 3 years.

§ 9105. Transition

Any municipality which is a member of the Maine Forestry District as of the day of enactment of this Part shall be considered a member of the Maine Forestry District unless a withdrawal is submitted according to the provisions of section 9104.

§ 9106. Reimbursement to municipalities

The bureau shall reimburse municipalities who are members of the Maine Forestry District for fire protection costs other than the normal operational costs incurred for control of a forest fire. The reimbursement shall not exceed 50% of the contribution of the municipality as determined by section 9103, subsection 2. Allowable costs to be eligible for reimbursement under this section shall include, but not be limited to, structural and forest fire equipment, training and labor costs. Application for reimbursement shall be on forms provided by the director.

SUBCHAPTER IV**LOCAL CONTROL****§ 9201. Responsibility for Control of forest fires**

Responsibility for the control of forest fires in municipalities outside the Maine Forestry District lies in the first instance with the town forest wardens appointed for such municipalities by the director. When in the judgment of a forest ranger the situation so warrants, the forest ranger may relieve a town forest fire warden of responsibility for control of a forest fire within a municipality and assume responsibility therefor. Final authority and responsibility for the control of a forest fire shall be that of the forest ranger.

Municipal fire department personnel and equipment shall not be moved within or without municipal limits upon the order of a town forest fire warden or a forest ranger, except with the approval of the fire chief or proper municipal official having authority to grant such approval.

§ 9202. Right to call and employ assistance

Within municipalities not members of the Maine Forestry District, forest rangers and town forest fire wardens may employ any person considered necessary to assist in fighting forest fires. All called and employed for assistance shall proceed to help control forest fires as directed by the forest ranger or forest fire warden in charge.

§ 9203. Compensation

Town forest fire wardens shall receive compensation for forest fire fighting services at the prevailing rate in the town. Labor and equipment may be provided by individuals or groups on a forest fire without pay. All requested assistance, persons or equipment used in fighting forest fires shall, upon application, receive compensation fixed by the town in which the forest fire occurred, but labor coming from outside such town shall receive a rate of pay not less than that established annually by the Department of Transportation for state highway labor. Fire departments, organized crews or other groups used outside the town in which the forest fire occurred may receive pay at their usual rates. Forest fire fighters may be provided with subsistence while on the fire.

§ 9204. Payment of costs; state reimbursement

Municipalities, outside the limits of the Maine Forestry District, shall pay for controlling and extinguishing forest fires up to 1% of their state valuation and the State shall reimburse them $\frac{1}{2}$ these costs incurred by the forest fire warden in charge therein. Reimbursement will not be allowed for use or loss of municipally-owned equipment within the town in which the fire occurred. A town going to the aid of another, even to protect itself, when requested by the state forest ranger in charge, shall be paid by the town aided if the total suppression cost of the town is not over 1% of its state valuation.

§ 9205. Payment of costs beyond 1% of state valuation

All forest fire suppression costs in municipalities outside the limits of the Maine Forestry District in an amount greater than 1% of the state valuation of the municipality in which the fire occurred shall be paid by the State. Any municipality, in order to pay labor quickly, may pay beyond 1% of its state

valuation and submit for full state reimbursement or forward the unpaid bills, approved by the state forest ranger in charge, for payment.

§ 9206. Reports and payrolls

Town forest fire wardens and state forest rangers shall promptly prepare a report of their investigation of the cause, extent and damage on all forest fires in their charge. They shall prepare an exact and detailed statement of expenses incurred therein immediately after total extinguishment of the forest fire on forms provided by the director.

Statements of expenses shall have proper payroll receipts and vouchers. Forest fire suppression costs qualifying for town and state payment are labor, transportation, food, fire department equipment from outside the affected town, privately owned equipment and other costs approved by the state forest ranger in charge.

All requests for the state ½ reimbursement shall be presented to the director within 60 days after total extinguishment of the forest fire or become void. The director may extend the time provided a preliminary report has been made.

The director shall examine all forest fire suppression bills rendered by the town to the State for reimbursement or direct payment. After items not qualifying have been deducted, the director shall approve them for payment.

SUBCHAPTER V

REGULATION OF OPEN BURNING

ARTICLE I. DUMPS

§ 9301. Hazard clearance

Any municipal or private dump within the State established and maintained for the disposal of waste, rubbish or debris of any nature which might facilitate either the origin or spread of forest fires shall be operated under the following preventive measures: A strip 10 feet wide cleared to mineral soil shall be constructed on all sides of the dump; a water supply, the suitability of which shall be determined by the forest ranger and town forest fire warden, may be substituted for the cleared strip along any portion of the perimeter; and all grass, weeds, slash, brush and debris and other inflammable material shall be removed for a distance of 100 feet in all directions outside the cleared mineral soil strip. Live trees need not be removed, except that green branches of conifers and dead branches of all trees shall be pruned to a height of 10 feet above the ground. Dead snags of all trees shall be removed. During periods of high forest fire hazard if a municipal dump is burning, municipal officers shall maintain a watchman at such dumps and owners and operators of private dumps shall do the same.

