

Title 12: CONSERVATION
Chapter 801: BUREAU OF FORESTRY

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Maine Revised Statutes
Title 12: CONSERVATION
Chapter 801: BUREAU OF FORESTRY

§8001. BUREAU OF FORESTRY ESTABLISHED

There is established within the Department of Agriculture, Conservation and Forestry to accomplish the purposes of this Part the Bureau of Forestry, also known as the Maine Forest Service and referred to as the "bureau." [1979, c. 545, §3 (NEW); 2011, c. 657, Pt. W, §§5, 7 (REV); 2013, c. 405, Pt. A, §23 (REV).]

SECTION HISTORY

1979, c. 545, §3 (NEW). 2011, c. 657, Pt. W, §§5, 7 (REV). 2013, c. 405, Pt. A, §23 (REV).

§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; [1979, c. 545, §3 (NEW).]
- B. Conduct programs to protect the forest, shade and ornamental trees of the State against insects and diseases; [1979, c. 545, §3 (NEW).]
- 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; [1979, c. 545, §3 (NEW).]
- 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; [1979, c. 545, §3 (NEW).]
- 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; [2013, c. 18, §1 (AMD); 2013, c. 405, Pt. A, §23 (REV).]
- F. Conduct information, education, planning and research programs designed to promote the purposes of the bureau as set forth in this Part; and [2013, c. 18, §1 (AMD); 2013, c. 405, Pt. A, §23 (REV).]
- G. Conduct a landowner relations program to assist landowners in dealing with public use of private lands. [2013, c. 18, §2 (NEW).]

[2013, c. 18, §§1, 2 (AMD); 2013, c. 405, Pt. A, §23 (REV) .]

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. [1979, c. 545, §3 (NEW); 2011, c. 657, Pt. W, §7 (REV); 2013, c. 405, Pt. A, §23 (REV).]
- 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. [1979, c. 545, §3 (NEW); 2011, c. 657, Pt. W, §7 (REV); 2013, c. 405, Pt. A, §23 (REV).]

C. [2013, c. 18, §3 (RP).]

D. [1981, c. 542, §3 (RP).]

E. The bureau may grant funds to municipalities to strengthen local fire protection programs. Grants shall be made on a 50-50 cost-share basis with local contributions, provided that the state share for any one grant may not exceed 10% of the bureau's funds earmarked for a program of grants under this paragraph. Any municipality may apply for a grant, provided that the grant will be used for forest fire control or related activities. The department may promulgate rules to carry out the purposes and implementation of this paragraph. [1987, c. 349, Pt. H, §10 (NEW); 2011, c. 657, Pt. W, §7 (REV); 2013, c. 405, Pt. A, §23 (REV).]

[2013, c. 18, §3 (AMD); 2013, c. 405, Pt. A, §23 (REV) .]

SECTION HISTORY

1979, c. 545, §3 (NEW). 1981, c. 542, §3 (AMD). 1987, c. 349, §H10 (AMD). 2011, c. 657, Pt. W, §7 (REV). 2013, c. 18, §§1-3 (AMD). 2013, c. 405, Pt. A, §23 (REV).

§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.

[1979, c. 545, §3 (NEW); 2011, c. 657, Pt. W, §7 (REV); 2013, c. 405, Pt. A, §23 (REV) .]

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.

[1979, c. 545, §3 (NEW) .]

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. [1979, c. 545, §3 (NEW); 2011, c. 657, Pt. W, §7 (REV); 2013, c. 405, Pt. A, §23 (REV).]

B. [1987, c. 308, §9 (RP).]

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. [1979, c. 545, §3 (NEW).]

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. [1979, c. 545, §3 (NEW); 2011, c. 657, Pt. W, §7 (REV); 2013, c. 405, Pt. A, §23 (REV).]

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. [1979, c. 545, §3 (NEW).]

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. [1979, c. 545, §3 (NEW); 2011, c. 657, Pt. W, §7 (REV); 2013, c. 405, Pt. A, §23 (REV).]

G. The director shall biennially prepare a budget for the bureau and submit it to the commissioner. [1979, c. 545, §3 (NEW); 2011, c. 657, Pt. W, §7 (REV); 2013, c. 405, Pt. A, §23 (REV).]

