

**SUBJECT: MAPLE SUGARY
LEASING POLICY**



Policy Number: CLM-005-2003
File Number: 415-00-0008

Effective Date: August 20, 2004
To Be Reviewed: August 20, 2009

Approval: Original signed by W. David Ferguson, Deputy Minister
October 15, 2004

Table of Contents

1. Purpose	3
2. General Policy Statement.....	3
3. Background.....	3
3.1 NB Maple Industry	3
3.2 Maple Sugaries on CL	3
3.3 Moratorium	4
4. Objectives.....	4
5. Definitions	4
6. Expansion of Leasing Program	5
6.1 Allocation of Land	5
6.2 Requests for Proposals.....	5
6.3 Site Criteria	7
6.4 Value-Added for a New Lease	7
6.5 Value-Added for a Lease Expansion.....	7
6.6 Site Development Plan.....	7
6.7 Business Plan	8
7. Requirements of Lessee.....	8
7.1 Leasing Regulation	8
7.2 Value-Added Requirement.....	8
7.3 Value-Added Requirement for Lease Expansion	8
7.4 Security Deposit.....	8
7.5 Liability Insurance	9
7.6 Storage of Petroleum Products	9

7.7 Survey Requirements	9
7.8 Registration of Lease	10
7.9 Site Development Plan.....	10
7.10 Harvesting of Wood	10
7.11 Production Report.....	11
7.12 Sap Collection.....	11
7.13 Use of Pesticides	11
7.14 Watercourse Alteration.....	11
7.15 Building Permit.....	12
7.16 No Transfer of Vacant Sites	12
7.17 Transfer of Lease.....	12
7.18 Lease Cancellation	12
8. Modification of Lease Area	12
8.1 Removal of Lands from a Lease	12
8.2 Additions to a Lease	13
9. Activities on Lease.....	13
9.1 Permitted Uses	13
9.2 Additional Permitted Uses.....	13
9.3 Additional Requirements.....	13
9.4 Extended Commercial Activities.....	13
10. Site Inspections	14
11. Annual Rent Rate and Value-added Incentive	14
11.1 Basic Annual Rent Rate	14
11.2 Annual Rent Increase	14
11.3 Application for Basic Annual Rent Rate	14
11.4 Application Deadline	14
12. Scope and Application	15
13. Authority.....	15
14. Inquiries.....	15

1.0 Purpose

The purpose of this policy is to:

- set criteria for the expansion of the maple sugary lease program;
 - set criteria for the evaluation of proposals to lease Crown Lands for maple sugaries;
 - set the terms and conditions under which Crown Lands will be leased for maple sugaries; and
 - establish a value-added incentive program for existing leases.
-

2.0 General Policy Statement

It is the policy of the Department of Natural Resources that suitable Crown Lands may be leased for the commercial production of maple products.

3.0 Background

3.1 NB Maple Industry

The New Brunswick maple industry:

- consists of 311 producers producing 3.8 million lbs from 1.9 million taps,
- provides 285 seasonal jobs (12 weeks) or 66 annual full time jobs, and
- has \$8.5 million in total annual sales

The industry is in a transitional phase and is moving toward more value-added production. It is also trying to build a stronger provincial association.

3.2 Maple Sugaries on CL

Thirty-five percent of the producers operate on Crown Lands and they hold 80% of the land under production.

There are 148 active maple sugary leases on Crown Lands divided amongst 102 lessees. This represents approximately 7,340 ha of Crown Land or 62% of all Crown Lands under lease.

Lease sizes vary from 0.4 ha to 515 ha, with an average of 72 ha.