§ 9302. Closing

A municipal or private dump within the State not carrying out this subchapter shall be posted as "Closed to Dumping" by the town forest fire warden, or the director. Thereafter no person shall deposit refuse of any kind within, along the road leading to, or on land adjacent to such closed dump.

§ 9303. Deposits on other's land forbidden

No person shall deposit refuse of any kind on land not his own without the consent of the owner or the public authority having custody or maintenance responsibility of such land.

§ 9304. Loss of state reimbursement

Any municipality in which a municipal dump has been posted "Closed to Dumping" as set forth in this subchapter, which continues to permit dumping therein, shall, during that period, lose the benefits of state reimbursement of forest fire suppression costs on fires which escape from such dump as provided by section 9204 up to an amount equal to 1% of the state valuation of the municipality.

ARTICLE II. OUT-OF-DOOR FIRES**§ 9321. Criteria for allowable burning**

1. **Criteria.** In issuing any permit or permission for allowable burning, the director shall consider the following criteria:

- A. Forest fire danger indices and location of proposed burning;
- B. The time of day and season of the year;
- C. The temperature, humidity, wind speed and direction;
- D. The type of burning proposed;
- E. With regard to recreational fires, the feasibility of use of public campsites;
- F. The length of the burning period;
- G. The presence or availability of sufficient force and equipment to control the burning; and
- H. Experience and capability of the permittee in the safe use and control of the proposed burning.

2. **Revocation.** The director is empowered to revoke any permit granted during a period of high forest fire danger without compliance with the provisions of Title 4, chapter 25 or Title 5, chapter 375.

3. **Delegation.** The director may delegate the issuance of permits to forest rangers or town forest fire wardens and their deputies.

4. **Conditions.** The director may issue a permit with conditions designed to insure compliance with the criteria of subsection 1 and Title 38, section 599.

5. **Stricter requirements.** Nothing in this section shall prohibit a municipality from adopting ordinances specifying stricter criteria for out-of-door fires.

6. **Penalty.** Notwithstanding section 9701, any person who engages in out-of-door burning prohibited by this Part or who fails to comply with the conditions of the permit shall be guilty of a Class E crime.

§ 9322. Permits in the Maine Forestry District

1. **Permits.** No person shall kindle or use an out-of-door fire in the Maine Forestry District unless a permit has been obtained from the director. The director is authorized to issue a permit on lands of another unless the majority ownerships of the land have withdrawn permission in writing to the director.

2. **Exemptions.** This section shall not apply to the use of portable stoves which are fueled by propane gas, gasoline or sterno.

3. **Resident guides.** On application to the director a yearly permit for out-of-door fires shall be issued to resident guides licensed by the Department of Inland Fisheries and Wildlife. Such guides shall notify a forest ranger in person or by telephone of the area in which they are guiding their parties. Whoever violates this subsection shall have his permit revoked by the director, who, in taking this section, need not comply with the provisions of Title 4, chapter 25 and Title 5, chapter 375.

4. **Saco River Corridor.** For the purpose of issuing permits under this section, the lands within Oxford County within the Saco River Corridor, so designated by private and special laws of 1973, chapter 150, as amended, shall be considered a part of the Maine Forestry District.

§ 9323. Slash and brush permits

1. **Prohibition.** No person shall kindle or use a fire for clearing land or burning logs, stumps, roots, brush, slash, fields of grass, pasture or blueberry lands without a permit from the director.

2. **Jurisdiction.** The requirement for a permit under this section shall apply statewide.

§ 9324. Prohibited acts

1. **Extinguishment of fire.** Whoever by himself or by his servant, agent or guide or as the servant, agent or guide of any other person shall build a camp, cooking or other fire or use an abandoned camp, cooking or other fire in or adjacent to any woods in this State, shall, before leaving such fire, totally extinguish the same.

2. **Time and manner of kindling.** Whoever kindles or uses a fire on his own land shall do so at a suitable time and in a careful and prudent manner and is liable in a civil action to any person injured by his failure to comply with this provision.

