



Forest Resources Act Review
What We Heard

June 2023



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Background

The 2011 *Forest Resources Act* was developed collaboratively by the Government of Yukon and Yukon First Nations. It was the first comprehensive natural resource legislation to be developed after devolution, and oversees forest resource tenure, planning and enforcement. Engagement and consultation were undertaken in support of a review of the *Forest Resources Act*, which is required under that legislation.

A working group, including Teslin Tlingit Council, Tr'ondëk Hwëch'in, Kluane First Nation, Kwanlin Dün First Nation, Acho Dene Koe First Nation, and the Government of Yukon have proposed changes to improve the *Forest Resources Act's* functionality for operational staff, industry, First Nations and the public.

The proposed changes are aimed at strengthening relationships and increasing economic opportunity. The changes could result in better alignment of this legislation with Indigenous treaties (e.g., Final Agreements), including meeting consultation requirements. Specific provisions would support the biomass industry and regulate commercial morel mushroom harvest. There would be a reduction of red tape, and ultimately the amendments would help meet our fuel wood needs and get us closer to meeting our climate and energy goals.

Engagement process

Purpose

The *Forest Resources Act* includes a requirement for scheduled review. This engagement ensured that all Yukoners had a chance to provide input on proposed amendments to the Act and Regulation.

Process

The review was initiated in 2017. At that time, the Government of Yukon invited First Nations to contribute to the development of a process to review the legislation. A

working group, including Teslin Tlingit Council, Tr'ondëk Hwëch'in, Kluane First Nation, Kwanlin Dün First Nation, Acho Dene Koe First Nation, and the Government of Yukon, convened in early 2019.

The Government of Yukon had identified a variety of issues with the legislation over the first decade of implementation and these issues were brought forward to the working group for discussion. Between 2019 and 2020, the group developed draft recommended changes to the legislation. These were based on lessons learned in the first decade of implementation, and through engagement with First Nations, renewable resources councils, industry and conservation groups.

In spring 2023, we reconvened the working group to review and consider the feedback described below. The next step is for the working group to make final recommendations to the Government of Yukon.

What we asked

We asked Yukoners to view the list of proposed changes to the Act and Regulation. Some highlights are categorized below, and the complete list is attached as Appendix A.

The proposed changes include:

- 1) Streamlining and modernizing the licensing and permitting process:
 - a) Allowing license notifications to be shared earlier in the planning process (before an application is received). Harvest license notifications currently occur when an application is received.
 - b) Changing from two to one license type for commercial timber harvesting and streamlining the tenures regime. This provides a clearer process for administrators and businesses.
 - c) Expanding the collection of reforestation fees to include all wood (currently collected on dead and green wood harvested for saw logs and building logs only).
 - d) Introducing application fees for commercial morel mushroom permits.
- 2) Improving administrative and planning processes:

- a) Allowing the Director to amend timber harvest plans; currently, the reasons a timber harvest plan can be amended are too narrow and lead to unnecessary duplication or overlap of plans.
 - b) Enabling the development of community forest timber harvest plans to foster community stewardship of local forests.
 - c) More flexibility for forest resources permits to allow longer terms and a wider scope of eligible activities and uses for harvested timber.
- 3) Miscellaneous updates and corrections to the Act:
- a) Correcting typos and unclear language.
 - b) Changing from calendar year to fiscal year.
 - c) Updating maps and lists of completed plans.

Participation

Engagement methods

We sent letters to 14 Yukon First Nations, several transboundary Indigenous groups and 10 renewable resources councils inviting them to participate in this consultation and engagement process. The opportunity for the public, industry and other stakeholders to submit feedback was made available on Yukon.ca, from February 9 to April 13, 2023. The engagement was promoted by print and digital advertising. We sent email and letter correspondence to conservation groups and the Yukon Wood Products Association inviting them to take part in the process.

Some First Nations requested that we extend the consultation period for two weeks. We subsequently contacted all Indigenous groups and renewable resources councils directly, letting them know that the time for providing input had been extended to April 30, 2023.

Participation by numbers

We got written responses from:

- seven Yukon Indigenous groups

- three individuals
- two non-government organizations
- one industry stakeholder
- two renewable resources councils

We held meetings with:

- Mayo District and Alsek Renewable Resources Councils
- the Council of Yukon First Nations' Lands and Resources Committee

What we heard

Many of the proposed amendments to the Act and Regulation were met with support. There were specific provisions that some objected to, and in some cases, respondents had suggested modifications. That feedback is organized below, according to a few broad categories.

Language and definitions

- There were several comments regarding clarity of language.
- Terms that were mentioned as needing definition included traditional pursuits, fiscal year, use and harvest.
- There was a suggestion to revise how road use fees are determined. Currently Schedule 3 of the Regulation specifies that the road use fee will be set at “the approved construction and expected maintenance or decommissioning cost on a pro-rated basis per cubic metre of timber available.” The respondent would like to see “maintenance **and** decommissioning” rather than “maintenance **or** decommissioning”.
- There was opposition to changing wording from “harm to forest resources” to “harm to natural environment” as some participants felt the latter is too broad.
- One respondent pointed out that the scale and scope of processing facilities be carefully addressed and clarified landings where logs are processed and firewood bucked as not a ‘processing facility’.

