

# MAINE STATE LEGISLATURE

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# 127th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2015

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Legislative Document

No. 870

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S.P. 315

In Senate, March 12, 2015

### An Act To Amend the Maine Spruce Budworm Management Laws

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Submitted by the Department of Agriculture, Conservation and Forestry pursuant to Joint Rule 204.

Reference to the Committee on Agriculture, Conservation and Forestry suggested and ordered printed.

A handwritten signature in cursive script that reads "Heather J.R. Priest".

HEATHER J.R. PRIEST  
Secretary of the Senate

Presented by Senator DILL of Penobscot.

Cosponsored by Representative NOON of Sanford and

Senator: SAVIELLO of Franklin, Representatives: BLACK of Wilton, MAREAN of Hollis.

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

2 **Sec. 1. 12 MRSA §8422, sub-§§1, 2 and 4**, as enacted by PL 1979, c. 737, §12,  
3 are amended to read:

4 **1. Supply of wood.** ~~The protection of an adequate~~ Monitoring the status of and  
5 reporting on the present and future supply of wood to support the long-term economic  
6 needs of the State and of its forest products industries;

7 **2. Development of program.** The development and utilization in both the public  
8 and private sectors of forest protection and management programs ~~which that~~ are cost-  
9 effective, biologically sound and responsive to the public's environmental and health  
10 concerns ~~of the public~~;

11 **4. Private efforts; pest management.** The encouragement of private efforts to  
12 undertake a variety of integrated pest management techniques ~~which that~~ result in a long-  
13 term reduction in the susceptibility vulnerability of the state's State's forests to spruce  
14 budworm infestation and loss;

15 **Sec. 2. 12 MRSA §8422, sub-§4-A** is enacted to read:

16 **4-A. Presalvage and salvage harvesting.** The regulation of presalvage and salvage  
17 harvesting designed to reduce losses of timber while protecting public trust resources;

18 **Sec. 3. 12 MRSA §8422, sub-§§5 to 7**, as enacted by PL 1979, c. 737, §12, are  
19 amended to read:

20 **5. Implementation.** The implementation of ~~equitable~~ methods for determining  
21 private and public participation in, ~~and financing of,~~ spruce budworm ~~suppression and~~  
22 ~~prevention~~ management programs, including provision for voluntary participation in  
23 future insecticide spray projects;

24 **6. Regulatory review.** The provision for adequate regulatory review of any  
25 proposed insecticide spray projects by ~~an independent state agency~~ the Department of  
26 Agriculture, Conservation and Forestry, Board of Pesticides Control; and

27 **7. Management options.** The provision of management ~~and utilization assistance~~  
28 ~~programs~~ options for ~~small~~ forest landowners designed to minimize impacts of spruce  
29 budworm infestation and loss.

30 **Sec. 4. 12 MRSA §8423-A, sub-§§2 and 4**, as enacted by PL 1981, c. 278, §2,  
31 are repealed.

32 **Sec. 5. 12 MRSA §8423-A, sub-§5**, as enacted by PL 1981, c. 278, §2, is  
33 amended to read:

34 **5. Forest land owners.** "Forest land owners" means persons who own forest lands  
35 ~~within the district, including, without limitation, persons owning or claiming timber and~~  
36 ~~grass rights in public reserved land located within the district.~~

1           **Sec. 6. 12 MRSA §8423-A, sub-§6**, as enacted by PL 1981, c. 278, §2 and  
2 amended by PL 2011, c. 657, Pt. W, §7 and PL 2013, c. 405, Pt. A, §23, is further  
3 amended to read:

4           **6. Management program.** "Management program" means all activities undertaken  
5 by the Bureau of Forestry in connection with the short-term and long-term ~~suppression,~~  
6 ~~control and prevention~~ management of spruce budworm infestations, including, without  
7 limitation, any activities undertaken in connection with ~~spray projects,~~ spruce budworm  
8 survey and detection activities, targeting silvicultural, ~~marketing~~ and integrated pest  
9 management programs, research, methods development and related activities and any  
10 involvement in any spray activities.

11           **Sec. 7. 12 MRSA §8423-A, sub-§7-A** is enacted to read:

12           **7-A. Presalvage and salvage harvesting.** "Presalvage and salvage harvesting"  
13 means the harvesting of trees vulnerable to damage.

14           **Sec. 8. 12 MRSA §8423-A, sub-§§8 and 10**, as enacted by PL 1981, c. 278, §2,  
15 are repealed.

16           **Sec. 9. 12 MRSA §8423-A, sub-§11**, as enacted by PL 1981, c. 278, §2 and  
17 amended by PL 2011, c. 657, Pt. W, §7 and PL 2013, c. 405, Pt. A, §23, is repealed.

18           **Sec. 10. 12 MRSA §8423-A, sub-§13** is enacted to read:

19           **13. Spruce budworm timber harvesting standards.** "Spruce budworm timber  
20 harvesting standards" means standards for presalvage and salvage harvesting of spruce  
21 and fir stands vulnerable to and subject to spruce budworm damage.