3. **Disposal of lighted material.** No person shall dispose of a lighted match, cigarette, cigar, ashes or other flaming or glowing substance or any other substance or thing in such a condition that it is likely to ignite forest, brush, grass or other lands or dispose of any of the aforesaid objects or substances from a moving vehicle.

ARTICLE III. DISPOSAL OF SLASH

§ 9331. Slash defined

For the purposes of this Part "slash" is defined as branches, bark, tops, chunks, cull logs, uprooted stumps and broken or uprooted trees and shrubs left on the

ground as a result of logging, right-of-way construction or maintenance and land clearance.

§ 9332. Disposal; along highways

Whoever, as stumpage owner, operator, landowner or agent, cuts, causes or permits to be cut any forest growth on lands which are within or border upon the right-of-way of any public highway within the State shall dispose of the slash in the manner described: All slash resulting from such cutting of forest growth shall not remain on the ground within the right-of-way or within 50 feet of the nearer side of the shoulder of the right-of-way.

§ 9333. —along railroads and utility lines

Whoever, as stumpage owner, operator, landowner or agent, cuts, causes or permits to be cut any forest growth on lands which are within or border upon the rights-of-way of any railroad, electric power, telegraph, telephone or pipelines shall dispose of the slash in the manner described: All slash resulting from such cutting of forest growth shall not remain on the ground within the right-of-way or within 25 feet of the nearer side of such right-of-way.

Slash accumulated by the construction and maintenance of railroads, highways, electric power, telegraph, telephone or pipelines shall not be left on the ground but shall be either hauled away, burned or chipped. In the event a permit is denied or revoked under section 9323, the director may allow logs which are too large to be chipped to remain in the right-of-way until it is economically feasible for their removal.

§ 9334. —along land bordering on another

Whoever, as stumpage owner, operator, landowner or agent, cuts, causes or permits to be cut any forest growth on land which borders land of another outside the limits of the Maine Forestry District or within the Maine Forestry District which borders property outside shall dispose of the slash in the manner described: All slash resulting from such cutting of forest growth shall not remain on the ground within 25 feet of the property line, provided that the director on his own initiative or upon written complaint of another declares that the situation constitutes a fire hazard.

§ 9335. —by dwelling houses

The director, by written notice to any stumpage owner, operator, landowner or agent cutting forest growth, may require the removal of slash within 100 feet of buildings and trailers currently used for human occupancy when, in his judgment, such slash constitutes an unusual hazard endangering other property through the setting or spreading of forest fires.

§ 9336. —manner of

All slash resulting from cutting of forest growth shall be removed the required distances under this Article and scattered or chipped and not piled in windrows within 30 days after cutting or within 30 days of notification to remove by the director, as provided.

§ 9337. Primary processors

All primary processors of wood products, including, but not limited to, sawmills, except a person processing for his own domestic use, and owners of lands on which such processing plants are located shall keep any slash resulting from cutting forest growth removed for a distance of 50 feet in all directions from the mill, sawdust pile and any open incinerator. Live trees need not be removed from the 50-foot cleared area but coniferous trees shall be pruned to a height of 10 feet above the ground and dead snags shall be removed. The sawdust pile shall be clear of all trees, free of slabs and edgings and located not less than 25 feet from any open incinerator and mill. All such processors and owners shall observe the slash provisions of this Article when on, or after change of, location.

§ 9338. Prohibition

Failure to comply with the slash disposal requirements of this Article shall subject the person responsible to a penalty as set forth in section 9701.

ARTICLE IV. PUBLIC CAMPSITES**§ 9341. Establishment**

The director is authorized to lease land in order to construct and maintain public campsites so as to prevent forest fires by a proliferation of private fires. The director may establish a schedule of fees for the use of such sites pursuant to Title 5, chapter 375, subchapter II.

§ 9342. Seasonal use only

No person shall place any trailer, camper, shelter or tent from May 1st to November 30th at any public campsite maintained or authorized by the bureau and keep such trailer, camper, shelter or tent so located, vacant or occupied for more than one week in any 30-day period. Persons already having placed a trailer, camper, shelter or tent at such a campsite for more than one week shall remove any such item and leave at the request of the director or of any fish and wildlife warden.

SUBCHAPTER VI**RAILROADS****§ 9401. Patrol along tracks**

Whenever in the judgment of the director the woodlands along the railroads traversing the forest lands of the State are in a dry and dangerous condition, he shall maintain a competent and efficient fire patrol along the right-of-way or lands of such railroads if, in his judgment, a satisfactory railroad fire patrol is not being provided.

§ 9402. Report of fires

All fires starting upon the right-of-way of any railroad or lands adjacent thereto shall be immediately reported to the forest ranger or town forest fire warden by any railroad employee stating the location and origin of such fire and, if the fire was started by a locomotive, the number thereof.

