

**SUBJECT: Crown Peat Policy**



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**Approval: Tom MacFarlane, Deputy Minister, Natural Resources and Energy Development**

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# 1.0 Policy

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## 1.1 Policy Statement

- Purpose** It is the policy of the Department of Natural Resources and Energy Development (DNRED) to maximize the benefits of using peat, a non-renewable resource, by promoting increased processing in the Province of New Brunswick and by addressing the issue of post-extraction site reclamation.
- Duty to Consult** Section 35 of the *Constitution Act, 1982* recognizes and affirms the existing Aboriginal and treaty rights in Canada. The Crown, as represented by the Government of New Brunswick and thus DNRED, respects its constitutional obligation to ensure that Aboriginal people are adequately consulted about matters that may adversely affect established or asserted Aboriginal or treaty rights.
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## 1.2 Background

**Peatlands, peat resources and the peat industry** Peatlands cover about two per cent (2%) or 140,000 hectares of the total land mass of New Brunswick. The peat extracted in New Brunswick that comes from Crown lands is regulated in accordance with the *Quarriable Substances Act* and its *General Regulation*.

The Province of New Brunswick is the leading producer of peat in Canada and plays an important role internationally. The peat extraction industry is a major contributor to the economy of eastern and northeastern New Brunswick. In 2022, the sector employed 1,468 persons (785 full-time and 683 part-time employees). The production of peat, including the cost of packaging, was valued at over \$190 million for 2022.

There is a finite and limited supply of commercial grade peat in New Brunswick and careful management of the resource base is necessary to sustain the industry over the long term. There are currently 55 Peat Leases in New Brunswick, 40 of which are in production. Private operations are also important contributors to the Province’s overall peat production with an additional 16 operations on private lands. Beginning in 1988, the Peat Lease process gradually became more structured. Internal consultations formed an important part of the preliminary evaluation of project proposals and mechanisms were developed to ensure a coordinated approach between DNRED and the Department of Environment and Local Government (DELG). More careful evaluation of the potential environmental impacts of peat extraction activities requires that applicants conduct baseline field studies in support of their lease applications. Peat Leases situated on Crown lands are under the administration and control of DNRED.

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## 1.3 Policy Objectives

The objectives of this policy are:

- To ensure that the resource contributes to the long-term economic development objectives of the Province by stimulating the development of secondary processing and employment at peat operations;
- To ensure that peatlands used for the extraction of peat are, upon cessation of activities, either restored to a natural wetland habitat or an alternate economic use if the basic wetland function is preserved (e.g., sphagnum farming); and
- To collect sufficient financial security during the active life of the peat extraction operation to guarantee site reclamation when operations cease.

In addition:

- DNRED will assess applications, under the guidance of the Department of Aboriginal Affairs, for leasing and licensing of Crown lands in accordance with the Government of New Brunswick Duty to Consult process and any other applicable legislation. If the development requires DNRED to engage any Aboriginal Nations in consultations, applicants may be required to participate in an effort to mitigate or accommodate any impacts to Aboriginal and treaty rights; and
  - Any information, including personal and confidential information, collected and used by DNRED in accordance with the *Right to Information and Protection of Privacy Act* and other applicable legislation.
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## 1.4 Definitions

**Base capacity:** For the purpose of applying this policy, base capacity is defined as the commercial volume of ordinary peat produced in 2001 from area held under a Peat Lease.

**Commercial peatland area:** A peatland area with a peat thickness greater than one metre.

**F.O.B.:** Free On Board is a term used in shipping to indicate who is responsible for paying transportation charges. The value of goods measured free on board includes all production and other costs incurred up until the moment that goods are placed on board a carrier for export. It excludes international insurance and transport costs.

**New entrants:** Individuals or companies not connected with individuals or companies that are currently extracting peat from Crown lands in New Brunswick.

**Non-renewable resource:** Following peat extraction, peatlands can be restored through active peatland restoration. Peatland ecosystem functions, including carbon accumulation, can be returned between 10-20 years following restoration. While peat begins to accumulate in restored peatlands, due to the slow rate of accumulation (generally between 0.5 to 1 millimetres/year), peat accumulation to pre-extraction depths requires centuries to millennia. Peat is, therefore, considered a non-renewable resource.

**Peatland:** An area with or without vegetation with a naturally accumulated peat layer of at least 40 centimetres at the surface.

**Peatland area:** The total Crown land area on a specific peatland as determined from the Peatland Inventory database (Keys and Henderson, 1988).

