

PUBLIC SUMMARY:

Draft 3 Consultation & Test Results for

**FSC® NATIONAL FOREST STEWARDSHIP
STANDARD OF CANADA for Small-Scale,
Low Intensity and Community Forests**

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1. INTRODUCTION

This report content is a summary of comments received during the second public consultation and results of the testing program of the FSC® NATIONAL FOREST STEWARDSHIP STANDARD OF CANADA for Small-Scale, Low Intensity and Community Forests.

The 60-days public consultation was held from May 26 to July 26, 2020, a period during which individuals and groups representing all FSC four chambers were invited to provide comments in writing.

Testing of the Draft 3 version of this Standard took place during the same period in June-July 2020. The goal of the testing program was to critically and objectively evaluate the possibility of conformance and implementation of the proposed Draft 3 indicators by the small woodlot owners and community forests managers. The testing program was divided into 2 testing categories: full standard and topics testing. The full test took place with a certificate holder currently certified to the Great Lakes St. Lawrence Standard. The topics tests were conducted with two certificate holders currently certified to the Great Lakes St. Lawrence and the Maritimes Standards. The topics chosen for the tests were Free, Prior and Inform Consent of Indigenous Peoples (in Principle 3) and the Conservation Areas Network (in Criterion 6.5), with some indicators related to these topics being tested. Both requirements for Small and Low Intensity Managed Forest (SLIMF) and Community Forests were tested, and all tests were conducted by independent certified FSC Forest Management auditors.

The results of the public consultation and the testing program will be used to inform the Standard Development Group (SDG) for the drafting of a final draft version of the Standard prior to its submission to FSC International for approval.



2. BACKGROUND INFORMATION

2.1 Draft 1:

FSC Canada initiated the development process in 2013 to explore possible requirements for small scale, low intensity and community forests. A first draft of scale, intensity and risk indicators were developed based on the first draft of the National Forest Stewardship Standard (NFSS)¹ for Canada and was released for a 30-day public consultation period from August 2 to September 5, 2016.

However, during the revision of the NFSS for Canada, a number of changes took place from draft to draft which made it difficult to adapt scale, intensity and risk indicators in a cohesive manner and thus the work was postponed to once the final NFSS was completed.

2.1.1 Overview of comments:

Nine submissions of comments were received across the 4 chambers during the first public consultation. Some important challenges were identified during that consultation period, including:

- Capacity and resources to implement the requirements related to Indigenous rights and the Free, Prior and Informed Consent;
- Aboriginal rights on private lands;
- Calculation of the annual allowable cut (AAC) for a small woodlot;
- Capacity and resources to implement the monitoring requirements;
- Implementation of landscape requirements for smallholders;
- Size limit for Community Forest.

2.2 Draft 2:

The second draft was built on the final version of the NFSS, the Draft 1 of this Standard, the comments received during the first consultation, a survey among small and community forests owners and managers and an innovation workshop held in Spring 2018.

The resulting draft was presented to 3 regional small groups of targeted forest

¹ The draft 1 of the NFSS already had a 60-day public consultation period, from December 1st, 2015 to February 2nd, 2016.



managers/owners, Aboriginal practitioner and leaders, and environmental groups, with experience with small and community forests and phone conversations were held with practitioners from British Columbia. These regional workshops were held in:

- Belleville, Ontario, on October 23, 2019;
- Truro, Nova Scotia, on December 12, 2019; and
- Quebec City, Quebec, on January 22, 2020.

