

New Brunswick Forest Products Commission
ORDER No. 2022-528

Under section 102 of the Natural Products Act, the New Brunswick Forest Products Commission makes the following Order:

1 This order may be cited as the Forest Products Marketing Boards Negotiating Agencies Order – Natural Products Act.

2 In this Order,

“Act” means the Natural Products Act;

“board” means a forest products marketing board referred to in section 3 of this order;

“business day” means a day that typically refers to any day in which normal business operations are conducted excluding weekends and holidays as defined in the Interpretation Act;

“Commission” means the New Brunswick Forest Products Commission established under the Forest Products Act;

“market and marketing” mean buying, selling or offering for sale, and includes financing, assembling, storing, packing, shipping and transporting;

“negotiating agency” means a negotiating agency established under section 4 of this order consisting of one to five members appointed by a forest products marketing board and one to five members appointed by a processor for the purpose of negotiating an agreement;

“operating year” means a period between April 1st of one year and March 31st of the following year;

“person” means a person as defined in section 38 of the Interpretation Act;

“primary forest products” means any unmanufactured product of forest trees of hardwood or softwood species except coniferous trees cut for sale as Christmas trees and products from the sap of maple trees;

“processor” means a person who utilizes primary forest products in a manufacturing process and markets the primary forest products so altered;

“spokesperson” means if a board or a processor appoints a single member to a negotiating agency, that member, and if a board or a processor appoints more than one member to a negotiating agency a member designated by a board or a processor to act as a spokesperson;

PART I – NEGOTIATIONS

3 This order applies to the marketing plan of the forest products marketing boards established under the New Brunswick Forest Products Marketing Plan Regulation – Natural Products Act.

- 4(1) A board or a processor may submit to the Commission the names of a minimum of one and maximum of five persons for their negotiating agency and indicate with whom they wish to enter the formal negotiation process and include the name of which person will be the spokesperson for their party.
- 4(2) The appointment of members of a negotiating agency may be made at any given time during an operating year.
- 4(3) If names of representatives have not been previously filed by a party, the Commission will notify that party of a request to enter formal negotiations, indicating who has made the request.
- 4(4) The responding party will have five business days to submit names to the Commission for their negotiating agency.
- 4(5) Where a board or processor fails to appoint members to a negotiating agency, or where a member of a negotiating agency dies or resigns or for any other reason is unavailable to act, and the vacancy is not filled forthwith resulting in fewer than the minimum number of members on a negotiating agency the Commission may in its discretion make appointments to a negotiating agency to fulfill those requirements.
- 4(6) The Commission will form the negotiating agency between two parties upon receipt of the names of each party and notify them immediately. From the date of notification:
 - (i) The first meeting of a negotiating agency shall be convened within ten days of the date of establishment of the negotiating agency by the Commission and the date of the first meeting shall be filed with the Commission as soon as it has been agreed upon.
 - (ii) If a satisfactory date for negotiations to commence cannot be agreed upon by the parties, the Commission may, in its discretion, set the date and location of the negotiations to commence after consultation with both spokespersons.
 - (iii) From the date of the first meeting of a negotiating agency, negotiations shall be completed within 21 days unless extended by mutual agreement of the two parties and a request for an extension is made to the Commission.
- 4(7) The term of office for a member appointed to a negotiating agency established under subsection (1) is for a term of one operating year but a member's appointment may be terminated at any time by a board or processor that made the appointment if the board or processor forthwith appoints another person to take the place of the person whose appointment is terminated and so advises the Commission in writing and the other party.
- 4(8) Members of a negotiating agency may be reappointed.
- 4(9) In the case of a vacancy on a negotiating agency an appointment to fill the vacancy may be made by the appropriate board or processor but if a vacancy results in a negotiating agency having fewer than the minimum number of members, the appropriate board or processor shall make an appointment to fill the vacancy and negotiations shall continue regardless of such appointments.

- 4(10) A negotiating agency shall expire one year at the end of the operating year (March 31) that the agency was established.
- 4(11) Each negotiating agency established under subsection 4(1) shall negotiate for the purpose of attempting to settle by agreement the following matters:
- (i) minimum prices for primary forest products or for any class, variety, grade or size of primary forest products,
 - (ii) quantity, delivery schedules and dates for delivery of primary forest products,
 - (iii) any charges, costs or expenses relating to the marketing or the production and marketing of primary forest products, and
 - (iv) terms, conditions and forms of agreement relating to the marketing or the production and marketing of primary forest products.
- 4(12) Notwithstanding subsection 4(11) a negotiating agency may agree to limit the matters to be negotiated to some of the matters referred to in subsection 4(11) if they advise the Commission in writing which matters are to be negotiated, forthwith on making such an agreement.
- 4(13) Within five (5) business days of the completion of the negotiations, or if an agreement cannot be reached by the parties by the end of the negotiation period, the parties shall jointly complete a status of negotiations report (Schedule 1) and file with the Commission. If a joint report cannot be agreed upon, a report by each spokesperson is to be filed with the Commission within that time period.