**Reclamation:** A series of actions that includes the stabilization of the soil surface, assurance of public safety, aesthetic improvement, and usually a return of the land to what, within the regional context, is considered to be a useful purpose following degradation, disturbance or destruction of a landscape.

**Restoration:** The process of assisting the recovery of an ecosystem that has been degraded or disturbed back to its pre-disturbance state. Restoration is the preferred reclamation method for extracted peatlands.

**Wetland:** Land that has the water table at, near, or above the land's surface, or which is saturated for a long enough period to promote wetland or aquatic processes as indicated by hydric soils, hydrophytic vegetation, and various kinds of biological activities adapted to the wet environment.

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## 2.0 Scope and Application

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### 2.1 Application

This policy applies to all peatlands located on Crown lands under the administration and control of DNRED.

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### 2.2 Authority

- *Quarriable Substances Act*, and the *General Regulation – Quarriable Substances Act*
  - *Crown Lands and Forests Act*, and the *Lands Administration Regulation – Crown Lands and Forests Act*
  - *Environmental Impact Assessment Regulation – Clean Environment Act*
  - *Watercourse and Wetland Alteration Regulation – Clean Water Act*
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## 3.0 Allocation of Rights to Crown Peat

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### 3.1 Introduction

**Competitive process**

The acquisition of rights to extract peat on Crown lands is subject to a competitive process administered by the Resource Development Branch of DNRED. Crown peatlands of less than 40 hectares in area may be excluded from this tender process due to the smaller scale and low likelihood of significant investment in production infrastructure.

Companies or individuals may at any time express their interest in the commercial development of a specific peatland area by completing the Peat Exploration Licence form available at any DNRED office. Upon receipt of an application, the Minister may initiate a call for tenders.

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## 3.2 Call for Tenders

<b>Call for Tenders</b>	When the Minister intends to proceed with a notice of a call for tenders, a formal public announcement is made in the <i>Royal Gazette</i> and any other such publication as the Minister considers appropriate, inviting companies or individuals to submit a development proposal. Companies or individuals already possessing an active Peat Exploration Licence are not eligible to acquire an additional Peat Exploration Licence.
<b>Selection of a peatland area</b>	At the discretion of the Minister, a proposed peatland area may consist of: <ul style="list-style-type: none"><li>• A specific peatland; or</li><li>• An unspecified peatland area consisting of a maximum of approximately 250 hectares of commercial peatland area. That area may include a grouping of two or more adjacent peatlands. A grouping that consists of two or more geographically separated peatlands may be allowed but it shall not lead to the splitting of a group of connected commercial peatlands.</li></ul>

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## 3.3 Evaluation of proposals

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<b>Evaluation committee</b>	<ul style="list-style-type: none"><li>• A four-member interdepartmental committee, consisting of DNRED's Peat Resource Specialist, Tenure Coordinator and the Manager of Resource Tenure, and Opportunities New Brunswick's Director of Strategic Accounts evaluate the proposals.</li><li>• The committee is chaired by DNRED.</li></ul>
<b>Selection criteria</b>	Proposals are examined according to the following criteria: <ol style="list-style-type: none"><li><b>1. Primary considerations:</b><ul style="list-style-type: none"><li>• Economic benefits to the province: value-added production, capital investment and employment</li><li>• Replacement of lost base capacity on Crown lands to maintain current level of activity and employment.</li></ul></li><li><b>2. Additional considerations:</b><ul style="list-style-type: none"><li>• Applicant's past performance, and initial general and environmental risk assessment.</li><li>• General business information and financial performance.</li></ul></li><li><b>3. New entrants:</b><ul style="list-style-type: none"><li>• New entrants are required to process in the province 100 per cent of the peat extracted into value-added peat.</li></ul></li><li><b>4. Condition for expansion:</b><ul style="list-style-type: none"><li>• Any increase in production beyond original base capacity must be directed to value-added products only.</li></ul></li></ol>
<b>Final decision</b>	After evaluating the proposals, the committee forwards its recommendations to the Minister of Natural Resources and Energy Development. The Minister reserves the right to reject any or all proposals. Acceptance of a proposal results in the issuance of a Peat Exploration Licence.