22           **Sec. 11. 12 MRSA §8423-B**, as enacted by PL 1981, c. 278, §3, is repealed.

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

24           **§8423-C. Presalvage and salvage harvesting**

25           **1. Regulation.** The Department of Agriculture, Conservation and Forestry shall  
26 regulate the presalvage and salvage harvesting of forest stands that, based on the  
27 proportion of balsam fir, white spruce, red spruce, black spruce, other softwood and  
28 hardwood components present, have significant risk of damage from spruce budworm.

29           A. The assessments of risk and vulnerability of a specific forest stand must be  
30 supported by adequate data.

31           B. A forest stand that is identified for presalvage and salvage harvesting must have a  
32 documented history of recent spruce budworm moth presence or foliage damage from  
33 spruce budworm feeding.

34           C. Areas designated for presalvage and salvage harvesting must be inspected and  
35 verified by a licensed forester in the employ of the bureau.

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

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

8           **4. Confidentiality.** Information contained in reports filed in accordance with rules  
9 adopted pursuant to this section may not be made public, except that summary reports  
10 may be published that use aggregated data that do not reveal the activities of an  
11 individual person or firm. Forms submitted pursuant to this section must be available for  
12 the use of the State Tax Assessor for the administration of Title 36.

13           **5. Rules.** The commissioner shall adopt rules to implement this section, including  
14 rules establishing spruce budworm timber harvesting standards. Rules adopted pursuant  
15 to this subsection are major substantive rules as defined in Title 5, chapter 375,  
16 subchapter 2-A.

17 The rules must provide for adequate review of any proposed presalvage or salvage  
18 harvesting in protection subdistricts within the jurisdiction of the Maine Land Use  
19 Planning Commission.

20 The Commissioner of Agriculture, Conservation and Forestry shall consult with the  
21 Commissioner of Environmental Protection and the Commissioner of Inland Fisheries  
22 and Wildlife to ensure that rules adopted under this subchapter are consistent with  
23 wildlife habitat and environmental protection.

24           **Sec. 13. 12 MRSA §8424, sub-§1,** as enacted by PL 1979, c. 737, §12 and  
25 amended by PL 2011, c. 657, Pt. W, §7 and PL 2013, c. 405, Pt. A, §23, is further  
26 amended to read:

27           **1. General authority.** In accordance with the provisions of this subchapter, the  
28 Bureau of Forestry, acting under the supervision of the director, ~~shall be empowered to~~  
29 may plan for and undertake activities related to ~~spray projects and~~ spruce budworm  
30 management programs on behalf of the State.

31           **Sec. 14. 12 MRSA §8424, sub-§2,** as amended by PL 2011, c. 657, Pt. W, §7; c.  
32 662, §10; and PL 2013, c. 405, Pt. A, §23, is repealed.

33           **Sec. 15. 12 MRSA §8424, sub-§3,** as amended by PL 1985, c. 58, §1, is repealed.

34           **Sec. 16. 12 MRSA §8424, sub-§§4 and 5,** as enacted by PL 1979, c. 737, §12,  
35 are repealed.

36           **Sec. 17. 12 MRSA §8424, sub-§6,** as amended by PL 1983, c. 623, is repealed.

1           **Sec. 18. 12 MRSA §8424, sub-§§7 and 8**, as enacted by PL 1979, c. 737, §12  
2 and amended by PL 2011, c. 657, Pt. W, §7 and PL 2013, c. 405, Pt. A, §23, are further  
3 amended to read:

4           **7. Technical assistance programs.** The Bureau of Forestry shall ~~undertake to~~  
5 ~~develop and implement budworm management~~ use its authorized technical assistance  
6 ~~programs for small wood lot owners to assist landowners with spruce budworm~~  
7 management issues.

8           **8. Supply-demand analyses.** The Bureau of Forestry shall conduct or cause to be  
9 conducted ~~an analysis~~ analyses of future supply and demand for the spruce and fir  
10 resources of the State. ~~The purpose of such analysis shall be to determine the types and~~  
11 ~~levels of future spruce budworm protection needs and strategies for such spruce and fir~~  
12 ~~resources.~~

13           **Sec. 19. 12 MRSA §8424, sub-§9**, as enacted by PL 1979, c. 737, §12 and  
14 amended by PL 2011, c. 657, Pt. W, §§5 and 7 and PL 2013, c. 405, Pt. A, §23, is  
15 repealed.

16           **Sec. 20. 12 MRSA §8425**, as enacted by PL 1979, c. 737, §12 and amended by PL  
17 2011, c. 657, Pt. W, §§5 and 7 and PL 2013, c. 405, Pt. A, §23, is repealed.

18           **Sec. 21. 12 MRSA §8426**, as amended by PL 1985, c. 664, §1; PL 2011, c. 657,  
19 Pt. W, §7; and PL 2013, c. 405, Pt. A, §23, is repealed.