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. [1979, c. 545, §3 (NEW).]

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. [1979, c. 545, §3 (NEW).]

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. [1979, c. 545, §3 (NEW).]

K. The director may issue and enforce any license or permit authorized by this Part. [1979, c. 545, §3 (NEW).]

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. [1979, c. 545, §3 (NEW).]

M. Except for lands acquired under the authority of paragraph N, 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. The director shall deposit the proceeds from the sale or lease of property into the forest protection unit account. At least 60 days prior to offering any surplus property for sale under this paragraph, the director shall notify the Executive Director of the Legislative Council and the joint standing committee of the Legislature having jurisdiction over forest resources of the director's intent to sell the property. [2011, c. 657, Pt. X, §5 (AMD); 2013, c. 405, Pt. A, §23 (REV).]

M-1. The proceeds under paragraph M may be used only to upgrade existing structures owned by the forest protection unit within the bureau, to consolidate operations of the unit through the improvement, repair, replacement, purchase or construction of structures and to purchase land upon which to build structures. Ownership of any land purchased under this paragraph or structures purchased or constructed under this paragraph must be held in the name of the unit. Ownership of land or property purchased under this paragraph may also be held in the name of the Bureau of General Services when the unit participates in the consolidation of facilities with other state agencies. Any purchase of land or a structure pursuant to this paragraph must be approved by the Director of the Bureau of General Services. [2011, c. 657, Pt. X, §6 (AMD); 2013, c. 405, Pt. A, §23 (REV).]

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. [1979, c. 545, §3 (NEW); 2011, c. 657, Pt. W, §7 (REV); 2013, c. 405, Pt. A, §23 (REV).]

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. [1979, c. 545, §3 (NEW).]

P. The director shall act as a liaison with the Department of Environmental Protection, the Maine Land Use Planning Commission, the Department of Inland Fisheries and Wildlife and the Cooperative Extension Service on forestry issues. [1991, c. 722, §1 (AMD); 1991, c. 722, §11 (AFF); 2011, c. 682, §38 (REV).]

Q. The director, in cooperation with public and private landowners, shall actively pursue creating areas on public and private land where the principles and applicability of outcome-based forest policy, as defined in section 8868, subsection 2-B, can be applied and tested. No more than 6 such areas may be designated. The director shall seek to designate areas of various sizes owned by different landowners. The designated areas must represent differing forest types and conditions and different geographic regions of the State. Prior to entering into an outcome-based forestry agreement, the director and the panel of technical experts under section 8869, subsection 3-A shall conduct a comprehensive review of

the proposed outcome-based forestry agreement. The term of initial agreements may not exceed 5 years. The director may renew an agreement if requirements under this section and section 8869, subsection 3-A are met. The term of a subsequent agreement may not exceed 5 years. [2013, c. 542, §1 (AMD) .]

[2007, c. 271, §1 (AMD); 2011, c. 488, §1 (AMD); 2013, c. 542, §1 (AMD) .]

SECTION HISTORY

1979, c. 545, §3 (NEW). 1979, c. 663, §69 (AMD). 1983, c. 819, §A35 (AMD). 1985, c. 785, §B73 (AMD). 1987, c. 308, §§9,10 (AMD). 1989, c. 555, §6 (AMD). 1991, c. 722, §1 (AMD). 1991, c. 722, §11 (AFF). RR 1993, c. 1, §150 (COR). 1993, c. 335, §1 (AMD). 1997, c. 536, §§1,2 (AMD). 1999, c. 155, §§A2,3 (AMD). 2001, c. 339, §1 (AMD). 2005, c. 550, §2 (AMD). 2007, c. 271, §1 (AMD). 2011, c. 488, §1 (AMD). 2011, c. 657, Pt. W, §7 (REV). 2011, c. 657, Pt. X, §§5, 6 (AMD). 2011, c. 682, §38 (REV). 2013, c. 405, Pt. A, §23 (REV). 2013, c. 542, §1 (AMD).