§ 9403. Expense of fire patrol paid by railroad

The director shall keep, or cause to be kept, an account of the cost of maintenance by the State of such fire patrol along the line of such railroad, including therein the wages and expenses of the employees engaged in maintaining such fire patrol, and the total cost thereof shall be paid to the director by the railroad company along whose land or right-of-way such patrol is maintained. All such funds received by the director shall be credited to the General Fund.

§ 9404. Liability of railroad not affected

Nothing in sections 9401 to 9403 shall be construed as releasing any railroad company from any damage caused by fires set by their locomotives or employees.

§ 9405. Removal of inflammable material

Every railroad company whose road passes through waste or forest lands shall, during each year, cut and burn off or remove from its right-of-way all grass, brush or other inflammable material, under proper care and at times when fires are not liable to spread beyond control. No railroad employee shall build a fire to burn any material along the right-of-way through forest lands when forbidden to do so by the director. All burning shall be done in accordance with section 9323.

§ 9406. Devices to prevent fires

Every railroad operating locomotives powered by diesel or other type fuel shall equip the same with devices designed to prevent the escape of live coals, sparks or carbon deposits which may cause fires. Employees shall exercise due care to keep such devices in effective operating condition. Every such railroad shall make and enforce regulations concerning the use of open-flame type signals or flares in such manner as to prevent the spread of fire upon the right-of-way or to adjacent land. No person shall throw or drop burning matches, burning cigars, burning cigarettes or parts thereof from any railroad equipment.

SUBCHAPTER VII**FIRE PREVENTION PRACTICES****§ 9601. Spark arresters**

No equipment for producing power shall be operated in, through or near forest lands unless it is provided with a spark arrester approved by the director. Spark arresters shall be approved if judged effective to prevent the escape of sparks, carbon deposits or other substances likely to cause fires. The director may permit the use of those spark arresters certified by the United States Forest Service, Department of Agriculture.

§ 9602. Obstruction of discontinued woods roads prohibited

No person, unless authorized by the director, shall obstruct any improved woods road or way used for the removal of forest growth, upon the discontinuance from use or abandonment of the same, if it may be reasonably utilized for preventing or

suppressing forest fires. This provision shall not prohibit a landowner from his right to close or cause to be closed such woods roads or ways by chains or gates.

CHAPTER 809

JURISDICTION AND PENALTIES

§ 9701. Penalty

Unless otherwise specifically stated, any person who violates any requirement of this Part, the condition or terms of any permit or license issued by the director or the provision of any rule or regulation of the bureau commits a civil violation for which a forfeiture not to exceed \$1,000 may be adjudged. Each day of a violation shall be considered a separate offense.

§ 9702. Hindering state forest ranger or town forest fire warden

Any person who prevents or obstructs, or attempts to prevent or obstruct, a state forest ranger or town forest fire warden in the performance of his duties or the exercise of the rights of entry, access or examination by any state forest ranger or town forest fire warden shall, notwithstanding section 9701, be guilty of a Class E crime.

§ 9703. Partial payment of costs of suppressing forest fires

Any person who intentionally or negligently causes a fire which burns forest, brush, grass or other lands or intentionally fails to take reasonable action to control a fire on his own land shall be liable civilly up to a maximum of \$500 of the suppression costs to the State or municipality which aids in suppressing the same.

§ 9704. Penalties not substitutes for existing liabilities

None of the penalties imposed by this Part shall be considered as substitutes for or as repealing laws making persons guilty of crimes, offenses or acts of trespass or liable for civil damages to persons injured by such acts, except that any person who invokes the remedy of section 9324, subsection 2, is barred from an action at common law for damages so sued for.

§ 9705. Recovery of certain penalties

The penalty set forth in section 9701 when applied to the acts enumerated in section 9324, subsections 1 to 3, may be recovered in a civil action and payable $\frac{1}{2}$ to the municipality, if any, where the offense is committed and $\frac{1}{2}$ to the State.

§ 9706. Jurisdiction for prosecutions

The District Court shall have original and concurrent jurisdiction with the Superior Court in all prosecutions under this Part. Any person arrested as a violator may, with reasonable diligence, be taken before the District Court in the division nearest to where the offense is alleged to have been committed for a warrant and trial or to the District Court in adjoining divisions to the division, jurisdiction to be exercised in the same manner as if the offense had been committed in such division.

