

Managing Forests in the Domain of the State
Public Consultations
Fall 2003

Description

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If you need further information ...

Information concerning the public consultations is available on the website of the Ministère des Ressources naturelles, de la Faune et des Parcs at the following address:

www.mrnfp.gouv.qc.ca/forets/consultation

Additional information on the forest system is also available at:

www.mrnfp.gouv.qc.ca/forets/quebec/quebec-regime.jsp

You may also e-mail the Department's representatives at:

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INTRODUCTION

The National Assembly of Québec adopted the *Act to amend the Forest Act and other legislative provisions* on May 22, 2001. One of the fundamental aims of the modifications to the forest system was to promote participation by the civil society in the process of managing the forests of Québec. The *Forest Act*, as amended, stipulates that the population must be consulted on forest management and development orientations. It also states that regional county municipalities (RCMs), Native communities and wildlife area managers must have an opportunity to become involved in the preparation of the general forest management plans (GFMPs) that timber supply and forest management agreement (TSFMA) holders are required to draw up and have approved before carrying out work in the public forests¹.

Much has been done in the period since 2001. For example, the Québec government adopted its Consultation Policy on Québec's Forest Management and Development Orientations on December 18, 2002². The policy sets out the rules governing public consultations on forestry issues. Then, in 2002 and 2003, the public forests were divided into new "management units", which will become the territorial subdivisions for future forest management purposes³. Lastly, a northern limit for commercial timber allocations was established in 2002, so that ongoing forest management activities can be avoided in some of the more fragile Northern environments.

All these elements were submitted for public consultation to the regions, the Native communities concerned and approximately forty national associations and agencies. Consultation reports were published in all cases, and are available for reference on the website of the Ministère des Ressources naturelles, de la Faune et des Parcs⁴.

Other work is still in progress. For example, objectives are currently being established for the management units, in order to protect the forests and ensure that all forest resources can be developed.

¹ Schedule B contains additional information on the GFMP preparation process.

² The Policy will be referred to throughout this document as the "Consultation Policy". Schedule C contains a summary of its provisions. The full text is available for reference purposes on the website of the Ministère des Ressources naturelles, de la Faune et des Parcs at: www.mrmfp.gouv.qc.ca/forets/consultation/consultation-gestion.jsp.

³ Some public forests are located outside the management units, and are known as forest reserves. Most of the reserves are situated within the boundaries of local municipalities.

⁴ All references to the Ministère des Ressources naturelles, de la Faune et des Parcs should also be construed, where the context so indicates, as references to the Ministère des Ressources naturelles as it existed prior to April 29, 2003. The documents mentioned here are available for consultation at: www.mrmfp.gouv.qc.ca/forets/consultation.

Forest Resource Protection and Development Objectives

The objectives proposed by the Department are set out in the consultation document entitled ***Proposed Forest Resource Protection and Development Objectives for the 2005-2010 General Forest Management Plans***. The general public, Native communities and agencies or associations with an interest in forest protection and development are invited to take part in a series of public consultations to be held in the fall of 2003, during which they will have an opportunity to comment on the Department's proposals and suggest whether other objectives should be considered when the GFMPs are prepared.

The Department has also established a number of indicators that it will use to assess the forest management, environmental and industrial performance of TSFMA holders⁵ during the 2005 agreement extension process. The Act states that the performance of agreement holders must be considered when reviewing timber allocations.

The 2005 Review of Forest Management, Environmental and Industrial Performance

The indicators and methods that will be used in 2005 to assess the performance of agreement holders are set out in the information document entitled ***Forest Management, Environmental and Industrial Performance. 2005 Evaluation of Timber Supply and Forest Management Agreement Holders and Forest Management Agreement Holders***. They reflect the rules in force during the period 1999-2005, and were not submitted for public consultation because the period in question was already underway when they were selected. However, consultations will be held in respect of the methods and indicators to be used for the period 2005-2010. Among other things, the new indicators will measure the extent to which the resource protection and development objectives established for each management unit have been attained.

This document describes how the new management unit delimitations, forest protection and development objectives, the GFMP preparation process and the performance evaluation process are connected, and places them in context. It also identifies the appropriate provisions of the forest system and briefly describes the underlying forest management issues.

