

6. This Regulation comes into force on the fifteenth day following the date of its publication in the *Gazette officielle du Québec*.

106246

Gouvernement du Québec

O.C. 741-2023, 26 April 2023

Act respecting the Ministère des Ressources naturelles et de la Faune
(chapter M-25.2)

Approval of the Program to authorize the annual harvesting of certain volumes of timber not included in the allowable cuts determined for fiscal years 2023-2024 to 2027-2028

WHEREAS, under subparagraph 16.1 of the first paragraph of section 12 of the Act respecting the Ministère des Ressources naturelles et de la Faune (chapter M-25.2), the functions and power of the Minister of Natural Resources and Forests consist in particular in overseeing all aspects of forest management in forests in the domain of the State;

WHEREAS, under the first paragraph of section 17.13 of the Act, the Minister may, with the approval of the Government, prepare programs for the development of lands that are under her authority, as well as natural resources in the domain of the State, and its wildlife and wildlife habitats, in order to encourage regional development or implement any other governmental policy;

WHEREAS, under the first paragraph of section 17.15 of the Act, land, property, natural resources and wildlife the Minister includes in a program may be exempted from the application of the Acts for which the Minister is responsible to the extent specified in the program;

WHEREAS, under the second paragraph of section 47 of the Sustainable Forest Development Act (chapter A-18.1), the Minister may entrust any forestry mandate to the chief forester and ask the chief forester for advice on any matter related to private forests or the forests in the domain of the State;

WHEREAS, under subparagraph 5 of the first paragraph of section 46 of that Act, the functions of the chief forester consist in particular, in keeping with the policy directions and objectives of the sustainable forest development strategy, in determining allowable cuts for forest development units, local forests and certain residual forests, given the regional and local sustainable forest development objectives;

WHEREAS the chief forester, in a decision dated 1 November 2021 updated on 9 August 2022, identified volumes of timber that are not included in the allowable cuts for the period 2023 to 2028 but that may be harvested in addition to the allowable cuts, in accordance with the provisions of the Act and of the Regulation respecting the sustainable development of forests in the domain of the State (chapter A-18.1, r. 0.01);

WHEREAS it is expedient to approve a program to allow the annual harvesting of certain volumes of timber not included in the allowable cuts determined for the period 2023-2024 to 2027-2028;

IT IS ORDERED, therefore, on the recommendation of the Minister of Natural Resources and Forests:

THAT the Program to authorize the annual harvesting of certain volumes of timber not included in the allowable cuts determined for fiscal years 2023-2024 to 2027-2028, attached to this Order in Council, be approved.

YVES OUELLET

Clerk of the Conseil exécutif

Program to authorize the annual harvesting of certain volumes of timber not included in the allowable cuts determined for fiscal years 2023-2024 to 2027-2028

1. PURPOSE OF THE PROGRAM

The purpose of this program (hereinafter referred to as the “Program”), drawn up pursuant to the provisions of subdivision 1 of Division II.2 of the Act respecting the Ministère des Ressources naturelles et de la Faune (chapter M-25.2) (the “ARMRNF”), is to allow, during fiscal years 2023-2024 to 2027-2028, the harvesting of certain volumes of timber not included in the allowable cuts determined for forests in the domain of the State.

More specifically, the objective of the Program is to structure and permit the harvesting of volumes of

- sound dry timber;
- timber from wooded riparian strips; and
- timber from steep grades and from summit enclaves.

2. DEFINITIONS

Unless otherwise indicated by the context,

(1) “purchaser” means the holder of a timber sales contract from the Timber marketing board under the Sustainable Forest Development Act (chapter A-18.1) (SFDA);

(2) “merchantable trees or parts of trees” means trees or parts of trees with a small end diameter of over 9 centimetres (part of the merchantable class);

(3) “softwood” means merchantable trees or parts of trees in the species group that includes spruce, jack pine, fir and tamarack (SPFT);

(4) “timber from wooded riparian strips” means timber alongside an open peat bog with a pond, a marsh, a wooded riparian swamp, a lake or a permanent watercourse within the meaning of the Regulation respecting the sustainable development of forests in the domain of the State du domaine de l’État (chapter A-18.1, r. 0.01);

(5) “timber from steep grades and summit enclaves” means timber located in slope sectors of over 40% (class F) and enclaves surrounded by slopes of over 40% (class S), as described under point 3.2.1 of the document “Cartographie du cinquième inventaire écoforestier du Québec méridional, Méthode et données associées, Juin 2022, Ministère des Forêts, de la Faune et des Parcs”;

(6) “sound dry timber” means sound softwood timber from dead trees or parts of trees;

(7) “timber sales contract” means a contract referred to in section 46.1, 63, 102, 103.1 or 114 of the SFDA;

(8) “delegatee” means a person or body that has signed a management delegation agreement;

(9) “management delegation agreement” means an agreement referred to in section 17.22 of the ARMRF concerning forest resources;

(10) “harvest agreement” means an agreement referred to in section 103.4 of the SFDA;

(11) “supply guarantee” means a supply guarantee (SG) referred to in section 88 of the SFDA;