20           **Sec. 22. 12 MRSA §8427**, as corrected by RR 2013, c. 2, §19, is repealed.

21           **Sec. 23. 12 MRSA §8428, sub-§§2 and 3**, as enacted by PL 1979, c. 737, §12,  
22 are repealed.

23           **Sec. 24. 12 MRSA §8428, sub-§4**, as enacted by PL 1979, c. 737, §12 and  
24 amended by PL 2011, c. 657, Pt. W, §6, is repealed.

25           **Sec. 25. 12 MRSA §8428, sub-§5**, as enacted by PL 1979, c. 737, §12, is  
26 amended to read:

27           **5. Entry on lands.** The director or ~~his~~ the director's representatives may enter, ~~upon~~  
28 ~~reasonable advance notice to the landowner, at any reasonable time and in a reasonable~~  
29 ~~manner, any tract of land for on which application pursuant to section 8424, subsection 2,~~  
30 ~~has been made in order to inspect the same free of any charge or cost imposed by the~~  
31 ~~owner or his agents~~ a spruce budworm management program is being conducted or is  
32 proposed to be conducted.

33           **Sec. 26. 12 MRSA §8428, sub-§6**, as enacted by PL 1979, c. 737, §12, is  
34 repealed.

35           **Sec. 27. 12 MRSA §8428, sub-§7**, as enacted by PL 1979, c. 737, §12, is  
36 amended to read:

1           **7. Contractual authority.** The director, ~~with the approval of the commissioner,~~  
2 shall have the authority to may enter into contracts for the acquisition of insecticides,  
3 aircraft, personnel and other goods and services necessary or appropriate for management  
4 programs and for other purposes related to this subchapter.

5           **Sec. 28. 12 MRSA §8428, sub-§8,** as enacted by PL 1979, c. 737, §12, is  
6 repealed.

7           **Sec. 29. 12 MRSA §8428, sub-§10,** as corrected by RR 2013, c. 1, §24, is  
8 amended to read:

9           **10. Report.** The director shall, at the end of each calendar year, undertake a  
10 ~~complete financial~~ review of any spruce budworm management program activities  
11 undertaken that year and shall make a full report on the activities to the next session of  
12 the Legislature. The report shall must include, but not be limited to, ~~sources of funding,~~  
13 ~~private, state or federal and total expenditures broken down in the following categories:~~  
14 ~~Insecticides, aircraft, monitoring, research and other appropriate categories. Also to be~~  
15 ~~included shall be a statement of any remaining balance by source, private, state or federal~~  
16 spruce budworm survey and monitoring activities and findings, outcomes of any research  
17 or methods development activities, levels and outcomes of harvest monitoring for  
18 harvests conducted under rules adopted pursuant to this subchapter, scopes of landowner  
19 assistance activities conducted and other issues as appropriate. Reports required under  
20 this subsection must use aggregated data that do not reveal the activities of an individual  
21 person or firm.

22           **Sec. 30. 12 MRSA §8428, sub-§11,** as enacted by PL 1985, c. 664, §3, is  
23 repealed.

24           **Sec. 31. 12 MRSA §8430,** as amended by PL 1987, c. 183, §4; PL 2011, c. 657,  
25 Pt. W, §7; and PL 2013, c. 405, Pt. A, §23, is further amended to read:

26           **§8430. Research**

27           **1. Authority.** The Bureau of Forestry, acting through its director, with the approval  
28 of the commissioner, may make grants of funds and enter into contracts for purposes of  
29 research related to forest management strategies, effects on wildlife and wildlife habitat,  
30 insecticide and spray application technologies, integrated pest management techniques,  
31 forest product marketing and utilization and other issues pertinent to the purposes of this  
32 subchapter. This research may be funded with any funds available, ~~provided that as long~~  
33 as the cost of environmental and health monitoring of spray projects ~~shall be~~ are part of  
34 annual spray project costs and not paid out of General Fund moneys.

35           **2. Research on public lands.** The commissioner, director or other chief executive  
36 officer of any state agency having jurisdiction over any public land may make that land  
37 over which the commissioner, director or officer has jurisdiction available on such terms  
38 and conditions as ~~he deems~~ the commissioner, director or officer considers reasonable to  
39 any public or private nonprofit entity engaged in spruce budworm control research and  
40 related silvicultural control research. The director shall likewise encourage private  
41 landowners within the State to make their lands available for the same purposes.

1           **Sec. 32. 36 MRSA §112, sub-§8, ¶C**, as amended by PL 2011, c. 548, §10, is  
2 repealed.

3

### **SUMMARY**

4           This bill updates the Maine Spruce Budworm Management Act to eliminate outdated  
5 language, such as that referring to pesticide spraying, and to add language governing  
6 presalvage and salvage harvesting of forest stands that have a significant risk of damage  
7 from spruce budworm.