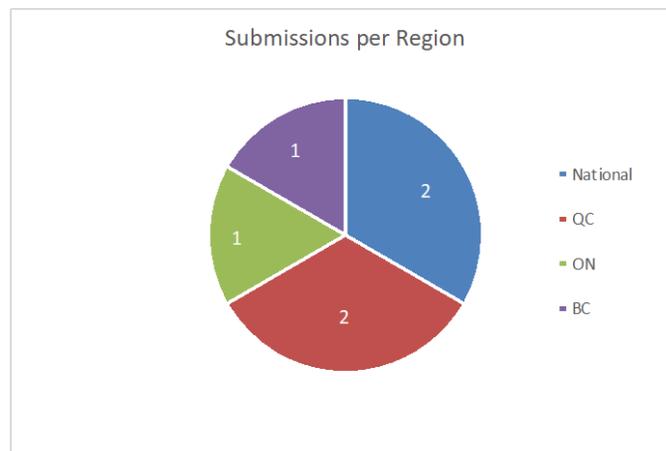
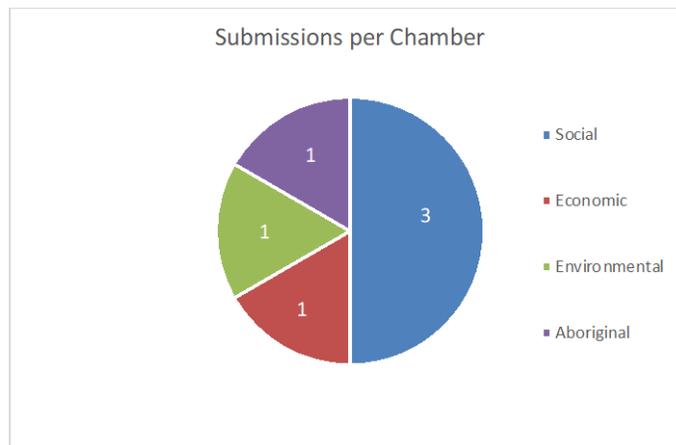
Several aspects of this Draft 2, including workers rights and employment conditions, Aboriginal rights on private land, Conservation Areas Network and landscapes requirements and engagement, were discussed.

Observations and results from the workshops and discussions were considered, including perspectives across the chambers (social, environmental, aboriginal and economic), by the Standard Development Group when reviewing draft 2. The resulting product is this Draft 3, which was made available for a second consultation period.

3 SUMMARY OF PUBLIC CONSULTATION RESULTS

3.1 Who submitted comments?

FSC Canada received six (6) submissions of comments during the consultation period. Even though the number may seem small, it is important to note that almost all submissions had multiple signatories, indicating cooperation among parties with similar interests. For example, two organizations managing two large group certificates in Canada were speaking on behalf of the 3500 private woodlot owners they are representing.



Note: In the above graphs, group certificate holders were classified as "social" since they are representing thousands of private woodlot owners. Certification Body were classified as "Economic".



3.2 General Issues

Some of the general issues that arose through consultation include:

The relation of indicator requirements to existing legislation and regulations

Some concerns were raised that the requirements of the Standard were not always aligned with the existing legislation and regulation. It must be recognized that the FSC Standard may require organizations to achieve a standard of management that exceeds legislation for certain topics identified as important by stakeholders and FSC members. Conforming to these requirements separates an organization from competition in the marketplace and is part of the fundamental logic of becoming certified.

FPIC and customary rights

The draft Standard infers a specific requirement for having a formal FPIC process or agreement in place to achieve conformance. Concerns have been raised related to the flexibility of the Standard in this regard, and the ability for small woodlot owners or small organizations to implement such process. FSC Canada's FPIC Guidance (<https://ca.fsc.org/en-ca/standards/new-national-forest-management-standard/free-prior-and-informed-consent>) and discussions with managers and Indigenous communities suggest that the process related to Free, Prior and Informed Consent (FPIC) is often an informal process that could last many years.

Stakeholder engagement

The increased burden and cost associated with substantially increased engagement requirements in this Standard, as compared to FSC Canada's previous standards, is noted. The level of engagement required for conformance may be problematic for organizations, Indigenous communities, or local communities in terms of capacity or resources.

Transition

Given the magnitude of the difference between this Standard and the existing FSC Canada regional Forest Management Standards, there was some concerns raised about the process for transitioning from the current Standards to the new Standard.