3.3 Moratorium In July 2000, the Department introduced a moratorium on the expansion of existing and the establishment of new maple sugary leases on Crown Lands. This was done because of concerns that:

- those using maple trees for saw logs might be facing a shortage of supply;
 - a large percentage of maple sugary production on Crown Lands was being exported in bulk without the economic benefits of value-added, while those using the same resource for saw logs were obliged to carry out value-added; and
 - some Crown Timber Licensees were being disproportionately affected by withdrawals of land for maple sugary production.
-

4.0 Objectives

The objectives of this policy are to:

- expand the maple sugary program by allocating up to an additional 2,000 ha of Crown Lands toward maple production over the next five years;
 - have full value-added production on all new maple sugary leases and new maple sugary expansions; and
 - encourage existing maple sugary operators on Crown Lands to increase their value-added production and maximize employment and economic spin-offs from their operations.
-

5.0 Definitions

dbh	Diameter breast height, which is the diameter of a tree measured at breast height (generally 1.3 m above ground).
Cutting Permit	Wood cutting permit (commonly known as an X-permit) issued by a Regional Director under policy TM-002.
Existing Leases	For the purpose of this policy, all active leases and all leases in the process of being finalized at the time this policy was approved (March 12, 2003), are considered existing leases.

**Value-Added
Maple**

For the purpose of this policy value-added maple is defined as:

- maple syrup sold in containers smaller than five litres;
- products made from further processing the syrup into items such as: maple cream, maple butter, maple sugar or maple candies; and
- any other food using maple product as an ingredient.

Value-added maple can be obtained by processing the sap on site or by shipping it to a New Brunswick processing plant that does not ship any non value-added maple product out of the Province.

6.0 Expansion of Leasing Program

**6.1 Allocation
of Land**

Over the next five years, up to 2,000 additional ha of Crown Lands may be allocated toward maple sugary production.

Crown Lands may be allocated approximately as follows:

Table 1: Approximate Allocation of Lands for Maple Sugary Production

Crown Timber License	Total Allowable Allocation
1	340 ha
2	160 ha
7	125 ha
8	125 ha
9	750 ha
10	500 ha

**6.2 Requests
for Proposals**

The land will be allocated through a Request for Proposal (RFP) process. An RFP may be issued up to once a year and will be issued at least once every two years until all the lands are allocated.

Proposals will be evaluated in accordance with the evaluation criteria of table 2. The proponents who submit the best proposals and meet all minimal requirements may be allocated a lease if land requirements do not exceed total allowable allocation as per table 1.

Lands withdrawn from an existing lease and lands from cancelled leases will be made available for allocation at an RFP held after the withdrawal or cancellation. These lands will be in addition to the 2,000 ha stipulated in Section 6.1.

Table 2: Evaluation Criteria Sheet

File No:		Points					Score	
Applicant's Name :		1	2	3	4	5		
Criteria	Comments	Minimal Requirements ¹						
1. Value-Added	Undertakes to transform all sap into value-added products	Yes	No				/ 1	
2. Capital Investment	Demonstrates capital investment secured to cover all development costs	Yes	No				/ 1	
3. Leasing History	Demonstration that any breaches to terms and conditions of a lease or license on Crown Lands are rectified in a timely manner and that there have not been repeated breaches within a two year period.	Yes	No				/ 1	
4. Markets Demonstrated	Proportion of potential production for which there is a demonstrated market	50 %		51% to 64%	65% to 77%	78% to 90%	> 90%	/ 5
5. Suitability of Site for Maple Production	Number of taps per ha (To be provided by an RPF or certified technician.)	150 taps/ha		151 to 184 taps/ha	185 to 217 taps/ha	218 to 250 taps/ha	>250 taps/ha	/ 5
6. Work Created	New or additional employment created over and above what they had in the previous season	12 person weeks		12 to 25 person weeks	26 to 38 person weeks	39 to 50 person weeks	> 50 person weeks	/ 5
7. Demonstrated Successful Business ²				ROI & ROE < 2%	ROI & ROE 2% to 6%	ROI & ROE 7% to 10%	ROI & ROE > 10%	/ 5
8. Industry Knowledge	Years of experience and or related education			< 2 yr.	2 to 5 yr.	6 to 10 yr.	> 10 yr.	/ 5
9. Production Facility	Extent of processing facilities on private land			All on Crown	Mostly on Crown	Mostly on Private	All on Private	/ 5
							Final Score:	/ 33

¹ The applicant must meet **every** minimal requirement to be considered.

