



chapter A-18.1, r. 9

Regulation respecting the Forest Management Funding Program

Sustainable Forest Development Act
(chapter A-18.1, s. 169)

The former alphanumerical designation of this Regulation was: chapter F-4.1, r. 10.

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

O.C. 257-2006, s. 1.

2. In this Regulation,

“forest producer” means a certified forest producer under section 130 of the Sustainable Forest Development Act (chapter A-18.1); (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 1 forest producer or 1 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 1/2%; (taux d'intérêt intérimaire)

“lender” means

(1) a savings and credit union governed by the Act respecting financial services cooperatives (chapter 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 (chapter 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 (O.C. 384-97, 97-03-26), the Act to promote forest credit by private institutions (chapter C-78.1) or the Forestry Credit Act (chapter 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)

O.C. 257-2006, s. 2.

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 1 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.

O.C. 257-2006, s. 3.

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 (chapter L-0.1).

O.C. 257-2006, s. 4.

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 ha;

(2) the purchase by a forest producer composed of not more than 4 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 (Decision 46, 01-09-14);

(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 m³.

O.C. 257-2006, s. 5.

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 (chapter L-0.1).

O.C. 257-2006, s. 6.

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 1 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 2 of the first paragraph of section 130 of the Sustainable Forest Development Act (chapter A-18.1);

(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 (chapter L-0.1).

O.C. 257-2006, s. 7.

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

O.C. 257-2006, s. 8.

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 (O.C. 384-97, 97-03-26), the Act to promote forest credit by private institutions (chapter C-78.1) and the Forestry Credit Act (chapter C-78) 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.

O.C. 257-2006, s. 9.

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

O.C. 257-2006, s. 10.

11. A lender who grants a loan under the Program has the right to the repayment guarantee of La Financière agricole du Québec for the entire term of the loan pursuant to subparagraph 5.1 of the first paragraph of section 19 of the Act respecting La Financière agricole du Québec (chapter L-0.1).

O.C. 257-2006, s. 11; S.Q. 2011, c. 16, s. 244.

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 15 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 (chapter L-0.1), 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.

O.C. 257-2006, s. 12.

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.

O.C. 257-2006, s. 13.

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%

Despite the first paragraph, where in a calendar month the difference between the average rate of residential hypothecs for a term of 5 years and the average yield of Canadian 5-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 3 months for all loans whose interest rate is determined during that period. The reductions are reinstated in the month following a period of 3 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.

O.C. 257-2006, s. 14.

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 10 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.

O.C. 257-2006, s. 15.

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

O.C. 257-2006, s. 16.

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.

O.C. 257-2006, s. 17.

18. This Regulation replaces the Forest Management Funding Program (O.C. 384-97, 97-03-26).

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.

O.C. 257-2006, s. 18.

19. (Omitted).

O.C. 257-2006, s. 19.

REFERENCES

O.C. 257-2006, 2006 G.O. 2, 1248

S.Q. 2011, c. 16, s. 244