

STATE OF MAINE

—
IN THE YEAR OF OUR LORD
TWO THOUSAND AND FIFTEEN

—
S.P. 315 - L.D. 870

An Act To Amend the Maine Spruce Budworm Management Laws

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

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

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

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

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

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

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;

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

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

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

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

Sec. 4. 12 MRSA §8423-A, sub-§§2 and 4, as enacted by PL 1981, c. 278, §2, are repealed.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

A. The rules must:

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

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

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

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

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

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

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:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

§8430. Research

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

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

Sec. 32. 12 MRSA §8431 is enacted to read:

§8431. Effect of other laws

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

Sec. 33. 36 MRSA §112, sub-§8, ¶C, as amended by PL 2011, c. 548, §10, is repealed.