² The financial statements must be included in the application.

6.3 Site Criteria To qualify for a maple sugary lease, the proposed area on Crown must be able to sustain a minimum of 150 taps per hectare and contain at least 1,000 taps in total.

In estimating tap potential, the following requirements must be respected:

- trees with a dbh of 23 cm or less cannot be tapped;
- trees with a dbh between 23 cm and 35 cm can sustain one tap hole;
- trees with a dbh between 35 cm and 45 cm can sustain two tap holes; and
- trees with a dbh greater than 45 cm can sustain three tap holes.

Proponents must provide the average number of taps per hectare with the location of points where tap count was estimated and the number of taps per hectare estimated for each point.

A registered professional forester (RPF) or a certified forest technician must prepare this information.

6.4 Value-Added for a New Lessee Holders of new leases will have to show that all sap collected will be transformed into value-added product.

6.5 Value-Added for existing lessees applying for additional land Existing lessees will have to show that a portion of their gross sales, proportionate to the area of the additional land for which they apply, will be derived from value-added product.

This will be calculated as follows:³

$$\frac{\text{Additional leased area}}{\text{Total leased area}} \times \text{Total gross sales} = \text{Minimum gross sales to be derived from value-added products}$$

6.6 Site Development Plan The proponent must submit, for approval, a description of the proposed facilities in the form of a Site Development Plan.

³ For example if a lessee holding a 50 ha lease obtains a 30 ha expansion, for a total of 80 ha, 37.5% of his or her gross sales will have to be derived from value-added products.

6.7 Business Plan

The proponent must provide a Business Plan which:

- includes all the information requested in Table 2;
 - provides complete financial information on cost estimates and funding requirements for the proposed plan; and
 - demonstrates that capital required to develop the site is secured, e.g. letter of credit from a bank.
-

7.0 Requirements of Lessee

7.1 Leasing Regulation

The lessee will have to abide by all the requirements of Regulation 89-32, *Leasing Regulation - Crown Lands and Forests Act*

7.2 Value-Added Requirement

The lessees of all new leases issued after March 12, 2003 will have to process all sap collected into value-added product.

7.3 Value-Added Requirement for Lease Expansion

Current lessees who obtain a lease expansion under this policy will have to derive a proportionate share of their gross sales from value-added product.

This will be calculated as described in sub-section 6.5.

7.4 Security Deposit

The lessee must provide a security deposit for the period that the maple sugary lease is under development.

The amount of the security deposit will be calculated as followed:

$$\begin{array}{l} \text{Total no. of ha} \\ \text{of the lease} \end{array} \times \$100/\text{ha} = \text{Amount of the security deposit}$$

The security deposit can be in the form of:

- a cash deposit,
- a savings bond,
- an irrevocable letter of credit from an approved Canadian Chartered Bank.

If the security is in the form of a cash deposit or a savings bond, the money may be put toward payment of the lease fee once the lease has been fully developed.

7.5 Liability Insurance

The lessee must obtain third party liability insurance in the amount of \$2,000,000.00.

Her Majesty the Crown in Right of the Province of New Brunswick must be named as an “additional-insured” in the policy.

A copy of the policy must be forwarded to the Department and a certificate of insurance must be provided every year.

7.6 Storage of Petroleum Products

The lessee will have to abide with the *Interim Policy on the Storage of Petroleum Products on Crown Lands*.

7.7 Survey Requirements

A survey will be required:

- any time there is an addition or a withdrawal of land from a lease
- for all new leases
- for all leases renewed after March 31, 2009
- for leases renewed before March 31, 2009 if the boundaries of the lease:
 - have been changed;
 - are no longer visible on the ground; or
 - if it is unclear as to what are the boundaries

The lessee will be responsible for the survey of the leased area.

