

Proposed Tenure Regulation Content

The following document contains the concepts that will be used to develop the Tenure Regulation. You are invited to review these concepts and provide comments and recommendations to the Forest Management branch of the Department of Energy, Mines and Resources.

For information on how to comment, please contact the Forest Management branch.

Comments must be made in writing and can be sent via regular mail, electronically or delivered by hand. Any comments provided in writing will be available to the public on the Energy, Mines and Resources website at the end of the consultation period, normal rules of information and privacy will apply to these documents. The Forest Management branch appreciates your participation in this process.

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Basic Concepts

- The *Forest Resources Act* establishes that the Director can allocate timber and non-timber resources under various tenure arrangements.
- The purpose of the regulation is to define mechanisms that tenure may be allocated by the Director.
- Allocation of Non-timber resources can be made under a woodlot licence or forest resources permit.
- Timber can be allocated for various lengths of time and with varying obligations to a proponent.
- Considerations for assignment and renewal of licences is provided.

Proposed Tenure Regulation Content

LEGISLATIVE REFERENCE:

Part 3 – DISPOSITION OF FOREST RESOURCES

Application for a harvesting Licence

17(1) A person applying for a harvesting licence must submit an application in a form approved by the Director and provide the information specified on the form, which must include any information prescribed by regulation.

Notice of harvesting licence applications

18(1) Prior to issuing or amending a harvesting licence, the Director must ensure that

- (a) the public, and
- (b) any first nation whose traditional territory falls wholly or partially within the area where the forest resource harvesting is proposed to occur,

is notified of the application and provided no less than a 30 day period for representations on the application to be made to the Director.

(2) Subsection (1) applies with respect to renewals, where renewals are authorized under this Act.

Issuance and amendment of harvesting licence

19(1) The Director may issue a harvesting licence subject to any terms and conditions the Director considers appropriate or may refuse to issue a harvesting licence.

(2) Upon written application of a licensee, the Director may amend a harvesting licence subject to any terms and conditions the Director considers appropriate or may refuse to amend a harvesting licence.

Timber resources licence

22(1)(d) establish the requirement that the licensee obtain a cutting permit for the purposes of timber harvesting in the area specified in the harvesting licence;

(h) require the licensee to report annually as prescribed by regulation; and

(2) Where the Director is satisfied that a licensee has complied with all of the terms and conditions of its licence, the Director may renew a licence subject to any terms and conditions specified by the Director upon application of the licensee for one additional term any time in the last three years of the original term;

(3) A timber resources licence is assignable, subject to the agreement of the Director

Woodlot licence

23(1)(e) establish the requirement that the licensee obtain a cutting permit for the purpose of timber harvesting;

(i) require the licensee to report annually as prescribed in the regulations

(2) Where the Director is satisfied that a licensee has complied with all of the terms and conditions of its licence, the Director may renew a licence subject to any terms and conditions specified by the Director upon application of the licensee.

(3) A woodlot licence is assignable, subject to the agreement of the Director

Fuel wood licence

24(1)(e) establish the requirement that the licensee obtain a cutting permit for the purpose of timber harvesting;

(i) require the licensee to report annually as prescribed in the regulations

(3) A fuel wood licence may be renewed by the Director subject to any terms and conditions specified by the Director upon application of the licence for an additional term any time in the last two years of the existing term.

(4) A fuel wood licence is not assignable

Security

26(1) The Director shall require the holder of a harvesting licence to furnish and maintain with the Director security in an amount and form determined in accordance with the regulations.

Proposed Tenure Regulation Content

Cutting Permits

- 27(1) A licensee must submit an application for a cutting permit in a form approved by the Director and provide the information specified on the form, which must include any information prescribed by regulation
- (2) The Director may issue a cutting permit for a term not exceeding three years and not exceeding the term of the applicable harvesting licence subject to any terms and conditions specified by the Director or may refuse to issue the cutting permit

Forest Resources Permit

- 29(4)(d)(ii) establish that unless the permit authorizes the harvesting of 25m³ per year or less, harvesting may not be undertaken until a timber harvesting plan, prepared as prescribed by regulation, is approved by the Director,
- (6) A forest resources permit may not be renewed and is not assignable

1. Definitions

In this regulation, definitions used have the same meaning as the *Forest Resources Act*.