Licensing and permitting

The working group proposed several changes to streamline and modernize the licensing and permitting process.

- There was support for increasing the maximum term of a forest resources permit to five years.
- Many respondents liked the idea of expanding the collection of reforestation fees to include fuelwood. A few respondents were opposed to expanding the collection of reforestation fees.
- Many agreed with the proposal to change to one license type and applying the reforestation fee uniformly.
- One respondent pointed out that collecting fees on fuelwood could result in more active management of regenerating forests through reforestation and may be a way to avoid shifts from coniferous to deciduous-dominated forests or even shrub and grassland ecosystems.
- Others were strongly opposed to collecting fees on fuelwood harvest. Some also opposed the collection of fees on non-timber forest products and recommended deferring the idea until the next Forest Resources Act review.
- There were some concerns expressed with the overall administrative requirements for timber harvesting and how the Government of Yukon manages money.
- There was support for the renewal of forest resources permits to reduce paperwork and increase certainty.
- One respondent asked for more details on expanding the scope of forest resources permits to allow more activities and longer-term tenure.
- There was a suggestion to ensure that any changes to regulations would encourage wood cutters and be financially realistic for government.

“The opportunity to harvest a few logs for a cabin or other construction is constrained and obfuscated by legislation that doesn’t accurately reflect the environmental and economic conditions and forest resources context in the Yukon.”

-Engagement participant

Forest management and timber harvest planning

- There was a suggestion to consider managing areas within timber harvest plans for objectives other than commercial harvest, such as moose habitat enhancement).
- One respondent was in favor of the addition of community forest management plan and another asked what these would achieve, outside of a regular timber harvest plan.
- There was some strong opposition to changing the requirement for community forest management plans to timber harvest plans, for managing community forests. The former may include items that meet community needs, or create constraints on forestry operations, based on community input.

Commercial harvest on incidental clearings

- There was strong support for authorizing the commercial use of timber that has been cut or cleared for non-forestry purposes, such as highway clearings and mining claims.
- Many respondents supported providing commercial operators access to timber before the land is cleared for other uses.
- There is a concern that commercial harvest on incidental clearings may lead to mineral claim staking for the sole purpose of timber harvesting (Note that this is unlikely due to the requirement to have in place an assessed and approved Mining Land Use Approval).

Standards and guidelines

- One individual recommended that section 23 of the Regulations state explicitly that the Director should develop separate standards and guidelines for greenwood and deadwood harvest, given their different biodiversity and ecological values. They would also like to see associated best management practices for greenwood and deadwood in unburned and burned boreal forests.
- They also asked for the mandatory development (and regular review and update) of management standards and guidelines, and other operating procedures.

Woodlot tenures

- There was some support for the proposal to eliminate the provision to create woodlot tenures.
- One respondent pointed out that woodlot tenures could be a way to develop unique multipurpose forest land.
- Some felt the idea of eliminating the provision should be delayed until (regional) land use planning is complete. Alternatively, the idea could be revisited in the next *Forest Resources Act* review.

Morel mushrooms

- Most agreed with the proposal to require a \$50 application fee for commercial morel permits, and to keep personal morel harvesting an unregulated activity (no permit required).
- One respondent suggested that the fee should be a flat rate for commercial harvesters, that the Government of Yukon impose a royalty for export out of the Yukon and that harvesters be required to submit reports as part of the permit.
- One respondent noted that it is costly to administer permits and monitor activities.
- There was concern that through the introduction of new fees, the capacity of the Forest Management Branch staff to support timber harvesters would be reduced.
- Someone noted that it does not make sense to send valuable resources out of territory without generating revenue for Yukoners.
- Several emphasized the idea that individual Yukoners, or those harvesting for subsistence use should not have to be permitted or pay fees.
- There were questions around consultation with First Nations on commercial morel permits, and whether application fee revenue would be shared with First Nations.

Access

- A request for information about a certain forest resource road may indicate a lack of clarity with respect to the process by which roads not constructed under the *Forest Resources Act* can become designated under the Act.
- There was some concern with the proposed exemption for the security requirement for First Nations that are using a forest resources road for traditional

pursuits such as trap line access. One respondent suggested that non-First Nation trappers should also be considered for this exemption.

- One respondent was opposed to broadening the definition of a motor vehicle to include off-road vehicles and forestry machinery, and they would prefer to see separate definitions for “machines” or “heavy equipment” that occasionally travel on forest resource roads.
- There was disappointment with the *Forest Resources Act* approach to road closures and other aspects of moose habitat stewardship.
- One respondent felt that the annual allowable cut concept sets the stage for unmanaged access development into the working forest. There was a suggestion that access should be considered in regional land use plans or in broader forest plans, and not just in site operation plans.