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### 3.4 Peat Exploration Licence

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- Introduction**
    - A Peat Exploration Licence gives the holder the exclusive right to apply for a Peat Lease for a specific peatland area.
    - Only one licence may be held at any one time by a company or an individual.
  - Terms and conditions**
    - The application fee for a Peat Exploration Licence is \$100.
    - The term of the Peat Exploration Licence is two years with the provision for two additional two-year terms.
    - Should a Peatland Exploration Licence expire, and the applicant has not submitted a Peat Lease application in the form of a feasibility study report as required under the *Quarriable Substances Act*, the application process is terminated.
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### 3.5 Peat Lease

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- Introduction**
    - A Peat Lease is required to extract peat from Crown lands.
    - Only one Peat Lease may be issued on any specific peatland.
  - Terms and conditions**
    - A Peat Lease is issued for a term not exceeding ten years.
    - The Minister may renew a Peat Lease and upon renewal, add or delete terms and conditions.
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### 4.0 Adding Value to Peat

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- What is value-added peat?**

Value-added is defined as any process, activity or technology that adds a significant amount to the existing value of a primary product. Peat that is not value-added is considered ordinary peat. A value-added process, activity or technology does not necessarily increase overall employment in industrial operations but given increased processing capabilities, resource industries may be more stable and viable, and less susceptible to commodity price fluctuations.
- Base capacity for ordinary peat**

In New Brunswick, any future increase in base capacity production on Crown peatlands shall be exclusively through value-added activities. Production proposed under new Peat Lease applications will be considered in relation to ordinary production. Where proposed production from new Peat Leases are expected to increase ordinary production of peat from New Brunswick Crown lands beyond base capacity, value-added production will be required.
- Defining value-added peat**

With respect to the peat extraction industry, definitions of *value-added* will apply as follows:

  - Screened and packaged material consisting of 100 per cent peat will be considered value-added if the product is made in New Brunswick and sold for a plant F.O.B. price that is at least twice the base price of an equivalent volume of ordinary peat; and

- Manufactured peat and peat-based products are considered value-added if they are made in New Brunswick and sold for a plant F.O.B. price that is at least twice the price of an equivalent volume of ordinary peat.

**Calculating the price of ordinary peat**

The ordinary price of peat is calculated using the average peat production value of the two most recent years for which information is available for New Brunswick Mineral Statistics, as published by Statistics Canada. The formula for determining the price of peat for a given year can be found in subsection 25(3) of the *General Regulation* under the *Quarriable Substances Act*.

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## 5.0 Feeder Operations

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**Definition**

Feeder operations are defined as small operations producing peat from peatlands of less than 40 hectares in total surface area. These operations typically sell bulk peat to major operators who process, bale and market the final product.

**Application Requirements for feeder operations**

An application for a small-scale peat-only development on Crown lands may be given consideration under the following conditions:

- A firm long-term contractual agreement, of at least five years, must be established with one or more commercial operators located in New Brunswick that can guarantee a minimum price for the peat and a minimum annual volume purchase.
  - A business plan must be submitted for approval and it must demonstrate conclusively that the project is viable.
  - The development proposal is subject to the same evaluation criteria that apply to commercial peat operations, including the necessity to undertake site reclamation work after cessation of extraction activities. In addition, feeder operations are subject to all the authorities listed in Section 2.2 of this policy.
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## 6.0 Reclamation of Peat Extraction Operations

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### 6.1 Introduction

**Reclamation plan**

All Peat Lessees shall have a reclamation plan approved by the Minister of Natural Resources and Energy Development for all Crown lands within the lease boundaries. All reclamation plans shall be developed to ensure that peatlands that have been used for peat extraction are, upon cessation of activities, reclaimed to a natural wetland habitat to the greatest extent possible. Restoration is the preferred method of reclamation, but alternative land uses will be considered, provided the basic wetland function of the peatland is preserved.

**Reclamation security**

As part of the approved reclamation plan, each lessee shall post with the Minister a reclamation security. The intent of the reclamation security is to

ensure that reclamation activity is carried out in accordance with an approved reclamation plan.

In situations where the lessee is unable to meet the reclamation commitment, the reclamation security shall be used by the Minister to complete any unfinished reclamation obligation.

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## 6.2 Administrative Process

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### Reclamation plan

The holder of a Peat Lease shall have on file with DNRED an approved reclamation plan that includes:

- An operational map showing the current development plan.
- A detailed map showing reclamation plans, including which areas will be restored to peat-accumulating wetlands as well as areas where other plant communities or natural features will be constructed where peat-accumulating wetland restoration is not possible.
- A report describing the proposed reclamation activities, associated costs and any potential environmental impacts of these activities.

The guiding principle is that upon completion of the reclamation plan, the site shall be: safe for the public and for wildlife; vegetated and physically stable; and non-polluting of the ambient air, water and land. Guidelines for the preparation of a reclamation plan are available at any DNRED District or Regional Office, upon request to the Resource Development Branch.

