

CONSULTATION POLICY FOR FOREST DEVELOPMENT AND FOREST MANAGEMENT

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MINISTÈRE DES FORÊTS, DE LA FAUNE ET DES PARCS

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Ministère des Forêts, de la Faune et des Parcs

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Message from the Minister



Québec's forestry regime has undergone what can only be described as a revolution since the first consultation policy was published in 2003. In 2013, the gouvernement du Québec took back responsibility for planning the development of public forests, introducing a forest regime based among other things on sustainable forest development, integrated resource management and division of responsibility among forest users. These elements cannot be implemented without input from the general public and consideration of their values, expectations, concerns and needs.

Consultations also provide an opportunity to exchange information, knowledge and expertise. Their primary aim is to improve the initial proposal and provide information that will light the way forward for decision-makers.

This updated version of the Consultation Policy for Forest Development and Forest Management is based among other things on the gouvernement du Québec's Reference Framework for Public Participation, published in 2017. In taking this approach, the Ministère des Forêts, de la Faune et des Parcs (the MFFP) has ensured that it will uphold the principles that ensure consistency of all the consultation procedures used by the gouvernement du Québec.

This Consultation Policy confirms our commitment to provide the population of Québec with open, transparent form of participation adapted to the sustainable development of our forests. I am pleased to invite all forest users, as well as the individuals and organizations with an interest in our magnificent forest heritage, to play an active role in future consultations.

Original signé

Pierre Dufour

Minister of Forests, Wildlife and Parks

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Preamble

In Québec, the public forest is under collective ownership, and the Ministère des Forêts, de la Faune et des Parcs (the MFFP) has been entrusted with the task of managing it.

In 2003, the MFFP introduced its first *Consultation Policy on Québec's Forest Management and Forest Development Orientations*. The present policy, entitled *Consultation Policy for Forest Development and Forest Management* (hereinafter the "Policy"), replaces the 2003 document and is intended to reflect the particular aspects of the forest regime introduced by the *Sustainable Forest Development Act* (SFDA) (CQLR, chapter A-18.1), the observations made during previous consultations, and developments in consultation practices. It also takes into consideration the state of law relating to Aboriginal peoples, including the duty to consult and, where necessary, accommodate the Aboriginal communities.

The SFDA states that the Minister must draw up, makes public and keeps up to date a consultation policy that fosters stakeholder's participation in sustainable forest development and forest management. It also states that the consultation policy must include a procedure that is specific to Aboriginal communities, established in a spirit of collaboration with those communities.

To carry out its role in the interests of everyone, the MFFP must ensure that the individuals, local communities, Aboriginal communities and organizations are able to express their values, expectations, concerns and needs with respect to sustainable forest development and forest management.

The *Sustainable Forest Management Strategy* (SFMS), which describes how the MFFP implements sustainable forest development, emphasizes the importance of maintaining the general public's interest in and commitment to the forest and to the forest management process by creating opportunities to provide information and engage in debate on the various issues

Objectives

The Policy sets out the structure to be used for consultations on sustainable forest development and forest management, organized by the MFFP.

The consultations allow the MFFP to:

- encourage participation by individuals, organizations, local and regional communities and Aboriginal communities;
- provide transparent, clear information that is easy for citizens to understand, on projects under consideration by the MFFP;
- hear the public's values, expectations, concerns and needs and offer the public an opportunity to influence decisions;
- improve proposals based on the comments, information and knowledge gathered during the consultation exercise.

Principles

The following seven principles reflect the specific nature of consultations relating to forest development and forest management. They are also consistent with the Government's *Reference Framework for Public Participation*, published by the gouvernement du Québec in 2017.

Principle 1: The MFFP's undertakings

The MFFP begins the consultations as far upstream as possible, at a stage where it is still possible to make changes. When it begins a consultation process, it must offer a real opportunity for participants to influence the decision-making process.

