



Order in Council Décret

On the recommendation of the undersigned, the Lieutenant Governor, by and with the advice and concurrence of the Executive Council, orders that:

Sur la recommandation du soussigné, le lieutenant-gouverneur, sur l'avis et avec le consentement du Conseil des ministres, décrète ce qui suit:

WHEREAS subsection 24 (2) of the Crown Forest Sustainability Act (the Act) requires that the Minister of Natural Resources shall not enter into a forest resources supply agreement or grant a forest resources licence except in accordance with a competitive process;

AND WHEREAS subsection 24(3) of the Act provides that subsection 24(2) does not apply if another process is authorized by the Lieutenant Governor in Council;

AND WHEREAS the Minister of Natural Resources desires the process set out herein to be the process to be followed instead of the process required by subsection 24(2) of the Act, in the circumstances described;

THEREFORE pursuant to clause 24(3)(b) of the Act, the Minister of Natural Resources is hereby authorized to follow the process described below when an agreement is entered into under section 25 of the Act or a licence is granted under Part III of the Act instead of the process required by subsection 24(2):

1. A licence may be granted under the Act to an applicant therefor if one of the conditions set out in paragraph 3 of this Order in Council are met and if the process set out in Appendix A of this Order in Council is followed.
2. A supply agreement may be entered into under section 25 of this Act with an applicant therefor if one of the conditions set out in paragraph 4 of this Order in Council are met and if the process set out in Appendix B of this Order in Council is followed.

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3. The process set out in Appendix A of this Order in Council may be followed with respect to the granting of a licence under the Act if any of the following conditions are met:

The granting of the forest resource licence;

- (i) satisfies an existing legal commitment,
- (ii) maintains the approved forest resource utilization levels of the existing forest industry in Ontario subject to the sustainable supply of forest resources determined in the applicable forest management plan and having regard to the supply analysis provided in any application for a forest resource licence,
- (iii) satisfies economic opportunities for aboriginal people,
- (iv) permits the expedient salvage of killed or damaged forest resources,
- (v) satisfies harvesting requirements necessary to ensure that forest operations are conducted in accordance with the approved forest management plan, annual work schedule and prescriptions where applicable,
- (vi) permits the harvest of forest resources that are for the licensee's own non-commercial use,
- (vii) permits the harvest of forest resources for the purposes of establishing gravel pits, rights of ways and work on mining claims, or
- (viii) satisfies the requirements for forest resources that Ontario may have from time to time for its own uses.

4. The process set out in Appendix B of this Order in Council may be followed in the entering into of a supply agreement by the Minister if any of the following conditions are met:

The entering into the supply agreement;

- (i) satisfies an existing legal commitment,
- (ii) maintains the approved forest resource utilization levels of the existing forest industry in Ontario subject to the sustainable supply of forest resources determined in the applicable forest management plan and having regard to the supply analysis provided in any application for a forest resource licence, or

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(iii) satisfies economic opportunities for aboriginal people.

Recommended  Minister of Natural Resources
concurring Mike Farnon Chair of Cabinet

Approved and Ordered MAR 29 1995 Date Lieutenant Governor


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Appendix "A"

Applications for Forest Resource Licences

The following outlines the process to be followed for an application to obtain a forest resource licence for purposes of this Order in Council:

1) The applicant must apply to the District Manager to obtain a Licence to Harvest Forest Resources. Applications should be in writing, but may be in the form of a verbal request that is followed up in writing at the discretion of the District Manager.

Applications should usually be made at the time of the review process of a newly proposed forest management plan or at the start of a new 5-year operating term of the plan, but may occur at other times where a licensee or a mill has not been able to harvest its requirements.

Individuals or companies may request specific areas be licensed or request an increase in the level of volume that is made available for harvest.

2) The Ministry of Natural Resources will review the request based on the considerations set out in this Order in Council and also on the species and quality of the material being requested and the availability of forest resources allocated for harvesting over the next five-year operating term of the forest management plan for the area of the request.

If the request is for a supply over a term longer than five years, usually to supply the applicant's mill, further information regarding the mill and a detailed supply analysis may be required.

3) The Ministry will also review the previous performance of the applicant including compliance with the harvesting requirements in past operations if applicable, the payment of licence accounts and the sale or utilization of all the forest resources that may have been available to the applicant over the previous plan operating term.

Where the applicant is a company, partnership or operates under a firm style of name, the registration must be current and permit operations in Ontario.

4) The Ministry will also review the availability of markets for the forest resources planned for harvest.

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Where there are prior commitments by way of a supply agreement, the applicant may be required to indicate whether or not a contract has been made with the supply agreement holder for the sale of the harvested forest resources in accordance with the supply agreement. Other supply agreements may only require, as a condition of the licence, that the licensee offer the agreement holder the first opportunity to purchase the forest resources in respect of the agreement.

In some management units, some or all volumes or some species may be available for purchase on the open market and the applicant is simply required to indicate the intended mill destinations of the forest resources.

5) After determination that the applicant has satisfactorily met past operating requirements, and that volumes are available for licensing and any other requirements which may apply, the district prepares an Area Forester's Report on the Area of a Proposed Licence to Harvest Forest Resources, which includes a map of the area to be licensed and any applicable special operating conditions. The applicant is required to sign the completed report.

6) Providing the licence proposal is consistent with existing supply commitments and the approved forest management plan for the management unit, a licence is processed for signature.

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Process for Applications for Supply Agreements

The application shall be made in writing stating the purpose, the facility location, type of facility, required annual volumes by species and log type and other sources of supply the facility may be accessing.

The Ministry will review the application to determine the general feasibility of the request and whether it satisfies considerations set out in this Order in Council.

If the request is determined to be generally feasible, the applicant is required to provide a detailed request of the facility requirements, the specifications of the required forest resources, the facility product(s) and markets for those products.

The applicant is also required to participate in a wood supply analysis for the identified supply area to determine the level of a sustainable supply and to confirm the availability and acceptability of the volumes. This analysis must take into account any other commitments for forest resources from the area of supply that have been made by the Ministry.

Where an adequate supply is available, either at the same level as requested by the applicant or at a reduced level, and providing the applicant meets any other Ministry requirements, a supply agreement may be granted for an annual volume of forest resources that have been determined to be available, subject to the approval of the Lieutenant Governor in Council and the Minister of Natural Resources.

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