### Periodic reviews

- The peat lessee is responsible for conducting periodic reviews and/or updates of their reclamation plan to ensure that it reflects any changes in their operation.
  - The reclamation plan is reviewed at the time of renewing the lease and as required by the Minister.
  - At any time, a peat lessee may submit an updated reclamation plan for review or request a reassessment of reclamation security obligations.
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## 6.3 Reclamation Security

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### Introduction

A reclamation security is required for each individual Peat Lease. At any time, cash security held will only be equivalent to the cost of reclaiming a peatland area that is in production or that is abandoned but not restored.

### Using the security

The Minister may make a claim on the reclamation security or require that all or part of the security be used to reclaim all or part of the extraction site, when:

- Compliance with the approved reclamation plan has not occurred;
- All or part of an extraction site has been permanently closed without obtaining an approval from the Minister;
- All or part of an extraction site has been abandoned; or
- The lessee becomes insolvent.



**Forms of reclamation security**

The reclamation security shall be in the form of a deposit of money, a negotiable bond signed over to the Province, an irrevocable documentary credit or letter of credit from a bank or other lending institution acceptable to the Minister which is negotiable only by the Minister, or any other form acceptable to the Minister.

- For companies that provide deposits of money, the required security may be paid in staged instalments over a portion of the lifetime of the operation as described in Section 6.4 below, and interest will be paid by the Province.
- For any other method of providing security, the full security amount shall be provided at once and no interest will be paid.

**Reimbursing the security**

At any time during the time a Peat Lease is active and prior to its termination, a lessee may access part of the funds held in security to conduct approved reclamation work:

- Half of the amount held per hectare is paid upon completing the approved work.
- The remaining half is paid after reclamation has been completed per approved criteria.

**Release from reclamation obligations**

To ensure that reclamation activities are successful a minimum waiting period of five years shall follow an approved reclamation activity before a lessee may be released of his or her obligations.

After the five-year waiting period and before the lessee is released from his or her obligation to reclaim a former peat extraction site, the lessee shall provide to the Minister, the following information in writing:

- An analysis and evaluation by an independent DNRED accredited consultant of monitoring data from the reclamation program and personal field observations indicating compliance with requirements established in the approved reclamation plan.
- A list and assessment of any remaining environmental liabilities.

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## 6.4 Specific Cases

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**Rationale**

Different categories for collecting security are applied to account for the stage of the operation when security requirements began. DNRED began collecting security in 2005, thus operations already in production were issued a DNRED grant to cover some security requirements ensuring adequate security for reclamation would be collected over the remaining lifetime of the operation.

**Category 1: Permanently closed operations**

For Peat Leases that permanently ceased operation before December 31, 2005:

- No additional security is required.
- Lessees are required to provide annual proof that scheduled reclamation activities have taken place per the approved reclamation plan.
- DNRED contributes a grant of \$250 per hectare of Crown peatland formerly under operation. Half of that amount is paid upon completing the approved reclamation work; the other half being paid after reclamation has been achieved per criteria.

**Category 2:  
Operations  
active in 2002**

For Peat Leases that were in operation in 2002:

- The security is based on \$750 per hectare of disturbed Crown peatland area.
- DNRED contributes a grant of \$250 per hectare of Crown peatland under operation. Half of that amount is paid upon completing the approved reclamation work; the other half being paid after reclamation has been achieved per specified criteria.
- The security is collected over a period equivalent to 75 per cent of the remaining estimated life expectancy of the operation.
- The grant is paid out over a period equivalent to 75 per cent of the remaining estimated life expectancy of the operation.

**Category 3:  
All other  
operations**

For any new Peat Lease and all Leases that were not in operation in 2002:

- The security is based on \$750 per hectare of disturbed peatland area;
  - There is no DNRED grant;
  - Security payments begin five years after peat extraction begins;
  - The security is collected in equal payments over a period of 15 years or over 75 per cent of the remaining estimated life expectancy of the operation, whichever period is the least; and
  - Any remaining security held by DNRED is credited to the appropriate Peat Lease.
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## 7.0 References

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**Sources**

Keys, D. and Henderson, R.E. (1988) *An investigation of the peat resources of New Brunswick*. New Brunswick Department of Natural Resources. Open File Report 83-10. Available at the following Web address:  
<http://dnr-mrn.gnb.ca/ParisWeb/>

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## 8.0 Inquiries

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**Contact  
Information**

Inquiries may be directed to the Peat Resource Specialist, Resource Development Branch, Department of Natural Resources and Energy Development:

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