Any forest ranger making an arrest for any violation of this chapter at a point more than 50 miles distant from the nearest District Court may accept the personal recognizance of the prisoner in a sum not exceeding \$100 for his appearance before the court on a specified date and a deposit in money to the amount of the recognizance. The forest ranger shall forthwith report all such recognizances and forward such deposits to the court to which such recognizance is returnable.

If such person fails to appear in court on the day specified, either in person or by counsel, the court shall order the recognizance and money deposited forfeited and may take any other action considered necessary.

All fines, penalties and other moneys collected by the court shall be paid to the General Fund.

Sec. 4. 25 MRSA § 2439, as last amended by PL 1971, c. 622, § 83, is further amended to read:

§ 2439. Common law remedy preserved

The common law right to an action for damages done by fires is not taken away or diminished and it may be pursued notwithstanding the penalties set forth in chapters 311 to 321 ~~but any person availing himself of section 2436 is barred of his action at common law for the damage so sued for.~~

Sec. 5. 25 MRSA § 2440, as repealed and replaced by PL 1975, c. 770, § 111, is repealed and the following enacted in its place:

§ 2440. Penalties; recovery and appropriation

Penalties provided in sections 2432, 2433 and 2439 may be recovered by complaint, indictment or civil action, $\frac{1}{2}$ to the municipality where the offense is committed and $\frac{1}{2}$ to the State.

Sec. 6. 30 MRSA § 3751, 2nd sentence, as amended by PL 1973, c. 460, § 18, is repealed.

Sec. 7. 30 MRSA § 3952, as amended by PL 1969, c. 394, § 2 is further amended to read:

§ 3952. Injury or destruction to trees or markers; penalty

Whoever trims, cuts or otherwise defaces or destroys a public shade tree ~~or injures, defaces or destroys any tree marker attached in accordance with section 3953~~ shall be punished by a fine of not less than \$5 nor more than \$25, to be paid to the municipality in which the offense is committed and expended by said municipality for the purposes specified in this subchapter, subchapter III and section 3854.

Sec. 8. 30 MRSA § 3953, 2nd 3rd, 4th and 5th sentences, as amended, are repealed.

Sec. 9. 30 MRSA § 4101, sub-§ 3, is amended to read:

3. Application. Public dumping grounds established under this section shall be subject to Title 12, chapter ~~215, subchapter V~~ **807, subchapter V, Article 1.**

Sec. 10. **32 MRSA § 2001, 2nd ¶, 4th sentence** is repealed and the following enacted in its place:

Two of these shall be from the Bureau of Forestry to be appointed by the Director of the Bureau of Forestry.

Sec. 11. **12 MRSA §§ 501-525**, as amended, are repealed.

Sec. 12. **12 MRSA c. 207**, as amended, is repealed.

Sec. 13. **12 MRSA c. 213**, as amended, is repealed.

Sec. 14. **12 MRSA c. 215**, as amended, is repealed.

Sec. 15. **20 MRSA § 2354**, as last amended by PL 1973, c. 460, § 18, is repealed.

Sec. 16. **25 MRSA § 2434**, as repealed and replaced by PL 1965, c. 365, § 4, is repealed.

Sec. 17. **25 MRSA § 2436** is repealed.

Sec. 18. **25 MRSA § 2438**, as amended by PL 1975, c. 43, § 1, is repealed.

Sec. 19. **25 MRSA c. 319**, as amended, is repealed.

Sec. 20. **30 MRSA c. 226**, as amended, is repealed.

Sec. 21. **30 MRSA § 3903** is repealed.

Sec. 22. **32 MRSA c. 67**, as amended, is repealed.

Sec. 23. **36 MRSA § 1141**, as last amended by PL 1973, c. 625, § 251, is repealed.

STATEMENT OF FACT

This bill recodifies statutes relating to the Department of Conservation, Bureau of Forestry. The recodification makes no major changes in the duties or powers of the bureau.

The purposes of the recodification are: (1) To bring together the bureau's statutory mandate in one place in Title 12, a new Part 11; and (2) clarify minor administrative inconsistencies in existing statutes.

One substantive change is made in the Maine Forestry District. (MFD). Within this fire protection district the bureau provides forest fire suppression services. Prior to 1975, the Maine Forestry District operated with dedicated revenues generated by a special tax. The 1975 change converted the Maine Forestry District into an administrative district where services are financed by an appropriation equal to 4¼ mills from the General Fund. The recodification deletes historical reference to the dedicated fund. In addition, there is no longer the necessity for a statutory description of municipal members of the Maine Forestry District. Many municipalities desire the option to enter or withdraw from the district based on an economic determination as to their need for Maine Forestry District services. The recodification repeals the statutory description of municipal membership and establishes a voluntary program.