§8004. JUVENILE VIOLATIONS

Notwithstanding other provisions of law, a person who has not attained 18 years of age and who is convicted of a crime for a violation of a provision of this Part that is not defined as a juvenile crime under Title 15, section 3103, subsection 1 may not be sentenced to imprisonment but may be ordered to serve a period of confinement in a Department of Corrections juvenile correctional facility that may not exceed 30 days, which may be suspended in whole or in part, if the court determines that: [2005, c. 507, §2 (AMD) .]

1. Crime. The crime is one that, if committed by a person who has attained 18 years of age, would carry a mandatory term of imprisonment that may not be suspended;

[2005, c. 328, §2 (NEW) .]

2. Nature. The aggravated nature and seriousness of the crime warrants a period of confinement; or

[2005, c. 507, §2 (AMD) .]

3. History. The record or previous history of the defendant warrants a period of confinement.

[2005, c. 507, §2 (AMD) .]

The court is not required to impose a period of confinement notwithstanding that there is a mandatory term of imprisonment applicable to a person who has attained 18 years of age. [2005, c. 507, §2 (AMD) .]

Any period of confinement must be served concurrently with any other period of confinement previously imposed and not fully discharged or imposed on the same date. Any period of confinement is subject to Title 17-A, section 1253, subsection 2, except that a statement is not required to be furnished and the day-for-day deduction must be determined by the facility, but not to Title 17-A, section 1253, subsection 2, paragraph A, or subsection 3-B, 4, 5, 8, 9 or 10. If the court suspends the period of confinement in whole or in part, the court shall impose a period of administrative release not to exceed one year. The administrative release must be administered pursuant to Title 17-A, chapter 54-G, and revocation of the administrative release is governed by the provisions of that chapter. [2005, c. 507, §2 (AMD) .]

SECTION HISTORY

2003, c. 410, §3 (NEW). 2005, c. 328, §2 (AMD). 2005, c. 507, §2 (AMD).

§8005. CERTAIN INFORMATION CONFIDENTIAL

1. Contact information. Social security numbers, addresses, telephone numbers and electronic mail addresses of landowners owning less than 1,000 acres of forest land statewide and collected by the bureau for the purposes of contacting landowners under section 8611, or received by the bureau in notifications filed under section 8883-B, or in reports received under Title 36, section 581-G are confidential and may be disclosed only in accordance with this section.

[2005, c. 358, §1 (NEW); 2011, c. 657, Pt. W, §7 (REV); 2013, c. 405, Pt. A, §23 (REV) .]

2. Forest management plan and information. Social security numbers, forest management plans and supporting documentation of forest management activities on private forest land and held by the bureau for the purposes of administering landowner assistance programs authorized under this chapter and chapter 805 are confidential and may be disclosed only in accordance with this section.

[2005, c. 358, §1 (NEW); 2011, c. 657, Pt. W, §7 (REV); 2013, c. 405, Pt. A, §23 (REV) .]

3. Disclosure. Except as provided in subsection 4, the director may disclose confidential information in accordance with this subsection. Confidential information disclosed pursuant to this subsection remains the property of the bureau. Recipients of the confidential information may not disclose this information or use this information except as authorized by the director.

A. The director may disclose information designated as confidential under this section to a governmental entity that, in the opinion of the director, requires this information. [2005, c. 358, §1 (NEW) .]

B. The director shall provide names, addresses and electronic mail addresses upon request to a nonprofit corporation that provides educational services to forest landowners regarding sound forest management as long as the information disclosed is used to provide information about forest management. [2005, c. 358, §1 (NEW) .]

[2005, c. 358, §1 (NEW); 2011, c. 657, Pt. W, §7 (REV); 2013, c. 405, Pt. A, §23 (REV) .]

4. Information designated as confidential by state or federal agency. The director may not disclose information furnished to the director that has been designated as confidential by a state or federal agency furnishing the information unless disclosure is authorized by the furnishing agency.

[2005, c. 358, §1 (NEW) .]

5. Penalty. A person who receives confidential information pursuant to subsection 3, paragraph B and uses that information for a purpose other than that authorized by the director commits a civil violation punishable by a fine of not more than \$1,000.

[2005, c. 358, §1 (NEW) .]

SECTION HISTORY

2005, c. 358, §1 (NEW). 2011, c. 657, Pt. W, §7 (REV). 2013, c. 405, Pt. A, §23 (REV).

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