2. Licence Issuance

- (1) The Director may issue a harvest licence based on:
- sealed tender;
 - direct issuance;
 - draw; or,
 - proposal call.
- (2) The Director may establish eligibility requirements prior to the disposition of any harvest licence. Eligibility may include but not limited to:
- place of residence;
 - term of residency requirements;
 - where multiple harvest licenses are available, the number of harvest licenses an individual applicant can be entitled to obtain; and,
 - location for processing of forest resources.
- (3) Applicants must be in good standing with the Forest Management Branch at the time of licence application.
- (4) An applicant for a harvest licence shall submit with the application a non-refundable application fee as set out in regulation.
- (5) For licenses allocated under a sealed tender or proposal call, a bid deposit may be required as part of the eligibility requirements. Where a successful applicant does not exercise the right to obtain the licence the bid deposit is non-refundable.
- (6) A bid deposit will be held by the government until such time as a security deposit is in place.

Proposed Tenure Regulation Content

- (7) The Director is not obligated to accept any or highest bids in the case of a sealed tender.
- (8) A First Nation may request a meeting with the Director, prior to issuance, if that First Nation expresses a significant concern related to the proposed harvesting in an amount greater than 20,000m³, and if this concern is expressed during the period of notification on that harvest licence.

3. Direct Issuance – Transition

- (1) Timber permits issued under the *Territorial Lands (Yukon) Act – Timber Regulation* shall no longer be valid after April 30, 2010.
- (2) Subject to subsection (1), clients with existing timber permits issued under the *Territorial Lands (Yukon) Act – Timber Regulation* may have new licences to replace existing permits.
- (3) Those licences will be of a similar scope and extent as the existing permit.
- (4) Payment terms of existing permits referred to in subsection (2) will remain unchanged.
- (5) Despite subsection (4), where the original permit refers to a market driven stumpage calculation:
 - a. the last market driven stumpage rate calculated for the last fiscal quarter of 2008 will be compared to the timber royalty rate as described in section 6 of the stumpage regulation, and
 - b. which ever rate is lower shall be applied to the new licence.

4. Direct Issuance

- (1) The Director may establish criteria for the direct issuance based on, but not limited to:
 - a) The economic and social objectives as expressed by the Minister, for the general region or the entire Yukon;
 - b) The economic and social objectives as expressed by the appurtenant forest resources management plan;
 - c) History of volume utilized by an applicant;
 - d) Availability of timber;
 - e) Residency of an applicant;
 - f) Environmental performance of the applicant; and
 - g) Financial standing with Forest Management Branch.

Proposed Tenure Regulation Content

5. Payment

- (1) Any amount tendered by a proponent in a sealed tender or proposal call will be in addition to stumpage and fees otherwise payable on the licence.
- (2) The Director may determine that fees and stumpage for any harvest licence are payable in the following manners:
 - a) the Director may require all of the total bid plus stumpage, annual rent and operational costs to be paid prior to licence issuance; or,
 - b) the Director may require that the bonus bid, bid amount and annual rent are paid prior to licence issuance:
 - i) in which case the remaining stumpage costs will be reported and paid to the Minister on m³ basis, reported monthly;
 - ii) volume reports are due within 30 days from the end of the month the volume is harvested; and,
 - iii) stumpage will be payable 30 days after the date that the volume is due to be reported.
 - c) other payment options as approved by the Director.

6. Harvest License Assignment

- (1) A licensee can apply to the Director to assign a timber harvest licence or woodlot licence at any time in the term of the licence.
- (2) The Director shall authorize the assignment of a timber harvest licence or a woodlot licence, providing that the assignment is consistent with:
 - a) the appurtenant forest resources management plan, timber harvest plan or woodlot plan;
 - b) the status of available timber in the area, taking into account the most recent Annual Allowable Cut determination in the area;
 - c) the environmental, economic and cultural objectives as expressed by the Director, for the general region or the entire Yukon, in areas where there is no Annual Allowable Cut determination;

and that;

- a) the proposed assignee has a good record relative to conditions of current and past licences; and,
 - b) the proposed assignee is in good financial standing with the Forest Management Branch.
- (3) An assignment must be made within the Annual Allowable Cut or Annual Limit area as described by regulation, that the licence was originally issued within.

