

MAINE STATE LEGISLATURE

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Date: 6/12/15

(Filing No. S-252)

AGRICULTURE, CONSERVATION AND FORESTRY

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**STATE OF MAINE
SENATE
127TH LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT "A" to S.P. 315, L.D. 870, Bill, "An Act To Amend the Maine Spruce Budworm Management Laws"

Amend the bill in section 2 by striking out all of subsection 4-A (page 1, lines 16 and 17 in L.D.) and inserting the following:

'4-A. Presalvage and salvage harvesting. The regulation of presalvage and salvage harvesting designed to reduce losses of timber while protecting public trust resources and supporting the protection of wildlife habitat through the retention of non-susceptible tree species where silviculturally and ecologically appropriate.'

Amend the bill by striking out all of section 12 (page 2, lines 23 to 35 and page 3, lines 1 to 23 in L.D.) and inserting the following:

'Sec. 12. 12 MRSA §8423-C is enacted to read:

§8423-C. Presalvage and salvage harvesting

1. Regulation. The Department of Agriculture, Conservation and Forestry shall regulate the presalvage and salvage harvesting of forest stands in areas that, based on the proportion of balsam fir, white spruce, red spruce, black spruce, other softwood and hardwood components present, have significant risk of damage from spruce budworm and are subject to a credible threat of imminent spruce budworm damage.

A. The assessments of risk and vulnerability of a specific forest stand must be supported by adequate data, including but not limited to:

(1) Forest stand type information; and

(2) A documented history of elevated spruce budworm moth presence or foliage damage from spruce budworm feeding.

B. The director shall designate areas for presalvage and salvage harvesting subject to rules adopted pursuant to subsection 5 no later than January 1st of each year. Areas designated for presalvage and salvage harvesting must be inspected and verified by a

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2 licensed forester in the employ of the bureau. The director shall seek public comment
3 for a 30-day period prior to designating such areas.

4 C. A forest stand that is identified for presalvage and salvage harvesting must be
5 located within the areas designated pursuant to paragraph B.

6 2. Notification. Prior to beginning timber harvesting pursuant to this subchapter, a
7 landowner or designated agent shall notify the bureau in accordance with the notification
8 requirements set forth in chapter 805, subchapter 5.

9 3. Reporting. Timber harvests conducted pursuant to this subchapter are subject to
10 the same reporting requirements set forth in chapter 805, subchapter 5, except that the
11 director may require additional information to be reported to satisfy the requirements of
12 this subchapter.

13 4. Confidentiality. Reports filed in accordance with subsection 3 are confidential.
14 The director may publish summary reports that use aggregated data that do not reveal the
15 activities of an individual person or firm. Reports submitted pursuant to subsection 3
16 must be available for the use of the State Tax Assessor for the administration of Title 36.

17 5. Rules. The commissioner shall adopt rules to implement this subchapter,
18 including rules establishing spruce budworm timber harvesting standards. Rules adopted
19 pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375,
20 subchapter 2-A.

21 A. The rules must:

22 (1) Exclude presalvage and salvage harvesting in protection subdistricts within
23 the jurisdiction of the Maine Land Use Planning Commission and in areas subject
24 to timber harvesting regulation under section 8867-B;

25 (2) Identify the areas subject to a credible threat of imminent spruce budworm
26 damage and the forest stand criteria needed for presalvage and salvage
27 harvesting; and

28 (3) Define the size and scope of presalvage and salvage harvesting projects that
29 will require additional review by the bureau.

30 B. The Commissioner of Agriculture, Conservation and Forestry shall consult with
31 the Commissioner of Environmental Protection and the Commissioner of Inland
32 Fisheries and Wildlife to ensure that rules adopted under this subsection are
33 consistent with wildlife habitat and environmental protection.

34 C. Except as otherwise provided in this subchapter or in rules developed pursuant to
35 this subsection, the provisions of chapter 805, subchapter 3-A do not apply to
36 presalvage and salvage harvesting regulated under this subchapter.

37 D. The rules must provide that regeneration requirements adopted by rule pursuant to
38 section 8869, subsection 1 apply to spruce budworm timber harvesting conducted
39 pursuant to this subchapter.