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⁵ Except where otherwise stipulated, the term "TSFMA holders" also refers to forest management agreement (FMA) holders. Schedule A explains the forest management agreement, which was introduced in 2001 by the *Act to amend the Forest Act and various legislative provisions*.

1. THE CONTEXT

Under the terms of the *Forest Act*, the Minister of Natural Resources, Wildlife and Parks is required to establish forest management units. The units, which will replace the present common areas, will be used as the territorial subdivisions for planning forest management activities, calculating allowable annual cuts and establishing forest protection and development objectives for the post-2005 period. The extent to which these objectives have been attained will be measured every five years, and will be considered during the evaluation of the overall forest management and environmental performance of TSFMA holders.

The Timber Supply and Forest Management Agreement (TSFMA)

A TSFMA authorizes the holder of a wood processing plant operating permit to harvest, each year, in one or more forest management units, a volume of timber of one or more species (fir, spruce, etc.) to supply its mill. The volume in question is established on the basis of the allowable annual cut, the mill's supply requirements and the possibility of obtaining supplies from other sources (e.g. private forests, chips or recycled materials).

In exchange for the timber obtained, the TSFMA holder undertakes, among other things, to prepare a GFMP containing a five-year program of activities, to draw up annual forest management plans (AFMPs), to comply with forest protection standards, and to monitor forest operations in order to ensure that they are sufficient to attain the annual forest yields and the protection and development objectives established for the management units in which the timber is cut.

A TSFMA covers a period of twenty-five years. It is extended every five years for an additional five-year period if the holder has met its obligations. As of June 30, 2003, some 248 TSFMAs were in force in Québec.

The GFMPs, which must be submitted to the Minister for approval by April 1, 2004⁶ and will come into force on April 1, 2005, will be prepared on the basis of the new forest management unit subdivisions. Only one plan will be required for each unit, meaning that all the TSFMA holders in a given unit must work together to prepare a joint plan of activities, including an overall forest management strategy which addresses their needs, the presence of other forest users, and the protection and development objectives established for the unit.

The new forest management unit delimitations were published on December 18, 2002, for the whole of Québec except the territorial units covered by the Agreement Concerning a New Relationship Between the Gouvernement du Québec and the Crees of Québec, which were published on June 13, 2003.

TSFMA holders have already begun the process of preparing GFMPs to replace those currently in force for the common areas. They will be informed shortly of the objectives established by the Minister for the various units, so that they can incorporate them into their plans and include measures for their attainment.

2. OBJECTIVES FOR EACH FOREST MANAGEMENT UNIT

The public forests must be managed so as to attain the protection and development objectives established in the public interest. The nature of the objectives is specified in section 35.6 of the *Forest Act*, through the use of terms such as “protection”, “development” and “forest environment”. The term “forest environment” has a broader connotation than the term “forest”, and reflects the need to devise an overall vision for the management of the forests and their various resources.

The preamble to the Act provides additional guidance concerning the scope of the objectives. It states that sustainable forest development⁷ should be conducive to the preservation of biological diversity, the maintenance and improvement of the condition and productivity of forest ecosystems, the conservation of soil and water resources, the maintenance of the function of forest ecosystems as a component of global ecological cycles, the maintenance of the multiple socio-economic benefits society derived from forests, and the giving of proper consideration, in selecting forms of development, to the values and needs expressed by the populations concerned.

⁶ This deadline could be postponed until April 1, 2005, to give agreement holders enough time to prepare their GFMPs in accordance with the new rules specified in the Act. In such a case, all subsequent deadlines (approval of GFMPs, extension of agreements, evaluation of forest management, environmental and industrial performance, etc.) would also be postponed by a year.

⁷ The ultimate objective of sustainable forest development is to ensure that forest resources are used in such a way that they will always be of sufficient quality and will exist in sufficient quantities to meet present and future needs.

Consideration of the values and needs expressed by the populations concerned is achieved principally by involving the population in the process of establishing the Department's orientations (through the Consultation Policy), in the preparation of the GFMPs (section 54 of the Act), and in consultations on the content of the plans (section 58.2).