The MFFP undertakes to consider all the opinions gathered during the consultations. It must demonstrate openness and must clearly communicate the aims of the process, the topics to be discussed, the scope of the dialogue, how the participants' contributions will be taken into consideration at the next stage, the anticipated impacts and the role of the stakeholders in the process. The fact that the MFFP considers the opinions expressed during the consultations does not mean that it will automatically incorporate them into its decisions on the topic for consultation. However, it does mean that all the opinions gathered during the consultation will be read, assessed and analyzed.

Principle 2: The participants' involvement

The MFFP, through the consultation methods that it applies, supports fair, respectful dialogue within a receptive environment. The steps in the consultation process are specified. In taking this approach, the MFFP encourages participants to become involved in a way that allows them to express their values, concerns, expectations, needs, expertise and knowledge in connection with the topic for consultation, with a view to improving the proposal.

Principle 3: The choice of methods

The consultation methods may be adjusted to the topic of the consultation, and to the target audiences. Representation of participants is taken into account.

Principle 4: Information

The MFFP ensures that participants have easy access to information, before or at the time the consultation begins. The information must be relevant, of good quality and written in simple, clear language, and must be adjusted to the participants' needs.

Principle 5: Promotion

The consultation process must be promoted in such a way as to ensure that participants are informed within a reasonable time, before or at the time the consultation process begins, using methods that are likely to reach them and attract their attention. The consultation procedures must be clearly identified, defined and made known to participants as soon as the process is announced. Participants must be given a reasonable time to learn about the proposals made and prepare and submit their opinions or briefs.

Principle 6: Feedback

The MFFP provides feedback to participants within a reasonable time.

Principle 7: Evaluation

The MFFP encourages the use of mechanisms through which participants are able to evaluate the consultation process.

The Consultation Process

Forest development and management are complex. Several levels of application, as well as a wide variety of stakeholders and numerous requirements and agreements, must be taken into consideration. As a result, the MFFP must often organize consultations on different subjects, sometimes for the general public and sometimes for a limited number of stakeholders.

To address this complex situation, the MFFP uses different consultation processes for particular aspects of the forests.

Public consultations

Public consultations are open to everyone who wishes to express an opinion on the topic for consultation.

The topics for consultation are varied. They relate to sustainable forest development orientations, management and activities.

Public consultations focus on proposals that involve major changes to forest management and development. The term “major change” includes all policy or strategy documents, and any form of orientation or guideline for sustainable forest development or management.

Topics for public consultations may concern either the public or the private forests.

For example, the following topics are often submitted for public consultation:

- guidelines for the preparation of a draft law or regulation, or amendments to a current law or regulation;
- general policies or strategies, or amendments to them;
- delineation or modification of the territorial boundary for timber allocations.

This list is by no means exhaustive, and topics not mentioned here may also be submitted for public consultation.

Public consultation procedures

Consultation period

- The consultation period is specific to each consultation, but must not be less than eight weeks. Its length depends on the complexity of the topic for consultation and the means available for participants to submit their opinions (electronic form, survey, brief filed by e-mail, letters, etc.).
- Generally speaking, simultaneous consultations should be avoided.
- As far as possible, consultations should not begin between June 24 and August 31, or between December 15 and January 15. If a consultation must take place during these times, the consultation period must be extended by at least two additional weeks.

Promotion of the consultation

- The consultation announcement specifies the following aspects among others:

- the topic for consultation;
- the consultation procedure (e.g. important dates, such as the consultation period and the schedule of information meetings if any);
- the methods participants can use to submit their comments and suggestions.
- The MFFP publishes the list of public consultations on the gouvernement du Québec's website.
- Appropriate communication tools must be used to encourage participation by the individuals or organizations concerned:

Compulsory promotional measures

- The Government's website and the MFFP's social media pages.
- Information circulated to the local integrated land and resource management panels.

Optional promotional measures

- Information meetings (in person and/or webinars).
- Personalized invitations.

Information available for consultation

- The relevant documentation is available on a website dedicated to the consultation.
- A resource person is available to answer participants' questions.

