

Gouvernement du Québec

O.C. 93-2004, 4 February 2004

An Act respecting the Ministère des Ressources naturelles, de la Faune et des Parcs (R.S.Q., c. M-25.2)

Program for the awarding of lands in the domain of the State under forest management for the purpose of developing blueberry fields

WHEREAS, under section 17.13 of the Act respecting the Ministère des Ressources naturelles, de la Faune et des Parcs (R.S.Q., c. M-25.2), amended by chapter 8 of the Statutes of 2003, the Minister may, with the approval of the Government, prepare programs for the development of lands or forest resources in the domain of the State that are under the Minister's authority in order to encourage regional development or implement any other governmental policy;

WHEREAS, under the second paragraph of section 17.14 of the Act, amended by section 51 of chapter 16 of the Statutes of 2003, the Minister may, for the purposes of such programs, in addition to exercising in respect of a forest in the domain of the State that is covered by a program all the powers devolving on the Minister under the Forest Act (R.S.Q., c. F-4.1), apply any measure the Minister considers necessary for the purpose of fostering sustainable forest development, including a measure granting, for that purpose, any right other than a right under that Act to a person the Minister designates;

WHEREAS, under the first paragraph of section 17.15 of the Act, the Minister may, to the extent specified in a program, exempt land and property made subject by the Minister to a program from the application of all or part of the Act respecting the lands in the domain of the State (R.S.Q., c. T-8.1), or exempt a forest in the domain of the State made subject by the Minister to a program from the application of all or part of the Forest Act;

WHEREAS the report of the MRN-MAPAQ interdepartmental committee on the contribution of lands in the domain of the State to the blueberry industry recommends allowing the creation of blueberry fields of the forest/blueberry type on lands under forest management and undertaking experimentation so as to improve, as may be necessary, that type of blueberry production;

WHEREAS the report recommends preparing a program to encourage the granting of land rights for the development of blueberry fields of the forest/blueberry type on lands under forest management, with priority given to applications to enlarge and consolidate blueberry fields so as to enable producers to attain a viable production unit of 200 hectares;

WHEREAS the report also recommends setting special rates for leases of blueberry fields of the forest/blueberry type based on market value and on equitable rules of proportionality;

WHEREAS the Regulation respecting the sale, lease and granting of immovable rights on lands in the domain of the State, made by Order in Council 231-89 dated 22 February 1989, as amended, provides that a lease for such land must be awarded to the first applicant;

WHEREAS it is expedient to approve the program allowing the Minister to award leases of lands in the domain of the State under forest management for the purpose of developing blueberry fields of the forest/blueberry type, with priority given to applications to enlarge and consolidate blueberry fields so as to enable producers to attain a viable production unit of 200 hectares, to grant leases of those lands to undertake experimentation with blueberry fields of the forest/blueberry type in order to improve that model, and to set special rates for leases of blueberry fields of the forest/blueberry type based on market value and on equitable rules of proportionality;

IT IS ORDERED, therefore, on the recommendation of the Minister of Natural Resources, Wildlife and Parks and the Minister for Forests, Wildlife and Parks:

THAT the program for the awarding of lands in the domain of the State under forest management for the purpose of developing blueberry fields, attached to this Order in Council, be approved;

THAT the administration of the program be entrusted to the Minister of Natural Resources, Wildlife and Parks.

ANDRÉ DICAIRE,
Clerk of the Conseil exécutif

Program for the awarding of lands in the domain of the State under forest management for the purpose of developing blueberry fields

DIVISION I DECLARATORY AND INTERPRETATIVE PROVISIONS

1. PURPOSE OF THE PROGRAM

To permit the development of blueberry fields of the forest/blueberry type on lands in the domain of the State under forest management in a perspective of sustainable development while respecting previously granted forestry rights.

To grant land rights for the development of the blueberry fields with priority given to applications to enlarge and consolidate blueberry fields so as to enable producers to attain a viable production unit of 200 hectares.