The management objectives established pursuant to section 35.6 of the Act therefore cover some of the concerns underlying the other five criteria for sustainability set out in the preamble to the Act. Briefly, the Minister may establish objectives relating to the preservation of biological diversity (species and ecosystems), protection of the forest environment (soil conservation, etc.), maintenance or improvement of forest productivity (site regeneration, etc.), and maintenance or development of different forest uses (multiple use, integration, etc.). Objectives are established for each management unit, and reflect the socio-economic, environmental and forest-related conditions existing in the unit in question.

The Act also stipulates that the objectives must be incorporated into the GFMPs (section 35.7). They must therefore be attainable through forest management activities.

To establish objectives for each unit, the Minister of Natural Resources, Wildlife and Parks consults the other ministers concerned, along with regional associations and agencies, Native communities and the general public, as specified in the Consultation Policy.

Forest Protection and Development Objectives for the Territory Covered by the 2002 Cree-Québec Agreement

The Agreement Concerning a New Relationship Between the Gouvernement du Québec and the Crees of Québec provides that, as part of the process of establishing forest protection and development objectives, the Minister of Natural Resources, Wildlife and Parks must receive proposals from joint Cree-Québec task forces in each community. The Minister must also consult the Cree-Québec Forestry Board.

3. MANDATORY PERFORMANCE LEVELS

The introduction of forest resource protection and development objectives is a direct reflection of Québec's intention to measure the forest management and environmental performance of TSFMA holders. Section 42 of the Act, which describes the TSFMA, stipulates that the right to harvest timber each year in the public forests is contingent upon the attainment of protection and development objectives⁸.

Attainment of the objectives is examined every five years, when the agreements are extended – in other words, at the same time as the Minister reviews the objectives assigned to a given unit for preparation of a new GFMP⁹. The Minister, when revising agreements and timber allocations, will consider all the forest management activities carried out in the management unit in question, with particular reference to their impact on conservation of the forests and the forest environment.

Forest Management and Environmental Performance

Forest management and environmental performance refers to the conservation of forest environments and proper completion of the forest management activities required to attain the forest yields and the protection and development objectives assigned by the Minister of Natural Resources, Wildlife and Parks. The Minister may also use other indicators to assess elements that he believes reflect the quality of the forest management work carried out by TSFMA holders.

Timber allocations are revised once every five years, on the basis of a number of factors including changes in the mill's requirements, fluctuations in the volumes of timber available from other supply sources, the results of new allowable annual cut calculations, and so on. Under the Act, however, priority is given to the forest management and environmental performance of agreement holders.

As a result, the volume of timber allocated to agreement holders will not be increased if the Minister believes the forest management activities carried out in the management unit in question are inadequate in terms of their forest management or environmental impacts. Where this is the case, and depending on the nature, scope and effect of the shortcomings, the Minister may decide to reduce the volumes allocated to all agreement holders in the management unit. In other words, timber allocations may be reduced because the initial objectives have not been attained, because the poor performance has had a detrimental effect on the allowable annual cut, or because it has led to the loss of other aspects of the forest environment, such as certain elements of its biological diversity. The reduction may be

⁸ A similar provision (section 84.3 of the *Forest Act*) applies to FMA holders.

⁹ AGFMP is valid for a period of five years, and is replaced by a new plan at the end of that period.

cancelled if the agreement holders implement the remedial measures required by the Minister, provided the results of those measures are satisfactory.

Joint Responsibility

Beginning in 2005, all the agreement holders in a given forest management unit will be held jointly responsible for forest management in that unit. They are already working together to prepare a joint GFMP, and all future annual management plans and annual reports will also be produced jointly. The objectives will be the same for all agreement holders. Their forest management and environmental performance will be examined for the management unit as a whole, and they will all obtain the same “grade”.

The industrial performance of the mills – in other words, how they use the timber harvested – will also be considered during the five-yearly review of timber allocations.

A poor industrial performance on the part of a TSFMA holder, unless it is caused by specific circumstances, may incite the Minister to reduce the volume allocated to the mill in question. Here again, the Minister may reconsider his decision if the agreement holder applies certain remedial measures. The industrial performance of forest management agreement holders will not be assessed, because they, by definition, do not own processing mills¹⁰.

Industrial Performance

Industrial performance relates to the ability of a mill to produce goods efficiently while promoting economic use of timber resources.

¹⁰ See Schedule A.

