

Gouvernement du Québec

O.C. 257-2006, 29 March 2006

Forest Act
(R.S.Q., c. F-4.1; 2004, c. 6)

Forest Management Funding Program

Regulation respecting the Forest Management Funding Program

WHEREAS, under section 124.37 of the Forest Act (R.S.Q., c. F-4.1), amended by section 6 of chapter 6 of the Statutes of 2004, the Government shall establish, by regulation, a forest management funding program to encourage the establishment, maintenance or development of forest production units;

WHEREAS, under section 172.2 of the Act, the Government may, by regulation, prescribe any measure necessary for the establishment and implementation of the forest management funding program provided for in section 124.37 of the Act and in particular

(1) determine the conditions, criteria and scope of the program, which may vary, in particular, according to the nature of the activities concerned, and prescribe exclusions;

(2) establish criteria to be used to determine the persons or classes of persons who may avail themselves of the program, and prescribe exclusions;

WHEREAS it is expedient to replace the Forest Management Funding Program made by Order in Council 384-97 dated 26 March 1997;

WHEREAS, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), a draft of the Regulation respecting the Forest Management Funding Program was published in Part 2 of the *Gazette officielle du Québec* of 24 August 2005 with a notice that it could be made by the Government on the expiry of 45 days following that publication;

WHEREAS the 45-day period has expired;

WHEREAS it is expedient to make the Regulation with amendments;

IT IS ORDERED, therefore, on the recommendation of the Minister of Natural Resources and Wildlife and the Minister of Agriculture, Fisheries and Food:

THAT the Regulation respecting the Forest Management Funding Program, attached to this Order in Council, be made to replace the Forest Management Funding Program made by Order in Council 384-97 dated 26 March 1997.

ANDRÉ DICAIRE,
Clerk of the Conseil exécutif

Regulation respecting the Forest Management Funding Program

Forest Act
(R.S.Q., c. F-4.1, ss. 124.37 and 172.2; 2004, c. 6, s. 6)

1. The Forest Management Funding Program is hereby established to encourage the establishment, maintenance or development of forest production units of 60 hectares or more.

La Financière agricole du Québec, hereinafter referred to as the agency, administers the Program and, for that purpose, determines the assistance that may be granted to forest producers.

2. In this Regulation,

“forest producer” means a certified forest producer under section 120 of the Forest Act (R.S.Q., c. F-4.1); (*producteur forestier*)

“forest production unit” means the area of all the production units owned or operated by a forest producer or a person associated with the project.

A forest producer includes

(1) a natural person or a legal person or a body which, without being a forest producer, is composed of at least one forest producer or one person holding an interest in a forest producer; and

(2) a natural person who, without being a forest producer, acquires at least a 20% interest in a forest producer and subsequently any shares in the forest producer; (*unité de production forestière*)

“hypothecary interest rate” means,

(1) in the case of a lender who offers such a rate, the interest rate on a closed-term loan secured by a first hypothec on a single-family dwelling; and

(2) in the case of a lender who does not offer such a rate, the interest rate on a closed-term loan secured by a first hypothec on a single-family dwelling from the National Bank of Canada, the Royal Bank of Canada, the Canadian Imperial Bank of Commerce or the Bank of Montreal, or the interest rate recommended for such a loan by the Fédération des caisses Desjardins du Québec to its affiliated unions; (*taux d'intérêt hypothécaire*)

“interim interest rate” means the prime lending rate plus $\frac{1}{2}$ %; (*taux d'intérêt intérimaire*)

“lender” means

(1) a savings and credit union governed by the Act respecting financial services cooperatives (R.S.Q., c. C-67.3);

(2) the National Bank of Canada, the Royal Bank of Canada, the Canadian Imperial Bank of Commerce, the Bank of Montreal, the Bank of Nova Scotia, the Toronto Dominion Bank or the Laurentian Bank of Canada;

(3) a person to whom all or part of the purchase price of forest assets, interests in a forest producer or non-voting or preferred shares in a forest producer is owed; and

(4) any other person authorized by the agency under subparagraph 3 of the first paragraph of section 22 of the Act respecting La Financière agricole du Québec (R.S.Q., c. L-0.1) to act as a lender; (*prêteur*)