Consultation website

For all public consultations, a website must be created and made available for subsequent use. The website presents:

- the topic for consultation;
- the documents and other methods used to present the topic, such as:
 - proposals for desired changes
 - supporting documents (analysis, report)
- the consultation schedule and the general consultation procedure;
- relevant information prepared by the MFFP;
- opportunities for participation by individuals and groups;
- what is expected of participants;
- reference documents (information documents for participants, maps, response grids, etc.);
- the consultation report;

- the follow-up report;
- the results of the participant satisfaction survey;
- feedback on the follow-up action taken by the MFFP, including hyperlinks to documents presenting the official version of the final text.

Reporting

- The MFFP sends an acknowledgement of receipt within a reasonable time to all participants who submit comments.
- The MFFP administers a participant satisfaction survey after each consultation.
- A consultation report is prepared and published by the MFFP within a reasonable time, on the consultation website. Among other things, the report sets out:
 - the topic for consultation;
 - the consultation period;
 - the address of the website on which consultation-related information is available;
 - the methods used and a profile of the participants;
 - a summary of the comments received;
 - the participation form, if any;
 - the form used to evaluate participant satisfaction;
 - the results of the satisfaction survey.
- At the end of the consultation process, the MFFP states how the comments received were taken into account.

Special public consultation processes

Integrated forest development plans (PAFI) and special development plans

Additional conditions apply to consultations on the integrated forest development plans (PAFI). They are set out in the *Manuel de consultation publique sur les plans d'aménagement forestier intégré et les plans d'aménagement spéciaux* and in the *Manuel de consultation des communautés autochtones sur les plans d'aménagement forestier intégré*. While the consultation procedures may differ from those set out in this Policy, the basic principles must still be upheld.

The *Sustainable Forest Development Act* (SFDA) also notes that “if substantial damage to timber stands in a forest area is caused by a natural disturbance or human influence [...] the Minister may, with the participation of the local integrated land and resource management panel concerned, prepare a special development plan to ensure that the timber is salvaged and that the appropriate silvicultural treatments are applied [...]”.¹ The Act specifies that a special plan “is not subject to the

¹ Sustainable Forest Development Act, chapter A-18.1: updated on January 15, 2019, [Québec] Éditeur officiel du Québec, s. 60(1)

public consultation process if the Minister considers that there is an urgent need for its application, particularly if the plan is considered necessary in order to avoid a deterioration or loss of timber.”²

In other cases, special development plans and changes to them are established and finalized in accordance with the rules applicable to integrated forest development plans.

Targeted consultations

The MFFP may also hold consultations for specific individuals, organizations or communities. In this case, it invites them directly to take part in a targeted consultation. The aims of a targeted consultation must be specific and the consultation cannot result in major changes to forest management or development orientations put in place by the MFFP. On the other hand, targeted consultations may be held for measures of a more operational nature, applied to implement those orientations.

For example, targeted consultations may be held on the following topics:

- Allocation of rights under the Sustainable Forest Development Act (SFDA);
- Proposals to merge or change the boundaries of development units³.

This list is by no means exhaustive, and targeted consultations may be held on other topics, in compliance with the conditions mentioned above.

The procedures used for targeted consultations are adjusted to the nature and aims of the consultation. While they may differ from the procedures established for public consultations, the basic principles set out in the Policy must still be upheld.

Targeted consultations are not announced publicly and are not open to the general public. On the other hand, the MFFP may include participants who ask to be involved and who demonstrate their interest, to ensure that their concerns are taken into account.

Special methods for targeted consultations

Forestry Partners’ Panel

The SFDA provides that the Minister, when ensuring that the Consultation Policy is implemented, sets up a Forestry Partners’ Panel, and also appoints the Panel’s members and sets its operating rules.⁴ Among other things, the Table is used to inform members, discuss ministerial intentions and gather the opinions of participants on a variety of strategic issues relating to sustainable forest development. The Panel therefore serves as an ongoing consultation mechanism for the Minister with representatives of organizations concerned by forest management.

Panel sessions are organized as needed by the Minister. The Minister decides which members are invited to the Panel’s meetings, depending on the needs and topics to be discussed. The Minister also sets the Panel’s operating rules based on the needs arising from the topics to be discussed at the meetings and the nature of the anticipated results.

²*Ibid.*, s. 61(2)

³ If the consultation concerns mergers or changes to the boundaries of several development units throughout Québec, a public consultation is preferable.