3.3 Main comments per Principle

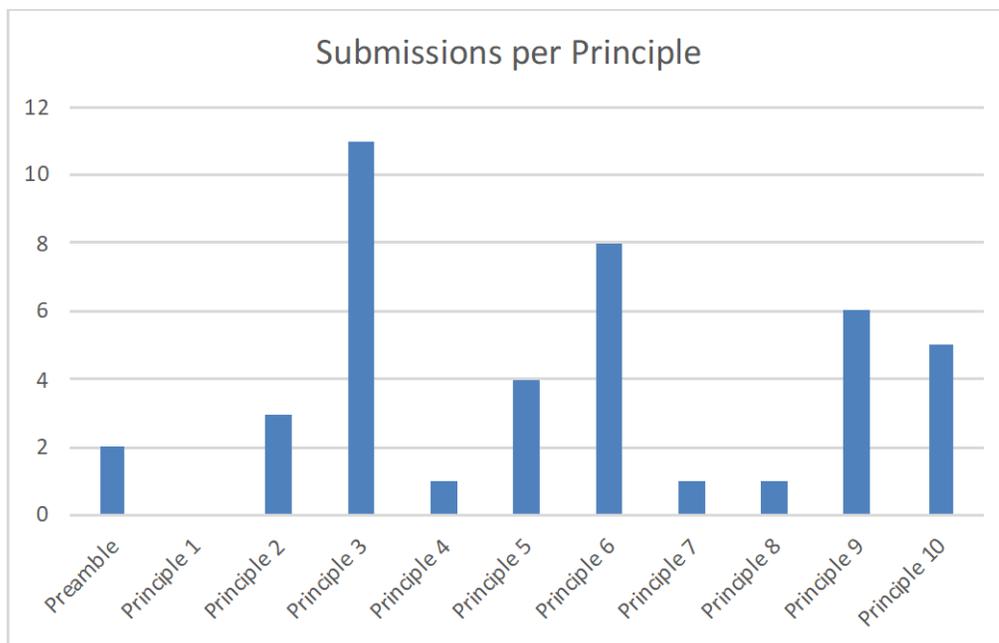
The information displayed in the figures below should be interpreted with caution as the



number of comments is not an accurate indicator of the number of distinct issues related to an indicator. In many cases, the same issue was raised by a number of parties. This may be seen as an indication of the magnitude of the concern but also reflects the approach to submitting comments that different groups took. In some instances, the exact same concern (with the same wording) was provided in separate correspondence by a number of parties, indicating cooperation among parties in reviewing the Draft. In other cases, a concern was expressed in a submission that had a number of signatories, also signifying cooperation among parties.

The different approaches to providing input (i.e. providing multiple pieces of correspondence from different aligned parties vs. providing a single piece of correspondence with multiple aligned signatories) suggests that caution should be taken in inferring too strong a relationship between the number of comments received and the number of distinct or important issues related to the individual indicators.

As indicated in the graph below, the most commented Principles are Principles 3 and 6, followed with Principles 9 and 10.





DISPUTE RESOLUTION APPROACH (Criteria 1.6, 2.6, 4.6, 7.6)

In draft 3, FSC Canada presented two options for how dispute resolution could be addressed throughout the Standard. The first option was to keep the same structure of the already approved NFSS and the second option was to merge all requirements related to dispute resolution found at Criteria 1.6, 2.6, 4.6 and 7.6 into one single Criterion.

- All submissions were favorable for merging indicators related to dispute resolution spread over 4 Criteria (1.6, 2.6, 4.6, 7.6) into one single Criterion.
- A suggestion was provided to merge Criteria 1.6, 4.6 and 7.6, since they pertain mostly to Indigenous Peoples, stakeholders and complaints/disputes as they can be qualified as of the same "type" (impact on property, rights, values, interests). For Criterion 2.6, since complaints/concerns from forest workers are usually of a very different nature (financial: pay, personal protective equipment, hours and conditions: risks, Health & Safety, operations) than those from stakeholders, the suggestion was to keep indicators of Criterion 2.6 separate.