In 2005, the Minister will carry out an initial evaluation of the impact of forest management activities on the conservation of the forest environment. This evaluation will, however, be somewhat different from that carried out in 2010. The approach by objectives is new, and has therefore not been applied to the GFMPs currently in force. Similarly, the system of joint responsibility, also a major element of the *Forest Act* review, will only be in force from 2005 onwards. In short, the conditions for a joint performance evaluation do not yet exist.

Despite this, it is still possible to assess the general state of conservation of the forest environment. A method and indicators have been prepared for this purpose, and will be used among other things to identify the areas in which logging or forest management work is deficient in terms of forest protection and development, and where the overall performance of agreement holders will need to be improved over the next five years.

The Minister will also carry out an initial assessment of the industrial performance of TSFMA holders in 2005. A method and an indicator have been prepared for this purpose, and will be reviewed for the period 2005-2010.

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SCHEDULE A

FOREST MANAGEMENT AGREEMENTS AND FOREST MANAGEMENT CONTRACTS

In addition to wood processing mill owners, the Minister can also entrust forest management responsibility and grant volumes of timber to municipalities, Native communities, forestry cooperatives and other organizations, by means of forest management agreements or contracts. An agreement or contract allows its holder to harvest wood, sell it to one or more mills for processing, and carry out work to restore logging sites to production. The holders therefore play a role in the multiple use and integrated management of the forest environment, while ensuring that local populations benefit from the economic impacts of forest development.

The Forest Management Agreement (FMA)

In 2001, a provision was introduced to enable the Minister, where the annual allowable cut is sufficient, to grant timber harvesting rights in the public forests to organizations that do not operate wood processing mills. This is done by means of a forest management agreement signed by the Minister, which allows the organization to harvest volumes of timber not allocated by means of a TSFMA, in one or more forest management units.

The Obligations of Forest Management Agreement (FMA) Holders

A FMA holder undertakes to fulfill obligations identical to those of TSFMA holders (preparation of a GFMP including a five-year program of activities, preparation of an AFMP and a report of activities, etc.).

A FMA covers a period of ten years. It may be extended after five years for an additional five-year period if the holder has met its obligations. As is the case for a TSFMA, a new forest plan must be submitted every five years, at which point the volume of timber allocated is revised according to whether the forest yields and the protection and development objectives established by the Minister have been attained. The first-ever FMA was granted in 2003.

The Forest Management Contract (FMC)

The Minister may authorize the harvesting of volumes of timber in forest reserves where this would serve to promote regional economic development. This is done by means of forest management contracts. Such contracts are usually granted to regional county municipalities, Native communities and local companies. A FMC holder is entitled to harvest a predetermined volume of timber each year, which must then be sold to a wood processing mill. In exchange, the holder must fulfill the obligations imposed by law and by the contract, and must also attain the annual yields and the protection and development objectives established for the area in question

The Obligations of Forest Management Contract (FMC) Holders

Since 2001, forest management contracts have been subject to conditions similar to those prescribed for TSFMAs. The holder of a FMC must prepare a GFMP, an AFMP and an annual report of activities, and must also comply with the rules applicable to TSFMA holders (participation of certain organizations in the GFMP preparation process, public consultations on the GFMP, etc.).

The Minister is responsible for establishing the term of a FMC (as a result of the forest system review, this term will in future be five years in most cases). The FMC may be renewed if the holder has fulfilled its obligations. As of June 30, 2003, 50 such contracts were in force.

FMC holders must also pursue the forest protection and development objectives established by the Minister of Natural Resources, Wildlife and Parks. The objectives in question must be addressed in their GFMPs. This new approach will be introduced gradually, as the FMCs are renewed, or upon signature of the initial FMC.

At the end of the term, the Minister will judge whether the objectives have been met and, more generally, whether the holder's forest management and environmental performance is satisfactory. The results of this process will guide the Minister in his decision to renew a FMC or modify its conditions.

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SCHEDULE B

PREPARATION OF GENERAL FOREST MANAGEMENT PLANS (GFMPs)

A JOINT APPROACH

One of the aims of the *Forest Act* is to harmonize activities in the public forests. Section 54 of the Act states that agreement holders must consider the interests and concerns of the other users of the land and seek to avoid disputes concerning the carrying out of forest management activities. Accordingly, the organizations with harvesting rights (TSFMA, FMA and FMC holders) must invite certain individuals and target organizations to take part in the GFMP preparation process.