⁴ *Ibid.*, s. 9(3)

The members of the Forestry Partners' Panel represent provincial associations and organizations concerned by forest management and sustainable forest development issues. A list of member associations and organizations can be found on the gouvernement du Québec's website.

Organizations created pursuant to Northern agreements

The advisory committees created under the Northern agreements, including the James Bay Advisory Committee on the Environment⁵ and the Cree-Québec Forestry Board,⁶ will be consulted in accordance with their respective mission and expertise, in compliance with the agreements.

⁵ James Bay Advisory Committee on the Environment: <https://www.ccebj-jbace.ca/en/>

⁶ Cree-Québec Forestry Board: <http://www.ccqf-cqfb.ca/en/home/>

Separate consultations for Aboriginal communities

Specific aspects must be considered when applying the Policy to consultations with Aboriginal communities:

- The Policy does not replace the agreements entered into by Québec and an Aboriginal group, and if the two are incompatible, the agreements take precedence.
- The Policy must be applied in a way that is compatible with the provisions of the *Sustainable Forest Development Act* (SFDA) that are specific to Aboriginal communities, and with the constitutional duty to consult and, where necessary, accommodate the Aboriginal communities.

Provisions of the Sustainable Forest Development Act (SFDA)	Québec's constitutional duty to consult
The <i>Sustainable Forest Development Act</i> contains provisions specific to the Aboriginal communities, designed to ensure that their rights, interests, values and needs are taken into account in the forest development process (sections 6 to 12, 37, 38, 40, 55, 58 and 224). These provisions apply alongside the obligation to consult and, where necessary, accommodate the Aboriginal communities.	<p>The gouvernement du Québec is bound by its duty to consult and, where necessary, accommodate the Aboriginal communities in cases where it considers an action is likely to have a harmful impact on existing or potential ancestral or treaty rights.</p> <p>This duty is intended to reconcile the interests of the Aboriginal people and those of society in general, and also to protect the ancestral and treaty rights of Canada's Aboriginal people within the meaning of section 35 of the <i>Constitution Act</i>, 1982.</p> <p>The court ⁷ have emphasized the need for governments to uphold the principle of the honour of the Crown in its interactions with the Aboriginal peoples, particularly in connection with the duty to consult and accommodate.</p>

The Policy therefore applies to the Aboriginal communities, with due regard for the following:

- The MFFP invites Aboriginal community representatives to all its public consultations on sustainable forest development and forest management.
- The MFFP holds separate consultations for the Aboriginal communities concerned, even when they also take part in the public consultations.

⁷ See in particular *Haïda Nation v. British Columbia (Ministry of Forests)*, [2004] 3 S.C.R. 511, *Rio Tinto Alcan v. Carrier Sekani Tribal Council*, [2010] 2 S.C.R. 650 and *Beckman v. Little Salmon/Carmacks First Nation*, [2010] 3 S.C.R. 103.

- The MFFP seeks to agree on consultation methods in a spirit of cooperation with the Aboriginal communities, to ensure that the consultations are adjusted to the context in the communities, and with a view to improving its consultation processes and its relations with the communities over time.
- Dialogue between the MFFP and the Aboriginal communities may take different forms and may continue throughout the consultation process. The MFFP may provide additional information on request, and in accordance with the applicable legal framework. Meetings may be held if necessary.
- The MFFP organizes the consultations with a view to taking the communities' concerns into account, and with due regard for their existing or potential ancestral or treaty rights.
- The MFFP seeks to agree with the Aboriginal communities on the accommodation measures required to avoid or, as far as possible, mitigate the harmful impacts of the proposed actions on their existing or potential rights.
- If the consultation topic is amended, the MFFP provides updated information for the Aboriginal communities and takes their concerns about the amendments into account where applicable.
- The MFFP provides specific feedback to the Aboriginal communities that took part in the consultation. The feedback should include a summary of the consultation and, where applicable, information on how the MFFP took their comments and concerns into account.

In addition, the gouvernement du Québec, with a view to establishing and maintaining relationships based on mutual trust and respect, promotes the negotiation of agreements with Aboriginal communities that so wish, including on consultation and, where necessary, accommodation.

