

Butternut and the Endangered Species Act

Information for Landowners

Butternut (*Juglans cinerea*) is a member of the walnut family. It is a common yet not abundant tree that grows throughout much of southern Ontario. It thrives on alkaline soils, is short lived (<100 years) and needs full sunlight to stay vigorous. Butternut is an endangered species on the Species at Risk in Ontario (SARO) List. The main threat to Butternut is a fungal disease called Butternut canker. Other threats include tree cutting, habitat loss and hybridization with exotic walnut species. The Forest Gene Conservation Association (FGCA) and our recovery partners are searching for native butternut that may be genetically tolerant to the canker. Landowners are encouraged to conserve all their butternut and report them to help Recovery Efforts.

Generally, it is an offence under the **Endangered Species Act, 2007 (ESA)** to kill, harm, or take a Butternut tree. However, Ontario Regulation 242/08 (under the ESA) provides exemptions for some activities pertaining to Butternut. General information is provided below. For specific requirements, check the regulation (link provided on next page) or contact the Ministry of Natural Resources (MNR).

What is protected?

- Naturally occurring Butternut trees of any size and age are protected under the ESA.
- Planted Butternut trees are not protected under the ESA, unless they were planted to satisfy conditions under an ESA permit or a planting plan approved under Ontario Regulation 242/08.
- Hybrid trees that have a Butternut ancestor are not currently protected under the ESA. Sometimes visual characteristics can indicate whether a tree is a hybrid, but any Butternut-like tree that is proposed for removal should be assessed by a Butternut Health Assessor (BHA).
- Seed (nuts) from a Butternut tree are not protected under the ESA.

Can I remove a butternut tree on my property?

- This may be allowed under **Ontario Regulation 242/08**. The regulation requires that an MNR-designated Butternut Health Assessor (BHA) assess the tree(s) and submit a BHA report for approval by the local MNR district manager. If all the trees are assessed as non-retainable and the BHA's report is approved, they may be removed without any further requirements. If some trees are assessed as retainable and the report is approved, you may still be allowed to remove the trees but conditions may apply.
- **If you have ten or fewer naturally occurring retainable Butternut trees** that you plan to kill or transplant, or that may be harmed by activities you have planned, you must submit to the MNR a written planting plan which describes how Butternut seedlings will be planted to replace the trees to be harmed or killed, following the applicable conditions in Ontario Regulation 242/08.
- **If you have more than ten naturally occurring retainable Butternut trees** that you plan to kill or transplant, or that may be harmed by activities you have planned, you need to obtain a permit under the ESA from the MNR.

KEY TERMS:

A **non-retainable** Butternut tree is one that is affected by Butternut canker to such a degree that it is not necessary to retain it at its current location to support the protection or recovery of Butternut.

A **retainable** Butternut tree is one whose health has not been severely affected by Butternut Canker.

A **Butternut Health Assessor (BHA)** has been trained to identify the symptoms of Butternut canker and evaluate the health of Butternut trees.

What do I need to do?

- If considering activities that may kill or harm a Butternut, it is the landowner's responsibility to contact a BHA to determine whether the tree is retainable or not. Even if the tree appears to be dead or dying, it requires an assessment by a BHA before you act. Contact your MNR district office for a list of local MNR-designated BHAs.
- If a Butternut tree is killed or harmed without an assessment by a BHA, the landowner may be at risk of prosecution under the ESA.

Can I prune or dig near the butternut on my property?

- It is possible to prune the crown or disturb the roots of retainable Butternut trees without an ESA permit, provided an expert (e.g., registered professional forester or certified arborist) has determined that the work will not harm the tree. To protect the tree's current and future rooting area, no change should occur to the site (e.g. fill, compaction or excavation) within 25 metres of the tree. Landowners should obtain expert advice to avoid contravention of the ESA.

Can I own wood or products made from butternut?

- A person is entitled to possess, buy or sell any items (e.g., wood, furniture, artwork) made from legally obtained Butternut.
- If you are planning to log your woodlot, an MNR-certified tree marker can help you select the trees to be removed to ensure the continued health of your forest (www.ontariotreemarkers.ca). The MNR is helping certified tree markers to become BHAs so that they can determine which of your Butternut trees are retainable.

Can I plant butternut on my property?

- Planting Butternut is encouraged to help keep Butternut on the landscape.
- Butternut seeds can be collected, bought, sold and planted.
- When you buy Butternut seeds or seedlings, ask the nursery for proof that they are from pure native Butternut (not hybrids) that are adapted to your local climate. Ideally the seeds will have been collected from vigorously growing, retainable trees.
- Keep records of the location of planted Butternuts. They are not protected under the ESA and you may remove, prune, or transplant them as you wish (unless they were planted to satisfy an ESA permit condition or planting plan).
- Contact the MNR or the FGCA for a list of Butternut growers (links provided below).

What can I do to help?

The **FGCA** is collecting information on the location and health of Butternut trees in Ontario to find healthy trees to obtain seed for planting and cloning material for a disease tolerance breeding program. We manage 2 butternut archives which already host dozens of grafts from trees that appear to be disease tolerant. You can find out more about butternut recovery and report your Butternut via a report form at www.fgca.net. As we obtain funding we will contact you to ask permission to assess your trees.

Our partner **Trees Ontario** is helping us to fundraise and coordinate a long term recovery program for butternut and other trees at risk. If you wish to donate go to www.treesontario.ca.

For more information about the Butternut and the ESA contact the MNR:

- To find your local Ontario MNR district office call **1-800-667-1940**, or go to http://www.mnr.gov.on.ca/en/ContactUs/2ColumnSubPage/STEL02_179002.html
- Species at Risk website: www.ontario.ca/speciesatrisk
- Endangered Species Act, 2007: http://www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_07e06_e.htm
- Ontario Regulation 242/08: http://www.e-laws.gov.on.ca/html/regs/english/elaws_regs_080242_e.htm