PRINCIPLE 1 – Compliance with Laws

- In Principle 1, comments received only relate to dispute resolution.

PRINCIPLE 2 – Workers' Rights and Employment Conditions

- **Training requirements:** There is a concern that training all people carrying out forest management activities, including volunteers or relatives, as soon as the new Standard is implemented, will be difficult logistically to do. A suggestion was provided to allow non-trained people to work on the certified forest if they are working under the supervision of a trained worker.

PRINCIPLE 3 – Indigenous Peoples' Rights

- **Appropriate Engagement:** Despite the proposed adaptation of the concept of FPIC for SLIMF, some stakeholders still consider that "appropriate engagement" as defined in the Standard Annex (Annex E) to be far too burdensome for SLIMFs.
- **Identification of Indigenous' Rights:** Some Community Forests and groups of SLIMF certificates, don't have the resources and capacity to support the process of identifying and mapping Indigenous rights.
- **Formalizing an established relationship:** Some stakeholders consider that forcing an established relationship through a formal process with the intent of developing a formalized agreement risks setting the relationship back and exposes the relationship



to potential legal conflict.

- **One Standard, two FPIC requirements:** The FPIC requirements identified in Draft 3 for Community Forests are similar to the FSC National Forest Stewardship Standard of Canada (NFSS) which has been developed for larger scale forests or for forests managed with more capacity. The issues of scale, intensity, risk, and financial capacity of Community Forests is more aligned with SLIMF's than it is with the type of forest covered by the NFSS (as Crown forests, for example). Therefore, it is suggested that Community Forests should be allowed to take the same FPIC approach developed for SLIMF.
- **Special Sites:** For some Indigenous Peoples, this Criterion aimed at the identification of special sites, is insufficient. Regardless of the certified organization, the identification of sites of interest should be done upstream of the certification process in order to prevent management activities from having a significant impact on sites of interest. The organization should also ensure that Indigenous Peoples have the means and resources to identify these sites early in the process.

PRINCIPLE 4 – Community Relations

- In Principle 4, comments received only relate to dispute resolution.

PRINCIPLE 5 – Benefits from the Forest

- **Calculation of sustainable harvest levels for SLIMF:** The requirement is not precise enough and will be difficult to audit, and should include a few more details that groups are usually able to provide (ex. species, information on treatment types + area, etc.)

PRINCIPLE 6 – Environmental Values and Impacts

- **Conservation Areas Network - clarification on how the 10% of the area applies:** For group certificates that include both SLIMF and Community Forests, it is unclear if the representative sample areas included in Community Forests can count toward meeting the 10% at the group level or vice versa. Also, it is not clear whether each Community Forest part of the same group shall have a minimum of 10% or if the target can be reached at the group level.
- **Transition period to attain the 10%:** Group certificate would like to be allowed a transition period to gather information on the Conservation Areas Network for SLIMF members.



- **Adjacent protected areas:** It is suggested that existing protected areas bordering the management unit should count toward meeting the 10%, not only for woodlots smaller than 50 ha, but also for larger woodlots and Community Forest.

PRINCIPLE 7 – Management Planning

- In Principle 7, comments received only relate to dispute resolution.

PRINCIPLE 8 – Monitoring and Assessment

- Only editorial comments were received.