To set special rates for leases of blueberry fields of the forest/blueberry type based on market value and on equitable rules of proportionality.

To undertake experimentation with blueberry fields of the forest/blueberry type in order to improve that model as may be necessary through the granting of land rights on lands in the domain of the State under forest management to an authorized body.

2. DEFINITIONS

For the purposes of this Program, unless the context indicates otherwise,

“blueberry field of the forest/blueberry type” means an area on which 60-metre wide rows reserved for intensive lowbush blueberry growing alternate with 42-metre wide wooded strips intensively managed in such manner that previously granted forestry rights are fully respected; (*bleuetière de type forêt/bleuet*)

“blueberry production lease” means a land right granted by the Ministère des Ressources naturelles, de la Faune et des Parcs under this Program or the Act respecting the lands in the domain of the State (R.S.Q., c. T-8.1) to foster the production of blueberries; (*bail à bleuetière*)

“developed blueberry field” means land that has been developed allowing field operations to be performed in connection with intensive lowbush blueberry growing; (*bleuetière aménagée*)

“land under forest management” means land in respect of which forestry rights have been granted under the Forest Act (R.S.Q., c. F-4.1), such as a timber supply and forest management agreement, a forest management agreement or a forest management contract; (*territoire sous aménagement forestier*)

“Minister” means the Minister of Natural Resources, Wildlife and Parks; (*ministre*)

“Program” means this Program prepared under section 17.13 and following of the Act respecting the Ministère des Ressources naturelles, de la Faune et des Parcs (R.S.Q., c. M-25.2). (*programme*)

3. TERRITORY OF APPLICATION

The Program applies to lands in the domain of the State under forest management, with the exception of lands that have already been the subject of a delegation of management in favour of regional county municipalities or municipalities under a program relating to such a delegation.

DIVISION II AWARDING OF LANDS IN THE DOMAIN OF THE STATE UNDER FOREST MANAGEMENT TO DEVELOP BLUEBERRY FIELDS OF THE FOREST/BLUEBERRY TYPE

4. AWARDING METHOD

The Minister shall, after a call for proposals, award lands in the domain of the State under forest management for the development of blueberry fields of the forest/blueberry type. A land parcel is awarded by lease to the tenderer who obtains the highest score after evaluation of the proposals using the Program’s evaluation grid.

5. AWARDING BY CALL FOR PROPOSALS

The Minister shall determine which lands in the domain of the State under forest management are to be developed as blueberry fields of the forest/blueberry type. The Minister shall inform the forestry rights holders concerned that the lands will be offered for such development.

The notice of call for proposals shall be published in a newspaper circulated in the administrative region in which the lands offered for lease are situated. The notice shall describe the location of the lands, their surface area, the leasing rate, the requirements to be complied with when submitting a proposal, the criteria for evaluating the proposals, the place where the proposal documents are available, the deadline for submitting a proposal and the related fees.

A call for proposals in which two or more land parcels are offered for lease shall specify the chronological order in which they will be awarded. The land parcel awarded to a tenderer obtaining the highest score must be taken into account in the evaluation of the tenderer's proposals relating to other land parcels offered for lease.

A separate proposal must be submitted for each land parcel offered for lease; registration fees of \$25, including taxes (QST and GST), are payable for each proposal.

The call for proposals must also specify that the tenderers agree to provide all documents necessary to verify the information in the proposal and that they authorize the Minister of Agriculture, Fisheries and Food and La Financière agricole du Québec to disclose to the Minister of Natural Resources, Wildlife and Parks all information necessary to verify that information.

The Minister does not undertake to accept any of the proposals submitted.

A land parcel in the domain of the State that has been the subject of a call for proposals under the Program and for which no conforming tender has been received may be offered for lease to the first applicant.

6. PREREQUISITE TO THE EXAMINATION OF PROPOSALS

To be receivable, every proposal from a tenderer must include a business plan for the development and operation of a blueberry field on the land offered for lease, prepared according to the model in Schedule I.

If the business plan is considered not to conform to Schedule I and does not contain all the required information to the satisfaction of the Minister, the tenderer's proposal is rejected.

7. CRITERIA USED TO EVALUATE PROPOSALS

For each land parcel offered for lease, the tenderers' proposals are evaluated using a system of points assigned to the four criteria that appear in the following evaluation grid. The grid indicates the maximum number of points assigned to each criterion.

EVALUATION GRID	
Criteria	Number of points
Current size of the tenderer's enterprise	25
Size of the enterprise after the awarding	10
Enlargement and consolidation of the tenderer's blueberry fields	30
Impact of the tenderer's project on the region	35
TOTAL	100

The number of points scored by a proposal for each criterion is established using the following weighting grids:

7.1. Current size of the tenderer's enterprise

The tenderer's score for this criterion is determined from the following table on the basis of the total area of the tenderer's current enterprise to be developed into blueberry fields. If the tenderer holds a lease to develop blueberry fields on lands in the domain of the State, including lands delegated to regional county municipalities, the area taken into account is the area covered by the lease having potential for blueberry production. For blueberry fields of the forest/blueberry type for which a lease has been granted under the Program, the area taken into account corresponds to the total area available for blueberry production. If the available area is unspecified, it is replaced by the total area of the land under lease multiplied by a correction factor of 0.6.

CURRENT SIZE OF THE TENDERER'S ENTERPRISE	
Total area of the tenderer's enterprise developed into blueberry fields (in hectares)	Number of points
Up to 1 hectare	0
More than 1 to 10 hectares	10
More than 10 to 15 hectares	20
More than 15 to 100 hectares	25
More than 100 to 200 hectares	20
More than 200 to 300 hectares	15
More than 300 to 500 hectares	10
More than 500 hectares	5

7.2. Size of the tenderer's enterprise after the awarding

The tenderer's score for this criterion is determined from the following table by calculating the sum of the areas of the tenderer's enterprise that are developed into blueberry fields, as established in section 7.1, and the area of the land that is the subject of the call for proposals. For blueberry fields of the forest/blueberry type for which a lease has been granted under the Program, the area taken into account corresponds to the total area available for blueberry production. If the available area is unspecified, it is replaced by the total area of the land under lease multiplied by a correction factor of 0.6.

SIZE OF THE ENTERPRISE AFTER THE AWARDING	
Total size of the areas of the tenderer's enterprise developed into blueberry fields after the awarding (in hectares)	Number of points
25 hectares or less	0
More than 25 to 100 hectares	5
More than 100 to 250 hectares	10
More than 250 to 500 hectares	5
More than 500 hectares	0

7.3. Enlargement and consolidation of the tenderer's blueberry fields

The tenderer's score for this criterion is determined from the following table, taking into account the distance between the blueberry field and the land parcel that is the subject of the call for proposals. For a tenderer operating two or more developed blueberry fields in different locations, the distance is to be calculated from the blueberry field that is nearest to the land parcel offered for lease. The distance is calculated in a straight line. A land parcel offered for lease is considered to be contiguous to the property of the current enterprise if it is separated from the property only by a road, a railway, a watercourse or a public utility right of way.

ENLARGEMENT AND CONSOLIDATION OF THE TENDERER'S BLUEBERRY FIELDS

Distance between the land parcel offered for lease and the tenderer's blueberry field (in kilometres)	Number of points
0 km (contiguous)	30
More than 0 to 1 km	20
More than 1 to 10 km	15
More than 10 to 25 km	10
More than 25 to 40 km	5
More than 40 km	0

7.4. Impact of the tenderer's project on the region

The tenderer's score for this criterion is determined from the following table according to the tenderer's residency in the regional community. The tenderer's location is established according to the address of the head office of the enterprise; if the tenderer is a natural person, his or her principal place of residence is to be considered as the location of the tenderer's principal establishment. For this criterion, a municipality that is not included in a regional county municipality is considered on the same basis as a regional county municipality.