40 6. Penalties. A person who violates this section or a rule adopted pursuant to this
section commits a civil violation and is subject to the following penalties:

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COMMITTEE AMENDMENT "A" to S.P. 315, L.D. 870

1 A. A person who violates this section or a rule adopted pursuant to this section
2 commits a civil violation for which a fine of not less than \$100 and not more than
3 \$1,000 may be adjudged for each day of that violation; and

4 B. A person who violates this section or a rule adopted pursuant to this section after
5 having previously been adjudicated of a violation of this section within the previous
6 5-year period commits a civil violation for which a fine of not less than \$1,000 but
7 not more than \$2,000 may be adjudged for each day of that violation.

8 If the economic benefit resulting from the violation exceeds the applicable penalties
9 under paragraphs A and B, the maximum fines may be increased. The maximum fine
10 may not exceed an amount equal to twice the economic benefit resulting from the
11 violation. The bureau shall consider as economic benefit, without limitation, the costs
12 avoided or the enhanced value accrued at the time of the violation by the violator as a
13 result of not complying with the applicable legal requirements.'

14 Amend the bill in section 29 by striking out all of subsection 10 (page 5, lines 9 to 21
15 in L.D.) and inserting the following:

16 '**10. Report.** The director shall, at the end of each calendar year, undertake a
17 complete financial review of any spruce budworm management program activities
18 undertaken that year and shall make a full report on the activities to the joint standing
19 committee of the Legislature having jurisdiction over forestry management matters
20 during the next session of the Legislature. The report shall must include, but is not be
21 limited to, sources of funding, private, state or federal and total expenditures broken
22 down in the following categories: insecticides, aircraft, monitoring, research and other
23 appropriate categories. Also to be included shall be a statement of any remaining balance
24 by source, private, state or federal spruce budworm survey and monitoring activities and
25 findings, outcomes of any research or methods development activities, levels and
26 outcomes of harvest monitoring for harvests conducted under rules adopted pursuant to
27 this subchapter, scopes of landowner assistance activities conducted and other issues as
28 appropriate. The Department of Agriculture, Conservation and Forestry, Board of
29 Pesticides Control must report information on spray activities related to spruce budworm
30 management and outcomes annually to the bureau no later than March 1st. Reports
31 required under this subsection must use aggregated data that do not reveal the activities of
32 an individual person or firm.'

33 Amend the bill by striking out all of section 31 (page 5, lines 24 to 41 in L.D.) and
34 inserting the following:

35 '**Sec. 31. 12 MRSA §8431** is enacted to read:

36 '**§8431. Effect of other laws**

37 This subchapter does not exempt any presalvage and salvage harvesting on public
38 reserved lands and nonreserved public lands from any other law governing management
39 of those lands, including but not limited to management of deer wintering areas.'

40 Amend the bill by inserting after section 32 the following:

41 '**Sec. 33. Appropriations and allocations.** The following appropriations and
42 allocations are made.



127th MAINE LEGISLATURE

LD 870

LR 445(02)

An Act To Amend the Maine Spruce Budworm Management Laws

Fiscal Note for Bill as Amended by Committee Amendment "A" (S-252)

Committee: Agriculture, Conservation and Forestry

Fiscal Note Required: Yes

Fiscal Note

	FY 2015-16	FY 2016-17	Projections FY 2017-18	Projections FY 2018-19
Net Cost (Savings)				
General Fund	\$3,700	\$0	\$0	\$0
Appropriations/Allocations				
General Fund	\$3,700	\$0	\$0	\$0

Correctional and Judicial Impact Statements

Increases the number of civil violations.

The collection of additional fines may also increase General Fund revenue by minor amounts.

Fiscal Detail and Notes

The bill requires the Department of Agriculture, Conservation and Forestry (ACF) to adopt rules to regulate the presalvage and salvage harvesting of forest stands. Any additional costs to the Department of Inland Fisheries and Wildlife and the Department of Environmental Protection to ensure that these adopted rules are consistent with wildlife habitat and environmental protection are expected to be minor. This bill includes a General Fund appropriation of \$3,700 in fiscal year 2015-16 to ACF for one-time rulemaking costs.