“Access planning should be very strict and precise with heavy involvement of renewable resources councils and Yukon Environmental and Socio-economic Assessment Board, with associated regulations (not best efforts) to control and enforce future use.”

-Engagement participant

Climate change

- One respondent encouraged the Forest Management Branch to increase investment in research and monitoring, including through partnerships with academics and other researchers, to understand how different tree species might survive and grow well across a range of weather and site conditions, treating reforestation as a set of experiments in a changing world.
- There were questions about considerations in the Act related to the value and requirements for preserving forests as a carbon sink. The federal government is leading an approach to carbon management, in the global context.

“We need a form of land care including forestry that does not compound these problems by increasing access and hunter harvesting by building roads and by reducing habitat quality for moose by conversion of forests into dense pine and spruce stands over most of the forest regeneration cycle.”

-Engagement participant

Indigenous considerations, consultation and appeals

- There was support for inclusion of transboundary Indigenous groups, and a request for proper acknowledgement and integration of all Yukon Indigenous groups, including the Inuvialuit, within the legislation.
- Changes to the Act should reflect the recognition that final agreements prevail.
- One participant suggested that there would be a risk of the Government of Yukon consultations not meeting either section 35 requirements or First Nation governments' needs before the annual allowable cut determination.
- There was input provided regarding the nature of consultation with First Nations and the requirement not to conflate First Nation consultation with engagement and exchanges.
- There was a reminder that First Nations are not equivalent to the public or other stakeholders and require greater attention and consideration.
- There was objection to limiting appeal provisions to only licenses, permits and site plans as it does not reflect the fact most forest resources activities occur in First Nation traditional territories. First Nations should maintain the possibility of an appeal on government decisions that may affect their traditional territories.
- It was pointed out that definitions in the Act should contemplate the Inuvialuit Final Agreement, and therefore the Inuvialuit should be subject to the same protections and given the same notices as the First Nations.
- There were requests for First Nations to be more involved in enforcement and compliance, as well as in the Forest Sector Trust administration.
- It was requested to ensure that relevant distinctions be made between public and Settlement lands, especially in respect of consultation requirements.
- One respondent requested that First Nations be informed when licenses are amended or terminated.

“We appreciate the wording changes that have been proposed regarding being more inclusive of Transboundary Aboriginal groups for consultation purposes.”

-Engagement participant

Overview

- A few respondents commented on the nature of the legislation, overall.

- One said that the legislation does not meet the needs of our young industry, which is focused on fuelwood production, but rather is modelled after the BC tools, designed over decades of industrial forest management in that jurisdiction.
- Another said that forestry should move out of its silo and join proactive and positive land care that is integrated.

“This would be an opportunity to revise the second point in the ‘Preamble’ to read ‘Promote the use of forest resources which play an important role in the economy of the Yukon.’”

-Engagement participant

Review process

- There were a number of First Nations and renewable resources councils that did not provide feedback.
- There was very limited input from the public.
- Some expressed concerns about the timeline for comments and the scheduling of multiple legislative consultation processes. In particular, there was an emphasis on participants’ limited capacity to respond to the number of requests.
- There were some questions regarding the review process itself, including requests for additional information, and questions about the legislative mechanisms that originally brought the Act into force.
- One person asked how the *Forest Resources Act* review relates to forest resources management plans.
- There was a request for a comprehensive technical review of proposed changes to the Act and Regulations.
- There were questions about the role of renewable resources councils with respect to the *Forest Resources Act*.
- There was a suggestion to consider more communication about forestry activities, perhaps as a published annual review of the state of the industry and resources.
- There was generally support for the requirement to review the Act again, no later than 10 years after this process.

Additional Considerations

Forest Sector Trust

The Government of Yukon is moving forward with establishing the Forest Sector Trust, as required under the *Forest Resources Act* and the Devolution Transfer Agreement. In 2016, the Forest Sector Trust Committee was established with a mandate to develop the structure and key arrangements for the trust to operate. That committee recommended amending the Act to allow for the creation of a not-for-profit corporation under the Canada Not-for-profit Corporations Act. This structure would maximize the flexibility of the fund, resulting in fewer administrative expenses and greater funding for projects.

The Government of Yukon consulted on the Forest Sector Trust Committee's recommendations in 2018, inviting Yukon First Nations, renewable resources councils, industry and transboundary Indigenous groups to provide feedback. For this reason, the 2023 engagement did not ask for input on the Forest Sector Trust. However, the 2018 recommendation will be included in the comprehensive package of amendments, which will go to Government of Yukon decision makers as the final step in this process.

Next steps

The working group has been reconvened to consider the input from this engagement and consultation. The working group will make final recommendations on changes to the *Forest Resources Act* and *Regulation* (including the 2018 recommendation regarding the Forest Sector Trust) to the Government of Yukon, which will make the final decision on amendments to the legislation.