PRINCIPLE 9 – High Conservation Values (HCV)

- **Peer review of the HCV report:** Since Community Forests no longer have a size threshold, an external peer review of the HCV assessment by an independent expert is recommended.
- **Periodic revision of the HCV report:** The revision and update of the HCV assessment report every 5-year represents an additional burden, especially as consultation on this assessment is required. Some stakeholders consider that it would be more appropriate to require a revision every 10 years according to the revision of forest management plans, forest inventories and regional plans for the protection and development of private forests.
- **Sensitive data in HCV report:** For some HCV, it is not in the best interest of the value to make its location publicly available. Examples of such values include rare, vulnerable, threatened and endangered species and their habitats, as well as other rare or unique values. Limiting knowledge of the value may be critical to its protection. This is especially true for lands allowing public access such as Community Forests with high levels of public use. There should be a provision that allows the removal of strategic information before the HCV report is made public.
- **HCV straddling an FMU:** In the case of Community Forests that are fragmented across the landscape (e.g. some municipal lands), the requirement to “works within its sphere of influence” to coordinate activities with managers and users of adjacent lands to maintain and/or enhance the HCVs* or HCV areas” can become a real burden.

PRINCIPLE 10 – Implementation of Management Activities

- **Seed source:** More flexibility for determining seed sources to address and mitigate climate change – e.g. scientifically-directed/support for assisted migration is



recommended.

- **Use of pesticide for managing invasive species:** The use of pesticides in an integrated approach which also includes mechanical removal, and biological controls if they are available is likely warranted to mitigate the ecosystem impacts of invasive species. Early detection and rapid response can be effective, but for well-established invasive species, longer term use of pesticides may be required to mitigate impacts to forest ecosystems. Additional information about the role of pesticides in the management of invasive species should be included in the Standard.



4 SUMMARY OF TESTS RESULTS

This section presents the findings of the FSC Canada Standard tests, which were conducted at the request of FSC Canada, with the goal of critically and objectively evaluating the possibility of conformance and implementation of the proposed Draft 3 of the Standard for small size, low intensity and Community Forests.

Additional objectives included assessing:

- Impacts of significant changes of new requirements as compared to existing requirements;
- Applicability over a range of conditions, forest types and contexts;
- Socio-economic impacts of conformance;
- Auditability of the proposed indicators.

The tests evaluated the organizations against all or some of the applicable Draft 3 indicators. For each indicator, the evaluation focused on:

- A. Identifying potential concerns regarding conformance;
- B. Describing the kind of evidence that would be used to demonstrate conformance;
- C. What were the likely impacts of the implementing the requirements of the indicator on the Forest Management Enterprise (FME);
- D. Auditability - was the indicator considered auditable (specific, measurable, attainable, realistic and time-bound)?

In addition, the auditors were directed to provide comments regarding concerns, adaptation needs and/or suggested changes to the wording of the indicator, as warranted.

The key issues identified by the auditors are summarized by Principle below:

4.1 Full Standard testing

Principle	Summary of key issues identified
General	<ul style="list-style-type: none"> • The term "publicly available" is vague and needs to be clarified.
Principle 1	<ul style="list-style-type: none"> • The terms "system" and "mechanism" need to be better defined (Indicators 1.6.1, 1.6.2, 2.2.1, etc.).



	<ul style="list-style-type: none"> • Not clear to who applies the “timely manner” for the dispute resolution process.
Principle 2	<ul style="list-style-type: none"> • Even though the term “The Organization” has been defined in the Preamble and in the glossary of terms, it is still not clear whether the requirements related to gender equality (Criterion 2.2) apply to all workers working on the certified forest or only workers employed by the certificate holder (group entity). • In the context of private forestry where the majority of the work is done by independent contractors and owners, records of accidents and injuries are not easily accessible by the CH and the auditor. In addition, the interpretation of a “low frequency” can vary from one auditor to another. • The obligation to maintain training records should also applies to owners, family members and volunteer, otherwise it is impossible for the auditor to obtain objective evidence that these people have been trained
Principle 3	<ul style="list-style-type: none"> • The indicator requiring obtaining FPIC for Community Forest is the same as the NFSS. This indicator should be better adapted to the reality of a Community Forest. The Intent box is not enough. • May be some challenges to apply control measures to protect significant sites on some private lands.
Principle 4	<ul style="list-style-type: none"> • No implementation issues noted.
Principle 5	<ul style="list-style-type: none"> • The way the indicator 5.2.1 is worded, both the AAC calculation aspect and harvest level aspect are covered. Therefore, indicator 5.2.2 becomes irrelevant or redundant for SLIMF.
Principle 6	<ul style="list-style-type: none"> • Indicators 6.6.3 and 6.4.4 addressing hunting, fishing and collecting activities: both indicators seem very similar and almost redundant.
Principle 7	<ul style="list-style-type: none"> • No implementation issues noted.
Principle 8	<ul style="list-style-type: none"> • A portion of an Indicator (8.2.1, item #7) is referencing another indicator (6.8.4) which doesn’t exist.
Principle 9	<ul style="list-style-type: none"> • Indicator 9.3.3 for Community Forest: not clear what “coordinate” really implies?
Principle10	<ul style="list-style-type: none"> • The use of pesticides for the control of invasive species in some southern forests may be crucial. The indicators related to pesticides should consider this.