Participation of interested parties in the planning process is intended to promote multiple forest use and enable the various users to get to know one another and develop mutual respect, so that they can harmonize their activities. Among other things, the forest management strategies of agreement holders must take into account the traditional activities of Native people and the need to protect certain sectors or establish a schedule of operations for which as broad a consensus as possible can be obtained.

The organizations that may participate in the GFMP preparation process are:

- Regional county municipalities;
- Native band councils;
- Wildlife area managers (wildlife sanctuaries, outfitters, ZECs);
- Holders of sugar bush management permits;
- Agricultural tenants;
- Any other organization invited by the agreement or contract holder.

When the agreement holders in a given management unit submit their GFMP to the Minister of Natural Resources, Wildlife and Parks, they must attach a report listing the individuals and organizations involved in the preparation of the plan and describing the results of that participation, including the points on which the participants' proposals diverge from the provisions of the plan (section 55). The report is sent to the participants (section 55), and is also published (section 35.17).

The Minister then makes the GFMP available to the public, for information purposes, for a period of 45 days. During that period, and in accordance with the procedure established by the Minister, the agreement holders must consult any individuals and groups that so request, and then submit a report to the Minister describing the comments received during the consultation period, along with the follow-up action they intend to take.

If a dispute between the agreement holders and a participant in the GFMP preparation process or the consultations has not been settled at the end of the information and consultation period, the Minister may appoint a conciliator, who will recommend possible solutions. The Minister then approves the GFMP, with any modifications he feels are appropriate.

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SCHEDULE C

CONSULTATION POLICY ON QUÉBEC'S FOREST MANAGEMENT AND DEVELOPMENT ORIENTATIONS

The Consultation Policy on Québec's Forest Management and Development Orientations was ratified by the Council of Ministers on December 18, 2002 (Order-in-Council no. 1516-2002).

The Policy provides that:

- The consultations must be open, and various collective and individual interests may be represented and heard;
- The rules of procedure must be clearly announced and widely circulated; they guarantee the transparency of the process, as well as participation in the debates;
- Native community consultations are governed by separate conditions established with each individual community, based on its specific values and culture;
- The scope of the consultation must be clearly established;
- All the participants must have access to the available information, which, as far as possible, should be presented in clear and simple terms;
- All the participants must share the available information, and adopt an open, cooperative attitude;
- Those who wish to participate in the consultations must have a reasonable time to prepare, based on the complexity of the question under consideration and on any governmental and departmental constraints and obligations;
- The general public must be informed of the results of the consultations, and the decisions of the Minister must be explained;
- The general public must be informed of the outcome of any actions taken as a result of the orientations adopted.

The subjects for which public consultations are required are as follows:

- General orientations, policies and programs concerning the management and development of the public and private forests;
- Reviews and evaluations of the forest system;
- Delimitation, or changes to the delimitation, of forest management units; the criteria on which the delimitations are based;
- The northern limit for commercial timber allocations, or changes thereto; the criteria on which the limit is based;
- The forest protection and development objectives applicable to the proposed forest management activities in each management unit;
- The criteria and indicators used to assess the forest management, environmental and industrial performance of TSFMA, FMA and FMC holders in the implementation of their GFMPs;

- Classification of areas as “exceptional forest ecosystems” or any intention to review or abolish exceptional forest ecosystem status already granted to an area, or to change the size of a classified area;
- Specific forest resource management standards or rules proposed under the provisions of sections 17.13 and following of the *Act respecting the Ministère des Ressources naturelles*, designed to promote regional development or the implementation of government policies through adapted management;
- Proposals concerning the delegation of management responsibilities in forest reserves to municipalities or Native organizations;
- Significant amendments to the *Forest Act* or the *Regulation respecting standards of forest management for forests in the domain of the State*;
- Public land use plans;
- Orientations for the use of public land and resources reflecting a position shared by several government departments.

The principal rules governing the consultation procedure are as follows:

- At the national level, a permanent table bringing together the principal national associations and organizations with an interest in forest management, protection and development issues;
- At the regional level, consultations are organized by the regional development boards, with financial and professional support from the Ministère des Ressources naturelles, de la Faune et des Parcs;
- The Native communities are consulted separately, using a procedure established separately for each individual community;
- The minimum period for a consultation is twelve weeks.

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