IMPACT OF THE TENDERER'S PROJECT ON THE REGION	
Location of the tenderer	Number of points
Tenderer located in the same regional county municipality as the land parcel offered for lease	35
Tenderer located in the same administrative region as the land parcel offered for lease but not in the same regional county municipality	20
Tenderer located outside the administrative region in which the land parcel offered for lease is situated	5

8. SELECTION OF THE TENDERER

The Minister shall send a notice to the tenderer whose conforming proposal obtains the highest score stating that the proposal has been retained, together with a lease offer conditional on fulfilment of the Program's eligibility and lease conditions. A copy of the notice must be sent to the forestry rights holders concerned to encourage the implementation of measures conducive to cohabitation.

Should the scoring of a tenderer from the regional county municipality in which the land parcel is offered for lease and that of a tenderer from outside the regional county municipality be equal, the land is awarded to the tenderer from the regional county municipality. In other cases of equal scoring, the land parcel is awarded by a drawing of lots among the tenderers having the highest score.

A notice stating the rank and scoring obtained by each tenderer must be sent to all tenderers.

DIVISION III SPECIAL LEASE CONDITIONS

9. ELIGIBILITY REQUIREMENT

Only a legal person may enter into a lease for land in the domain of the State under forest management following a call for proposals under the Program to develop a blueberry field of the forest/blueberry type.

A natural person is authorized, however, to submit a proposal following a call for proposals, subject to a commitment by that person to constitute a legal person within twelve months of written confirmation that he or she has obtained the highest score. If the tenderer has not met that eligibility requirement within the prescribed time, the lease may be granted to the tenderer who obtained the second highest score or the second place in a drawing of lots; that tenderer then has the same period of time to comply with the eligibility requirement.

10. TERM OF THE LEASE

The term of the lease is five years. It may be renewed, subject to compliance with the lease conditions, unless the Minister gives notice to the contrary.

11. TRANSFER OF THE LEASE

A lease granted under the Program is not transferable without prior authorization from the Minister. Before authorizing a transfer, the Minister must be satisfied that the purpose of the Program aimed at the consolidation

and enlargement of existing blueberry fields to enable producers to attain a viable production unit of 200 hectares is pursued.

Where a lease granted under the Program is not renewed or is revoked or cancelled, the land in the domain of the State described in the lease may be awarded again, in accordance with the terms and conditions of the Program.

12. SIGNING OF THE LEASE

The lease may be signed once the rows for the development of the blueberry fields have been cleared in keeping with the blueberry field development plan approved by the Minister.

If the clearing of the land parcel offered for lease lasts more than one year, the land parcel may be divided into several separate leases to be signed by the tenderer chosen as and when the areas are cleared.

13. SPECIAL LEASE CLAUSES

The Minister is authorized to include any special clause in the lease conducive to the pursuit of the Program's objectives.

14. CONTROL AND MONITORING

Every year, the lessee must send to the regional direction of the Ministère de l'Environnement an agro-environmental fertilization plan prepared in accordance with the Agricultural Operations Regulation made by Order in Council 695-2002 dated 12 June 2002, as amended. The plan must be signed by an agrologist and also include a schedule for phytosanitary treatments. The lessee is not required, however, to send the agro-environmental fertilization plan to the Ministère de l'Environnement if he or she is a member of an agro-environmental advisory club recognized by the Ministère de l'Agriculture, des Pêcheries et de l'Alimentation and the agro-environmental fertilization plan is prepared and kept as part of the activities of the advisory club.

15. NON-RENEWAL AND REVOCATION OF THE LEASE

The lease may not be renewed or may be revoked if the lessee has not commenced development of the blueberry field in accordance with the blueberry field development plan within a period of twelve months after the land is cleared. The lease may also be revoked if the lessee uses the land under lease for a purpose other than the development of a blueberry field of the forest/blueberry type.

Any lease obtained on the basis of erroneous or fraudulent information furnished by the tenderer in the call for proposals may be revoked.

16. LEASE RATES

The lease of a land parcel in the domain of the State under forest management for the development of a blueberry field of the forest/blueberry type is subject to an annual rent corresponding to 8% of its market value multiplied by the coefficient (C) representing the ratio that the area available for blueberry production under the development plan is of the total area of land covered by the lease, using the following formula:

$$\text{Rent} = 8\% \times (\text{market value of the land covered by the lease}) \times (C)$$

$$\text{Coefficient (C)} = \frac{(\text{area available for blueberry production})}{(\text{total area of land covered by the lease})}$$

DIVISION IV COHABITATION MEASURES

17. BLUEBERRY FIELD DEVELOPMENT PLAN

Before developing the blueberry field, the lessee must produce a blueberry field development plan prepared in accordance with the technical guide to developing a blueberry field of the forest/blueberry type, produced by the Ministère de l'Agriculture, des Pêcheries et de l'Alimentation. The plan must be approved by an agrologist. In order to establish cohabitation measures, the lessee shall invite the forestry rights holders to be affected by the project to participate in the preparation of the blueberry field development plan.

The lessee must submit the plan to the Minister who shall issue a notice attesting to compliance of the plan with the technical guide to developing a blueberry field of the forest/blueberry type.

Before approving the forest management plans, the Minister must be satisfied that the general forest management plan, the five-year forest management plan or the annual forest management plan are modified to allow for agricultural activities in the areas to be used for forest production.

DIVISION V AWARDING OF LAND FOR EXPERIMENTAL PURPOSES

18. LANDS AWARDED

For the purposes of experimentation with blueberry fields of the forest/blueberry type with a view to improving the model as may be necessary, the Minister may grant

leases of lands in the domain of the State under forest management to an authorized body.

19. AUTHORIZED BODIES AND ADMINISTRATIVE REGIONS

In the following administrative regions, the bodies authorized to develop blueberry fields of the forest/blueberry type for experimental purposes are as follows:

— Saguenay–Lac-Saint-Jean: Corporation d'Aménagement Forestier de Normandin (CAFN);

— Côte-Nord: Centre de recherche Les Buissons;

— Abitibi-Témiscamingue: Centre technologique des résidus industriels.

Where there is a failure to perform the work necessary for the experimentation, the Minister may designate, subject to the conditions the Minister determines, any other substitute body.

In the other administrative regions, the Minister may, subject to the conditions the Minister determines, recognize a body to participate in the development of blueberry fields of the forest/blueberry type for experimental purposes.

20. OBLIGATIONS

The body to which lands in the domain of the State are leased for experimental purposes must develop blueberry fields of the forest/blueberry type in order to improve that model as may be necessary.

To that end, the body must, before signing the lease and with the approval of the Minister, establish a research and experimental protocol in collaboration with a research committee formed of at least one representative of a higher education establishment (CEGEP or university), a representative of the forestry rights holders having an interest in the land under experimentation, a representative of the Syndicat des producteurs de bleuets du Québec, a representative of the Ministère de l'Agriculture, des Pêcheries et de l'Alimentation, a representative of the Ministère de l'Environnement, a representative of the Société de la faune et des parcs du Québec and two representatives of the Ministère des Ressources naturelles, de la Faune et des Parcs.

Before developing any blueberry field, the body must produce, in collaboration with the research committee, a development plan of the various layouts of blueberry fields of the forest/blueberry type for experimental pur-

poses; the plan must be signed by an agrologist and accepted by the Minister.

As part of its work, the body must, among other things, in collaboration with the research committee,

— layout blueberry fields of the forest/blueberry type in various width combinations of wooded strips and rows of blueberry field;

— analyze the productivity of blueberry fields according to various width combinations of wooded strips and rows of blueberry field;

— analyze the radiant effect that the wooded strips have on the protection and production of the blueberry fields according to their width and orientation;

— establish measures to monitor the silvicultural work in accordance with the protocol for measuring the real effects established by the Ministère des Ressources naturelles, de la Faune et des Parcs to verify the forest yield hypotheses used;

— analyze the impact of windfalls according to the various layout combinations;

— analyze the impact of the use of pesticides on the environment;

— analyze the impact of the model on fauna;

— analyze any other impact on agricultural or forest production associated with blueberry fields of the forest/blueberry type;

— produce annually for the Minister a progress report of the work performed and the results obtained;

— produce for the Minister a comprehensive report after each five-year experimentation period;

— ensure the dissemination of information;

— take into account the existing blueberry fields of the forest/blueberry type, in particular those developed by the Corporation d'Aménagement Forestier de Normandie; and

— take into account the research done and the results obtained in relation to the forest/blueberry stand concept, in particular by the Corporation d'Aménagement Forestier de Normandie.

21. APPLICABLE PROVISIONS

Divisions III, IV and VI apply, with the necessary modifications, to the lease of lands in the domain of the State under forest management to develop blueberry fields of the forest/blueberry type for experimental purposes.

DIVISION VI TRANSITIONAL AND FINAL

22. REGULATORY PROVISIONS

All the provisions of regulations made under the Act respecting the lands in the domain of the State remain applicable, except those relating to the terms and conditions for the awarding and the fixing of the rent. The provisions of the Program do not exempt lessees of lands in the domain of the State from complying with the various regulations and Acts in force. In addition, the development of blueberry fields of the forest/blueberry type must comply with the Regulation respecting standards of forest management for forests in the domain of the State, made by Order in Council 498-96 dated 24 April 1996, as amended.

23. DURATION OF THE PROGRAM

The Government may terminate the Program, in whole or in part, by an Order in Council to that effect.

Despite the revocation of the Program, all the leases granted under the Program may be renewed according to the conditions stipulated therein.

24. INFORMATION FOR WAITING APPLICANTS

Before making a first call for proposals in relation to lands in the domain of the State under forest management to be used to be developed as a blueberry field of the forest/blueberry type, the Minister will send a notice stating that the Program has been adopted to applicants having submitted an application for use of lands in the domain of the State under forest management for the purpose of blueberry production.

SCHEDULE I**BUSINESS PLAN FOR THE DEVELOPMENT AND OPERATION OF A BLUEBERRY FIELD ON LAND IN THE DOMAIN OF THE STATE UNDER FOREST MANAGEMENT****1. Identity of the tenderer**

- name of the enterprise;
- type of enterprise;
- list of shareholders;
- address;
- telephone number;
- name of the person authorized to act on behalf of the enterprise;
- other relevant information.

2. Experience of the tenderer

- blueberry fields in production, if existing (specify the number of hectares in production and their location as well as land tenure (examples: public land leased or property of the enterprise));
- crop rotation (examples: one vegetative year followed by one cropping year or one vegetative year followed by two cropping years);
- method used to prune plants and the period for carrying out that work (example: plants mowed to ground level in the spring);
 - methods and products used for weed control;
 - methods and products used for fertilization;
 - methods and labour used for the harvest;
- sale and distribution of the harvested produce (specify the destination of the produce according to the quantities for the last two years).

3. Description of the project

- area of land offered for lease (ha);
- area projected for the development of blueberry fields (ha);

- projected harvest for the first seven years, including start-up and rotation periods;

- other relevant information.

4. Production costs**4.1. Initial development phase**

- development work, methods, equipment and products used;
- development schedule (area per year).

4.2. Operational phase

- description of the field operations;
- crop rotation (examples: one vegetative year followed by one cropping year or one vegetative year followed by two cropping years, etc.);

- methods, equipment and products used for pruning plants and the period for carrying out that work (examples: plants mowed to ground level in the spring, other work);

- methods, equipment and products used for weed control;

- methods, equipment and products used for fertilization;

- methods and labour used for the harvest.

4.3. Financing

- total investment required;
- outlay;
- loan;
- source of financing.

5. Income

- estimate of the quantities harvested each year.

6175