4.2 Topic Tests

4.2.1 Criteria 3.1 & 3.2 FPIC

Summary of key issues identified



Principle 3	<ul style="list-style-type: none"> • The legal and customary rights of Indigenous Peoples are not defined in many parts of the country and so it is not clear that conformance with this indicator can be achieved. Indigenous People and Forest Management Enterprises (FME) suggested that an approach based on shared values and shared goals would be most effective, and that it would be best to avoid the whole question of trying to define rights. This is problematic for both Indigenous Peoples as well as for FMEs, Community Forests and private landowners. While Indigenous People who were interviewed suggested that a written agreement or Memorandum of Understanding (MOU) would be useful, the standard should not prescribe the content of any agreement and such agreements should be flexible. • One indicator requires the formalization of the FPIC process. Neither FME has had discussions with relevant Indigenous Peoples regarding a formalized FPIC process. Current approaches are based on less formalized interaction, which takes place at many levels between the FME, individual members (primarily Community Forests) and Indigenous Peoples. • The requirements that Community Forests are expected to meet are considerably higher than those for SLIMFs and these increased requirements are excessive compared to available resources. • A key concern is that the formal identification of rights will introduce political elements into existing relationships, which will be counterproductive. Indigenous Peoples also questioned whether certification was the appropriate venue to try to address the issue of legal rights, since the implications are very broad.
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4.2.2 Criterion 6.5 Conservation Areas Network

	Summary of key issues identified
Principle 6.5.1	<ul style="list-style-type: none"> • It is not clear whether compliance is required for each individual Community Forest (CF) or for some aggregation of them (i.e. either all CF's in the Group or for the entire Group). If individual Community Forests are required to meet the threshold, there is some risk that those which do not might leave the Group. • Obtaining the data to undertake the mapping would be challenging and there are limited data available to identify potential conservation areas and HCVs on all members of the Group. Since the FME does not require any retention of area by members, it could be challenging for the FME if it was required to do so, and some members might leave the Group.



5 FORTH COMING: FINAL DRAFT

Next Steps

Discussions with Standard Development Group, consultants, and FSC Staff continue as indicators are reviewed and adapted in light of the comments and feedback received during the public consultation and the results of the testing program of Draft 3.

A final version of the Standard is set to be completed before the end of 2020. Once completed, the Standard will be submitted for approval to the Standard Development Group, then to the Board of Directors of FSC Canada.

Finally, the Standard will be sent to FSC International Performance and Standard Unit (PSU) for review and to the Policy and Standard Committee (PSC) for approval.

It is our hope that the standard will receive final approval during the first half of 2021.

STAY INVOLVED!

A sincere thanks must be extended to all participants who submitted comments and participated to the testing of this draft Standard. FSC Canada looks forward to their continued contributions in the next steps of this process and encourages engagement across all chambers. With this participation, we can come to solutions that are chambered balanced and workable across Canada. All members from all chambers and all interested stakeholders are encouraged to continue to stay involved.