The survey must:

- be completed by a New Brunswick Land Surveyor;
- be approved and recorded by the Crown Lands Branch

The survey must:

- be in compliance with land subdivision requirements of the *Community Planning Act* unless it is exempted; and
- approved for registration by a Development Officer.

The lessee must maintain the boundary lines without destroying survey evidence.

7.8 Registration of Lease New Leases, changes in the boundaries of leases and all lease renewals after March 1, 2009 will not take effect until they have been registered at Service New Brunswick.

The lessee will be responsible for:

- obtaining the necessary approval or exemption from the appropriate development officer for the registration;
- registering the lease; and
- forwarding a copy of the registration details to DNR within three weeks.

If the Crown Land is in the Land Titles System, the lessee will have to register the lease in the Land Titles System.

Where the lessee desires to enter into an undertaking that requires the transfer of the leased lands from the Land Registry System to the Land Titles System, the lessee will be responsible for arranging the transfer and bear all associated costs.

7.9 Site Development Plan

The lessee must develop and manage the site according to the approved Site Development Plan.

At least 20% of the approved Site Development Plan must be carried out every year until the site is fully developed.

Until the maple sugary lease is fully developed, the lessee will have to provide a written summary report of the work done during the year. This should be submitted at the same time as the production report requested in sub-section 7.11.

A site development plan is part and parcel of a lease, even after the site is fully developed.

The site development plan has to be amended and re-approved by DNR any time the lease area is modified or before any major works, other than the works approved in the original Site Development Plan, are undertaken on the site.

7.10 Harvesting of Wood

Before any trees are harvested from the site, the lessee must obtain a cutting permit.

The requirements of policy TM-002, *Issuing of Permits Under Section 56 of the Crown Lands and Forests Act*, must be met.

The lessee shall keep all royalty accounts current (net 30 days).

7.11 Production Report The lessee will have to provide a production report every year.

This production report must:

- show the total gross sales, AND
- show the gross sales derived from value added products.

The lessee will have to provide a copy of his or her financial statement:

- the first year of a new lease;
- the first year of a lease renewal for leases originally issued after March 31, 2003;
- the first time a lessee wishes to qualify for the value-added incentive as mentioned in Section 11;
- the first year of a lease renewal where the lessee wishes to continue qualifying for the value-added incentive mentioned in Section 10; and
- thereafter, upon request from the Department.

The lessee must keep adequate financial records and make them available for auditing purposes when requested.

7.12 Sap Collection

The diameter of tap-holes shall not exceed 8 mm (19/64”) and tapping shall be done by drill. This restriction applies to all new leases and to all leases renewed after March 1, 2009.

All spiles used in the collection of the sap shall be removed from the trees at the end of each tapping season and no later than June 1 of each year.

The use of the paraformaldehyde pill or any other chemical agent to improve or support sap flow is prohibited.

For sap collection purposes or for line support purposes, materials must be affixed so as not to be engulfed by the annual growth of trees and so as not to interfere with the health, economic value, or safe use of wood to be harvested in the future.

No nails or other similar deleterious materials are to be affixed to any tree within the lease.

7.13 Use of Pesticides

All use of pesticides must comply with the *Provincial Pesticides Control Act*.

7.14 Watercourse Alteration Permit

If a watercourse is present on a lease, the lessee must obtain a Watercourse Alteration Permit from the Department of Environment and Local Government to conduct any work within 75 m of the watercourse where the lease is located within a municipal supply watershed, and within 30 m elsewhere.

7.15 Building Permit

The lessee will have to obtain a building permit from the proper planning authority before constructing any building on the lease.

7.16 No Transfer of Vacant Sites

A lease cannot be transferred if:

- no structures have been placed on the site; or
- very little development has been completed (less than five percent); or
- where former structures have been removed as to leave the site vacant or nearly vacant.

The lessee has the option to cancel the lease..

7.17 Transfer of Lease

A lease, where the site development has been started, but not completed, may be transferred only if the transferee undertakes to complete the development in accordance with the Site Development Plan and the terms and conditions of the lease.