PART II - Conciliation and Arbitration

- 5(1) Where a negotiating agency has not arrived at an agreement respecting any matters that it is empowered to settle by agreement, the Commission may in its discretion appoint and empower a conciliator to endeavor to effect agreement on any and all matters established under section 4(11) referred to the conciliator by the Commission or, at any time during the negotiations, should the parties arrive at an impasse, either party may request that the Commission appoint a conciliator to endeavor to effect agreement on any and all matters established under section 4(11) referred to the conciliator by the Commission.
- 5(2) Where the Commission has appointed a conciliator, the Commission shall provide copies of reports of the negotiations that have been filed with the Commission and, at the discretion of the Commission, any other publicly available information that the conciliator may require.
- 5(3) A conciliator shall submit a report of the matters from 4(11) agreed to, or not, and recommendations concerning the conciliation to the Commission within three weeks of the time of his or her appointment.
- 5(4) Following conciliation, either party may request that the Commission refer the unsettled matters to arbitration.
- 5(5) Upon receipt of the report of the conciliator, the Commission may, in its discretion, refer any of the matters in dispute to arbitration whether or not a request has been made by the parties.

5(6) Arbitration will be pursuant to Regulation 92-114 Arbitration Regulation - Forest Products Act.

5(7) Any agreement made or awarded through conciliation or arbitration shall be filed with the Commission as soon as it is established.

Qualifications of Conciliators and Arbitrators

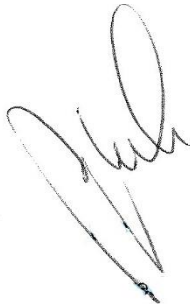
5(8) The qualifications of a conciliator or of an arbitrator appointed by a board, a processor, members of an arbitration board or the Commission, as the case may be, are as follows:

- (i) be a lawyer in good standing with the Law Society of New Brunswick or another jurisdiction in Canada; or be a member or former member of the judiciary in Canada,
- (ii) have an affiliation to/with a professional organization recognized in New Brunswick or any other jurisdiction in Canada, specific to conciliation, mediation and/or arbitration,
- (iii) agree to not give legal advice on any related matter to a party to an arbitration hearing either before or during an arbitration hearing, and
- (iv) possess demonstrable experience in labour – management relations, disciplinary arbitrations, and the writing of arbitration decisions.

6 The Commission may in its discretion abridge or extend any of the times prescribed by this Order.

7 Order No. 2005-189 of the Commission is hereby repealed.

8 This Order comes into effect on the 1st day of May 2022.



Brian Mosher, Chairman



Tim Fox, Secretary/Executive Director

SCHEDULE 1 - Status of Negotiations Report to New Brunswick Forest Products Commission

Please complete italicized sections.

Negotiating Agency:	<i><Marketing Board> & <Processor></i>
Date(s) of Negotiation:	<i><Date(s)></i>
Class / Variety / Grade / Size / Price of Product:	<i><Marketing Board Position></i>
	<i><Processor Position></i>
Status:	<i><Any additional comments that may be relevant to the negotiations></i>
Volume / Delivery Schedule / Dates of Delivery	<i><Marketing Board Position></i>
	<i><Processor Position></i>
Status:	<i><Any additional comments that may be relevant to the negotiations></i>
Charges / Costs / Expenses	<i><Marketing Board Position></i>
	<i><Processor Position></i>
Status:	<i><Any additional comments that may be relevant to the negotiations></i>
Terms / Conditions / Forms of Agreement	<i><Marketing Board Position></i>
	<i><Processor Position></i>
Status:	<i><Any additional comments that may be relevant to the negotiations></i>
General Comments:	<i><Any additional comments that may be relevant to the negotiations></i>
Additional Negotiations Required:	<i><Yes or No></i>
Tentative Date:	<i><Date or N/A></i>
Submitted by:	
Signatures:	<i><Spokesperson – Marketing Board></i>
	<i><Spokesperson – Processor></i>
Date:	<i><Date></i>