Proposed Tenure Regulation Content

- (4) All outstanding payments owed to the Forest Management Branch will be paid prior to the assignment approval.
- (5) The Director may impose new or modified conditions on the licence as part of the assignment procedure.
- (6) All liabilities associated with the assigned licence will pass to the assignee.

7. Harvest License Renewal

- (1) The Director shall renew a timber resource licence, fuel wood licence and woodlot licence as per the Act, providing that the renewal is consistent with:
 - a) the appurtenant forest resources management plan, timber harvest plan or woodlot plan;
 - b) the status of available timber in the area, taking into account the most recent Annual Allowable Cut determination in the area;
 - c) the environmental, economic and cultural objectives as expressed by the Director, for the general region or the entire Yukon, in areas where there is no Annual Allowable Cut determination;and that;
 - a) the licensee has a good record relative to conditions of current and past licences; and,
 - b) the licensee is in good financial standing of with the Forest Management Branch.
- (2) Where a licence is renewed the Director may alter the term and conditions of the licence.

8. Harvest requirements for potential loss of harvestable timber

- (1) A licensee may be directed to harvest in areas threatened or destroyed by fire, flood, insects, disease or wind throw.
- (2) The Director may offer incentives to encourage operators to direct their activities in these areas.

9. Reporting

All licence holders shall report annually as long as their licence is in effect or any outstanding work is required. Annual reports shall include information as required by the Director in policy according to the size and type of licence.

10. Security

- (1) Upon issuance of harvest licence, a security deposit may be required as established by the Director in policy.

Proposed Tenure Regulation Content

- (2) The Director must maintain the security until all outstanding conditions of the harvest licence have been completed including those responsibilities that survive the term of the harvest licence such as but not limited to:
 - a) reforestation activities;
 - b) road reclamation; and,
 - c) other licence obligations.
- (3) The Director will refund the security upon application by the licensee. The Director will refund the security or portion thereof upon:
 - a) fulfillment of all licence and cutting permit conditions by the licensee; or,
 - b) completion of work as necessary by the government to remedy or reduce environmental impacts associated with the timber harvesting or commercial use of non-timber resources.
- (4) Upon refund of the security, the Director will include a full accounting of the use by the government of any portion of the performance deposit to remedy any conditions associated with the harvesting licence.

11. Cutting Permits

- (1) The Director shall issue a cutting permit to a licensee, providing that
 - a) the licensee has a good record relative to conditions of current and past licences and permits;
 - b) the licensee is in good financial standing of with the Forest Management Branch; and
 - c) there is an approved timber harvesting plan or woodlot plan as referenced in subsection 20 (3) of the Act.
- (2) A licensee must be in possession of an approved cutting permit prior to commencement of any activity within a harvest licence except where authorized under 15(2)(a), (b), (c), (d) and 20(3) of the Act.
- (3) A licensee must submit an application for a cutting permit in a form approved by the Director and contain:
 - a) a map of the cutting permit area;
 - b) a site plan with reforestation plan;
 - c) a description of harvest activities;
 - d) the timber volume within the area and rate of harvest;
 - e) an access management plan; and
 - f) details relating to the pertinent forest resources management plan, timber harvest plan or woodlot plan.

Proposed Tenure Regulation Content

- (4) The Director may issue a cutting permit for up to but not exceeding 3 years.
- (5) A cutting permit requires an annual notice prior to initiation of harvesting activities.
- (6) A timber mark will be issued with each cutting permit or forest resources permit as applicable.
- (7) A licensee must harvest in compliance with the terms and conditions of an approved cutting permit.

12. Offence

A person who contravenes Sections 11(2) or 11(7) of this regulation commits an offence.