Implementing the Policy

Protection of confidential information

In compliance with the *Act respecting Access to documents held by public bodies and the Protection of personal information* (CQLR, c. A-2.1), information provided by a natural or legal person during a consultation cannot be published without its author's consent.

The Minister's responsibility for consultations (delegation)

The Minister may entrust responsibility for organizing consultations in Québec's regions to a regional county municipality (RCM),⁸ a group of RCMs or a competent body.⁹ In these cases, the delegate organizations may be responsible for the meeting's logistics (organization, minutes of meetings, room reservations, etc.) or the production of a consultation report. The Minister continues to be responsible for advertising, providing the information required for the consultations, explaining the projects for which the consultation is held, and preparing and publishing a follow-up report.

In no case may the Minister delegate, to a third party, the duty to consult and, where necessary, accommodate the Aboriginal communities.

Financial support

The MFFP pays the cost of producing, translating and, where applicable, publishing and distributing the information required for the consultations. If responsibilities are shared with an RCM, a group of RCMs or another organization, a financial support agreement may be signed in accordance with the parties' respective responsibilities. In cases where public sessions are planned, the MFFP may also pay the cost of renting the consultation room and technical material, and hiring session moderators if necessary.

Individuals and organizations taking part in consultations must pay their own participation costs (travel, brief preparation, consulting members in the case of an organization, etc.).

If budgets are available, financial support may be paid to facilitate participation by Aboriginal communities, on the conditions stipulated in the applicable programs.

Monitoring, evaluation and revision of the Policy

The MFFP reports on the Policy's implementation in the five-yearly review of sustainable forest development prescribed by the *Sustainable Forest Development Act* (SFDA). During this exercise, the Policy is evaluated and participation in the public consultations is reviewed.

In addition, the MFFP's Annual Management Report, which forms part of the reporting process prescribed by the *Public Administration Act* (CQLR, chapter A-6.01), presents the results of the MFFP's strategic orientations, its undertakings in its Declaration of Services to Citizens, and its actions in the area of sustainable development, including the consultation processes.

The Consultation Policy may be revised at any time. A public consultation must be held for each revision.

⁸ Municipal Powers Act, chapter C-47.1: Updated on October 1, 2019, [Québec], Éditeur officiel du Québec, s. 126.3(1)

⁹ Act respecting the Ministère des Affaires municipales, des Régions et de l'Occupation du territoire, chapter M-22.1: Updated on October 1, 2019, [Québec], Éditeur officiel du Québec, s. 21.5.

List of Acronyms

SFDA:	Sustainable Forest Development Act
RCM:	Regional County Municipality
PAFI:	Integrated Forest Development Plan
CQLR:	Compilation of Québec Laws and Regulations
SFMS:	Sustainable Forest Management Strategy
TLGIRT:	Local integrated land and resource management panel

Glossary

Forest development activity

Under the *Sustainable Forest Development Act*, forest development activities include timber felling and harvesting, the operation of a sugar bush, the construction, improvement, repair, maintenance or closure of infrastructures, the carrying out of silvicultural treatments, including reforestation and the use of fire, fire protection, the suppression of insect epidemics, cryptogamic diseases and competing vegetation, and all similar activities that tangibly affect forest resources.

Public consultation

A two-way process designed to obtain the opinions of citizens, in their personal capacity or on behalf of a group or organization, on a proposal made by the MFFP, during which they can ask questions and express any concerns, expectations, comments or opinions they may have, with a view to helping the MFFP to make an informed decision.

Public participation

A form of participation in which individuals or groups can exchange information, express opinions and state their interests, with the possibility of influencing decisions.

Integrated forest development plan (PAFI)

Forest development plans, separated into two documents: the tactical plan for integrated forest development and the operational plan for integrated forest development. The plan, prepared with input from an integrated land and resource management panel, is based on sustainable forest development and also incorporates the social, environmental and economic aspects.

Development unit (DU)

A territorial unit that serves as a basis for calculating the allowable cut and for planning work in the forest.



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