(12) “Minister” means the Minister of Natural Resources and Forests;

(13) “permit to harvest timber to supply a wood processing plant” or “permit” means a permit to harvest timber to supply a wood processing plant issued under section 74 of the SFDA;

(14) “allowable cut” means the annual cut allowing a sustained yield from a forest in the domain of the State, determined by the chief forester pursuant to section 46 of the SFDA and covering the period 1 April 2023 to 31 March 2028;

(15) “development unit” means a territorial unit within the meaning of section 16 of the SFDA;

(16) “wood processing plant processing wood for electrical power production or metallurgical purposes” means a wood processing plant referred to in subparagraph *f* of paragraph 1 of section 1 of the Regulation respecting operating permits for wood processing plants (chapter A-18.1, r. 8).

3. SCOPE

The Program applies to the forests in the domain of the State described in section 13 of the SFDA.

4. ELIGIBLE CLIENTS

The holders of permits to harvest timber to supply a wood processing plant, delegatees, and the holders of timber sales contracts are eligible clients for the Program.

The holder of a supply guarantee that provides for the allocation of jack pine for a pole plant is, with respect to that species, ineligible for the annual volume of sound dry timber authorized for harvesting under the Program.

5. ANNUAL VOLUME AUTHORIZED FOR HARVESTING

5.1 CALCULATION OF A VOLUME OF SOUND DRY TIMBER

The volume of sound dry timber that an eligible client is authorized to harvest annually under the Program is determined using the following calculation rules:

(1) The Minister first determines the volume of spruce included in the volume of spruce, jack pine, fir and tamarack (SPFT) in the forests in the domain of the State targeted by the Program.

(2) The Minister sets 5% of the net volume of spruce as the maximum volume of sound dry timber that may be harvested in each development unit.

(3) The Minister may, in the case of a natural or anthropogenic disturbance affecting a forest in the domain of the State, amend the percentage set in paragraph 2, depending on the severity of the disturbance.

(4) The Minister allocates the volume of sound dry timber in proportion to the rights granted in a forest in the domain of the State.

(5) When the chief forester amends the allowable cut for the SPFT species group during the five-year period, the maximum volume of sound dry timber that may be harvested in each forest is adjusted accordingly.

(6) When the Minister amends, during a fiscal year, the volume for the SPFT species group entered on a permit or harvest agreement, or when the chief forester amends the allowable cut for a residual forest to which a delegation agreement applies, the volume of sound dry timber may be harvested by the holder of the right is adjusted proportionately.

5.2 CALCULATION OF THE OTHER VOLUMES OF TIMBER AUTHORIZED FOR HARVESTING THAT ARE NOT INCLUDED IN THE ALLOWABLE CUT

The volume of timber other than sound dry timber that an eligible client is authorized to harvest annually under the Program is a maximum of 5% of the volume entered on the timber sales contract, permit or delegation agreement.

5.3 EXCESS VOLUME HARVESTED

If the volume of timber harvested by an eligible client exceeds the volume authorized for harvesting under the Program, the excess volume is deemed to be a volume harvested under the eligible client's timber sales contract, permit or management delegation agreement, as the case may be.

6. CONFIRMATION OF THE VOLUME OF TIMBER AUTHORIZED FOR HARVESTING

6.1 The Minister informs each eligible client, in writing, of the volume of sound dry timber that is authorized for harvesting, determined using the calculation method set out in paragraphs 1 to 6 of section 5.1.

6.2 For the holders of a timber sales contract and the holders of a permit, the other volumes authorized for harvesting are identified in the annual program authorized by the Ministère des Ressources naturelles et des Forêts and must be declared separately if they are to be considered under the Program.

7. OBLIGATIONS OF AN ELIGIBLE CLIENT

An eligible client is subject, for the timber targeted by the Program, to the same legal and contractual obligations as those that apply under the eligible client's timber sales contract, permit or management delegation agreement, and must in particular

(1) scale all timber harvested;

(2) pay all dues payable;

(3) comply with any special development plan for the salvaging of timber prepared and applied by the Minister pursuant to sections 60 and 61 of the SFDA;

(4) declare to the Minister, annually, the volumes harvested under the Program, specifying the type of land on which the timber not included in the allowable cut was harvested; and

(5) have the declaration referred to in paragraph 4 approved by a forest engineer before it is filed with the Minister.

8. MISCELLANEOUS

8.1 The Minister may enter into a sales contract under the Program by mutual agreement with the operator of a wood processing plant processing wood for electrical power production or metallurgical purposes for volumes of sound dry timber that have not been allocated pursuant to paragraph 4 of section 5.1.

8.2 The cancellation of an eligible client's timber sales contract, permit or management delegation agreement entails the revocation of the right to harvest timber under the Program.

8.3 An eligible client may not transfer the volume of timber the eligible client is authorized to harvest under the Program.

9. FINAL

9.1 The SFDA applies to the forests in the domain of the State that are covered by the Program, subject to the provisions of the Program.

9.2 The Program comes into force on the date of its approval by the Government and terminates on 31 March 2028.

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