7.18 Lease Cancellation

Failure to abide by any of the requirements of this policy may lead to lease cancellation.

Failure to abide by any applicable Acts and/or Regulations may lead to lease cancellation.

8.0 Modification of Leased Area

8.1 Removal of Land from a Lease

Land may be removed from a lease at the request of the lessee.

A survey plan will be required to show the new boundaries of the lands remaining in the lease as per sub-section 7.7.

The lease and the site development plan will have to be amended to reflect the change in the leased area.

8.2 Additions to a Lease Except for minor modifications, lands can be added to a lease only via the RFP process.

Minor modifications, up to 1 ha in area, may be made to an existing lease to accommodate operational requirements.⁴

A survey plan will be required to show the new boundaries of the leased area as per sub-section 7.7.

The lease and the site development plan will have to be amended to reflect the change in the leased area.

9.0 Activities on Lease

9.1 Permitted Uses A lease authorizes the lessee to:

- collect sap,
- transform sap, and
- sell maple products.

9.2 Additional Permitted Uses The following activities may be permitted during the tapping season:

- public tours of the facilities,
- food serving up to 25 clients at a time, or
- other activities related to a maple sugary operation.

9.3 Additional Requirements When additional activities are permitted in accordance with s. 9.2 on the lease, the lease will be subject to the following:

- a modified Site Development Plan showing:
 - the location of all facilities,
 - the traffic pattern, and
 - the parking space;
- the requirements of the *Health Act*, and
- any other requirements that the Department deems necessary.

9.4 Extended Commercial Activities If the lessee wants to conduct activities permitted in section 9.2 for a period of time lasting longer than the tapping season or conduct non-maple sugary-related activities, the lessee will have to obtain the appropriate lease and be subject to all the terms and condition of that lease.

⁴ Adding a small piece of land to the lease to install a pumping station or to install other infrastructure required for the collection or transformation of sap constitute an addition for operational requirements. Adding a small piece of land to the lease to tap more trees does not constitute an addition for operational requirements.

10.0 Site Inspections

All new maple sugary leases and lease expansions will be inspected by DNR staff at least once a year until full development is achieved.

Maple sugary leases, which are fully developed, will be inspected at least once every five years.

11.0 Annual Rent Rate and Value-added Incentive

11.1 Basic Annual Rent Rate

The basic annual rent, currently at \$21/ha applies to:

- all new leases and lease expansions; and
 - all existing leases that derive 50% or more of their gross sales from value-added products.
-

11.2 Annual Rent Increase

Existing leases which do not derive 50% or more of their gross sales from value-added products will be subject to the annual rent increase as established in Subsection 5(1.4) of Regulation 89-32, *Leasing Regulation – Crown Lands and Forests Act*.

11.3 Application for Basic Annual Rent Rate

To be exempt from the annual rent increase, the lessee will have to submit an application every year.

The application must be accompanied by a production report as requested in section 7.11.

The lessee must keep adequate financial records and make them available for auditing purposes if required by the Department.

11.4 Application Deadline

Completed applications must be submitted no later than January 31 preceding the fiscal year for which the lessee wishes to receive the reduced rate.

12.0 Scope and Application

This policy applies to all:

- new maple sugary leases;
 - expansions of existing leases; and
 - existing maple sugary leases upon renewals except as otherwise indicated in the policy.
-

13.0 Authority

- [Section 24, Crown Lands and Forests Act](#)
 - [Regulation 89-32, Leasing Regulation -Crown Lands and Forests Act](#)
-

14.0 Inquiries

14.1 Written Inquiries

Inquiries concerning this policy may be made in writing to:
Director of Crown Lands Branch
or Manager of the Upland and Coastal Planning Section
Department of Natural Resources
P.O. Box 6000
Fredericton NB E3B 5H1

14.2 Phone Inquiries

Inquiries may be made by phone by calling the Land Use Application Service Centre at 1-888-312-5600.