“loan” means a loan, including a loan taken over by another borrower and all or part of the purchase price of forest assets, interests in a forest producer or non-voting or preferred shares in a forest producer, as the case may be, covered by a loan granted by a lender under this Program, the Forest Management Funding Program established by Order in Council 384-97 dated 26 March 1997, the Act to promote forest credit by private institutions (R.S.Q., c. C-78.1) or the Forestry Credit Act (R.S.Q., c. C-78); (*prêt*)

“prime lending rate” means the applicable prime lending rate among

(1) the prime lending rate of a lender who offers a prime rate;

(2) in the case of a savings and credit union affiliated with the Fédération des caisses Desjardins du Québec, the prime rate of the Caisse centrale Desjardins; and

(3) in all other cases, the prime rate offered by the majority of the following financial institutions: the Caisse centrale Desjardins, the National Bank of Canada, the

Royal Bank of Canada, the Canadian Imperial Bank of Commerce and the Bank of Montreal. (*taux d'intérêt préférentiel*)

3. For the purposes of the Program, the following constitute an interest in a forest producer:

(1) the rights held in a forest production unit if the forest producer is composed of one or more natural persons;

(2) the voting shares if the forest producer is a company;

(3) the shares held by the partners if the forest producer is a general or limited partnership;

(4) the shares if the forest producer is a cooperative; and

(5) the rights held in a forest production unit, the voting shares, the shares held by the partners, or the shares if the forest producer is composed of a combination of natural persons, companies, general or limited partnerships or cooperatives.

4. Financial assistance under the Program is in the form of a loan.

A loan may be granted by a lender to a forest producer who satisfies the conditions of the Program and the conditions under subparagraph 1 of the first paragraph of section 22 of the Act respecting La Financière agricole du Québec.

5. A loan may be granted only for

(1) the establishment, maintenance or development by a forest producer of a forest production unit under forest management covering a total of at least 60 hectares;

(2) the purchase by a forest producer composed of not more than four natural persons of machinery or equipment to be used exclusively for a forest management activity in the producer's forest production unit or in the forest production units belonging to those natural persons; and

(3) the acquisition or redemption of an interest in a forest producer, and the acquisition or redemption of any share in the forest producer.

The following are excluded from the Program:

(1) activities for which financial assistance may be provided under the Program for farm financing established by the agency by Resolution 46 adopted on 14 September 2001;

(2) activities related to forest seedling production and to the acquisition of assets for the processing of timber into firewood for commercial purposes;

(3) the purchase of machinery or equipment to be used for the processing of timber; and

(4) the holders of a wood processing plant operating permit that authorizes annual timber consumption of rough timber for peeling, sawing or pulp and paper production in excess of 2,000 cubic metres.

6. An application for a loan must be submitted in writing and be accompanied by the information and documents required by section 30 of the Act respecting La Financière agricole du Québec.

7. To be eligible for a loan, a forest producer must demonstrate,

(1) if the forest producer is a natural person, that he or she is of full age, is domiciled in Canada and is a Canadian citizen or permanent resident within the meaning of the Immigration and Refugee Protection Act (S.C. 2001, c. 27);

(2) if the forest producer is a legal person, that it has its head office and principal establishment in Canada; or

(3) if the forest producer is composed of more than one person, that all persons satisfy the conditions set out in subparagraphs 1 and 2.

The forest producer must also

(1) demonstrate that the forest area covered by the forest producer's application has a forest management plan that conforms to subparagraph 1 of the first paragraph of section 120 of the Forest Act;

(2) need the financial assistance applied for, having regard to the forest producer's overall financial situation, to establish, maintain or develop a forest production unit;

(3) be able to meet the financial obligations;

(4) have the necessary resources to carry out the project; and

(5) provide any guarantees required by the agency pursuant to subparagraph 1 of the first paragraph of section 22 of the Act respecting La Financière agricole du Québec.

8. The maximum term of a loan is 30 years.

9. The maximum amount of loans granted to a forest producer under the Program is \$750,000.

The balance on the loans granted to the borrower under the Program, the Forest Management Funding Program established by Order in Council 384-97 dated 26 March 1997, the Act to promote forest credit by private institutions and the Forestry Credit Act is taken into account in the calculation of that amount. Despite the foregoing, debts that have devolved on the borrower by succession after the last loan was granted are not taken into account in the calculation.

10. Every borrower must continue to satisfy the loan eligibility conditions for the entire term of the loan.

11. A lender who grants a loan under the Program is insured under the Fonds d'assurance-prêts agricoles et forestiers for the entire term of the loan pursuant to section 4 of the Act respecting farm-loan insurance and forestry-loan insurance (R.S.Q., c. A-29.1).

12. The interest rate on a loan may not exceed, at the option of the borrower,

(1) the hypothecary interest rate less the reduction in the interest rate provided for in section 14; or

(2) the prime lending rate, if the interest rate is variable.

Until the loan is fully disbursed, the interest rate cannot exceed the interim interest rate for a period that cannot exceed fifteen months following the date on which a loan certificate is issued by the agency under subparagraph 1 of the first paragraph of section 22 of the Act respecting La Financière agricole du Québec, after which the applicable interest rate must be one of the interest rates described in the first paragraph.

The prime lending rate and the interim interest rate are to be adjusted whenever the prime lending rate is changed.

13. The hypothecary interest rate on a loan may be adjusted on the expiry of each period of 12, 24, 36, 48, 60 or 84 months agreed between the lender and the borrower. The borrower may at that time again exercise the interest rate option under the first paragraph of section 12.

14. The hypothecary interest rate on a loan is reduced as set out in the table below:

Term of loan	Reduction
12 months	0.30%
24 months	0.35%
36 months	0.40%
48 months	0.45%
60 months	0.50%
84 months	0.60%

Despite the first paragraph, where in a calendar month the difference between the average rate of residential hypothecs for a term of five years and the average yield of Canadian five-year bonds, according to the generic rate published by Bloomberg LP, is less than 1.75%, the reduction in the hypothecary interest rate provided for in the first paragraph is suspended for the following three months for all loans whose interest rate is determined during that period. The reductions are reinstated in the month following a period of three consecutive months during which that difference is equal to or greater than 1.75%. When the interest rate on a loan is determined, it remains applicable for the term chosen by the borrower.

15. If the lender is a person to whom all or part of the purchase price of forest assets, interests in a forest producer or non-voting or preferred shares in a forest producer is owed, the interest rate may be set for a period not exceeding ten years, if the parties so agree. That interest rate may not exceed, for the chosen term, the current hypothecary interest rate of any of the financial institutions listed in paragraph 2 of the definition of “hypothecary interest rate” in section 2.

16. Interest on a loan is capitalized monthly and not in advance, regardless of the payment schedule agreed to by the parties.

17. No amount of money may be charged to a borrower by a lender for services offered free of charge by the lender in the normal course of business or for services provided by the agency.

18. This Regulation replaces the Forest Management Funding Program established under Order in Council 384-97 dated 26 March 1997.

Despite the foregoing, the replaced program continues to apply to financial assistance granted under the program before the date of coming into force of this Regulation,

and to applications for financial assistance received before that date that have not been disposed of by La Financière agricole du Québec.

19. This Regulation comes into force on 1 May 2006.
7539

Gouvernement du Québec

O.C. 258-2006, 29 March 2006

An Act respecting farm-loan insurance
and forestry-loan insurance
(R.S.Q., c. A-29.1)

Regulation — Amendment

Regulation to amend the Regulation respecting the application of the Act respecting farm-loan insurance and forestry-loan insurance

WHEREAS, under section 24 of the Act respecting farm-loan insurance and forestry-loan insurance (R.S.Q., c. A-29.1), the Government may make any regulation generally prescribing any measure necessary or advisable for the carrying out and proper operation of the Act;

WHEREAS it is expedient to amend the Regulation respecting the application of the Act respecting farm-loan insurance and forestry-loan insurance (R.R.Q., 1981, c. A-29.1, r.1);

WHEREAS, under sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), a draft of the Regulation to amend the Regulation respecting the application of the Act respecting farm-loan insurance and forestry-loan insurance was published in Part 2 of the *Gazette officielle du Québec* of 24 August 2005 with a notice that it could be made on the expiry of 45 days following that publication;

WHEREAS the 45-day period has expired;

WHEREAS no comments on the draft Regulation were received within the 45-day period;

WHEREAS it is expedient to make the Regulation without amendment;

IT IS ORDERED, therefore, on the recommendation of the Minister of Agriculture, Fisheries and Food: