

Draft Regulations

Draft Regulation

Natural Heritage Conservation Act
(R.S.Q., c. C-61.01)

Vaudray and Joannès lakes biodiversity reserve — Conservation plan — Amendments

Notice is hereby given, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), that the Amendments to the conservation plan of the Vaudray and Joannès lakes biodiversity reserve, appearing below, may be approved by the Government on the expiry of 45 days following this publication.

The purpose of the amendments is to establish an activities framework that is better adapted to the conservation and protection of biodiversity in the permanent protected area.

The proposed new activities framework prohibits certain interventions that are not compatible with conservation objectives and governs the carrying on of various other activities likely to have a significant impact on biodiversity, in particular by creating a requirement to have the activities authorized by the Minister.

The proposed amendments have been prepared in response to public consultations after consideration of the recommendations made by the Bureau des audiences publiques sur l'environnement in its report made public in March 2005. The amendments also reflect and restate much of the existing draft activities framework published in the *Gazette officielle du Québec* of July 2005 for all the proposed biodiversity reserves.

The new activities framework proposed for the Vaudray and Joannès lakes biodiversity reserve is divided into 4 divisions.

The first division, Protection of resources and the natural environment, contains a set of rules devised to minimize disturbances to the natural environment, in particular by prohibiting the stocking of watercourses and bodies of water for development purposes and the removal of species of flora and small fruit for commercial or industrial purposes or by mechanical means. Various other activities such as introducing species of flora and fauna and intervening in aquatic environments

or wetland areas are also governed by the rules which create a requirement to obtain an authorization from the Minister.

The second division, Rules of conduct for users, provides measures to ensure that users during their stay and travel in the biodiversity reserve behave in a manner that is safe and respectful of other users and the reserve's environment. It also prohibits hunting in Area IV as described in the plan in Schedule 3 to the conservation plan as a means of ensuring the safety of students and other visitors travelling in the Centre éducatif forestier du lac Joannès and using its trails.

The third division, Activities requiring an authorization, specifies certain other activities in the biodiversity reserve that require the Minister's authorization. The types of activity concerned include the right to stay in a reserve for more than 90 days, the carrying on of forest management activities to meet domestic needs or maintain biodiversity, the carrying on of development work, including trail development, the erection of new structures or works and the carrying on of various activities likely to degrade the soil or severely damage or disturb the natural environment, in particular during research-related and commercial, recreational and tourism activities. The proposed measures will also permit some existing practices to be maintained and exempt the persons who already occupy the reserve, such as holders of leases for vacation purposes (stays) or rough shelters (firewood), from obtaining certain authorizations.

The fourth division, Authorization exemptions completes the above set of measures. It creates an exemption in emergencies to allow an activity or other form of intervention within the biodiversity reserve if immediate action is necessary to prevent harm to the health or safety of persons or to repair or prevent damage caused by a real or apprehended catastrophe. The division also provides for an authorization exemption for the ritual, social and community activities of the members of Native communities. In addition, to avoid duplication authorization, some interventions by Hydro-Québec will not require an additional authorization from the Minister.

Further information on the Amendments to the conservation plan of the Vaudray and Joannès lakes biodiversity reserve may be obtained by contacting Joanne Laberge, Direction du patrimoine écologique et des Parcs,

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Interested persons having comments to make on the draft Regulation are asked to send them in writing before the expiry of the 45-day period to the Minister of Sustainable Development, Environment and Parks, Édifice Marie-Guyart, 30^e étage, 675, boulevard René-Lévesque Est, Québec (Québec) G1R 5V7.

CLAUDE BÉCHARD,
Minister of Sustainable Development,
Environment and Parks

Amendments to the conservation plan of the Vaudray and Joannès lakes biodiversity reserve

Natural Heritage Conservation Act
(R.S.Q., c. C-61.01, ss. 46 and 49)

1. The conservation plan of the Vaudray and Joannès lakes biodiversity reserve¹ is amended by replacing Division 5 by the following:

“5. Activities framework

§1. Introduction

Activities carried on within the reserve are governed mainly by the provisions of the Natural Heritage Conservation Act.

This Division prohibits activities in addition to those prohibited under the Act and sets out the framework for various activities permitted so as to better protect the natural environment. Accordingly, certain activities require the prior authorization of the Minister and compliance with the conditions determined by the Minister.

As provided in the Natural Heritage Conservation Act, the main activities prohibited in an area to which status as a biodiversity reserve has been assigned are

— mining, and gas or petroleum development;

— mining, gas and petroleum exploration, brine and underground reservoir exploration, prospecting, and digging or boring;

— forest management within the meaning of section 3 of the Forest Act (R.S.Q., c. F-4.1); and

— the development of hydraulic resources and any production of energy on a commercial or industrial basis.

§2. Prohibitions, prior authorizations and other conditions governing activities in the reserve

§2.1. Protection of resources and the natural environment

5.1. Subject to the prohibition in the second paragraph, no person may introduce non-native species of fauna or flora into the reserve, including by stocking or seeding, unless the person has been authorized by the Minister and complies with the conditions the Minister determines.

No person may stock a watercourse or body of water for aquaculture, commercial fishing or any other commercial purpose.

Before issuing an authorization under this section, the Minister is to take into consideration, in addition to the characteristics and the number of species involved, the risk of biodiversity imbalance, the importance of conserving the various ecosystems, the needs of the species in the ecosystems, the needs when rehabilitating degraded environments or habitats within the reserve, and the interest in reintroducing certain species that have disappeared.

5.2. No person may exploit wind power for domestic purposes unless the person has been authorized by the Minister and carries on the activity in compliance with the conditions the Minister determines.

5.3. No person may hunt in the reserve within Area IV appearing on the plan in Schedule I.

5.4. No person may remove species of flora or small fruits for commercial or industrial purposes or do so, for other purposes, by mechanical means.

5.5. No person may, unless the person has been authorized by the Minister and carries on the activity in compliance with the conditions the Minister determines,

(1) intervene in a wetland area;

¹ The conservation plan of the Vaudray and Joannès lakes biodiversity reserve was approved by Order in Council 1114-2006 dated 6 December 2006 (2007, G.O. 2, 5) and Division 5 of the plan has not been amended since.

(2) modify the reserve's natural drainage or water regime, including by creating or developing watercourses or bodies of water;

(3) dig, fill, obstruct or divert a watercourse or body of water;

(4) carry on any activity likely to degrade the bed or banks or shores of a body of water or watercourse or directly and substantially affect the biochemical characteristics or quality of aquatic or riparian environments or wetland areas, including by discharging or dumping waste or pollutants into the watercourse or body of water;

(5) carry out soil development work, including any fill, burial, earthwork, removal or displacement of surface materials or vegetation cover, for any purpose including recreational and tourism purposes such as trail development;

(6) install or construct a new structure, infrastructure or works;

(7) reconstruct or demolish an existing structure, infrastructure or works, although no authorization is necessary in the case of a trapping camp, a rough shelter or a building used for vacation purposes;

(8) use a pesticide, although no authorization is required for the use of personal insect repellent;

(9) carry on an activity that is likely to severely degrade the soil or a geological formation or damage the vegetation cover, such as stripping, the digging of trenches or excavation work;

(10) carry on educational or research-related activities if the activities are likely to significantly damage or disturb the natural environment, in particular because of the nature or size of the samples taken or the invasive character of the method or process used; or

(11) hold a sports event, tournament, rally or similar event, other than an activity of the Centre éducatif forestier du lac Joannès in Area IV of the reserve, if more than 15 persons are likely to participate in the activity and have access to the reserve at the same time; no authorization may be issued by the Minister if the activity involves motor vehicle traffic, unless it has been shown to the Minister that it is impossible to organize the activity elsewhere or that bypassing the reserve is highly unfeasible.

The conditions determined by the Minister for authorization may pertain to the location of the authorized activity, the methods used, the areas that may be cleared or deforested, the types of material that may be used including the material taken from the site, and the presence of ancillary works or facilities. The conditions may also include a requirement to ensure periodic follow-up or to report to the Minister, in particular as regards the results obtained from the research to which subparagraph 10 of the first paragraph refers.

Subject to compliance with the conditions determined in the authorization for their creation, work to repair or maintain trails authorized by the Minister or trails existing on the date on which the protection status as a reserve takes effect, including necessary tree removal or clearing work, may be carried out without the authorization required under subparagraph 5 of the first paragraph. The same applies to the repair or maintenance of ancillary infrastructures or equipment permitted in the reserve such as lookouts, shelters or stairs.

In the case of roads, the following work may also be carried out without the authorization of the Minister required under subparagraph 5 of the first paragraph:

— work to repair or maintain forest roads or roads authorized under the Act respecting the lands in the domain of the State (R.S.Q., c. T-8.1) carried out in accordance with the Forest Act and its regulations that concern standards of forest management;

— work required to repair or maintain roads under the responsibility of a municipality, referred to in the second paragraph of section 2 of the Act respecting roads (R.S.Q., c. V-9), if the work is carried out in accordance with the laws and regulations that apply.

5.6. No person may bury, abandon or dispose of waste, snow or other residual materials other than in waste disposal containers, facilities or sites determined by the Minister, or elsewhere with the authorization of the Minister and in compliance with the conditions the Minister determines.

§2.2. Rules of conduct for users

5.7. Every person staying, carrying on an activity or travelling in the reserve is required to maintain the premises in a satisfactory state and before leaving, return the premises to their natural state to the extent possible.

5.8. Every person who makes a campfire must

- (1) clear an area around the fire site sufficient to prevent the fire from spreading by removing all branches, scrub, dry leaves and other combustible material;
- (2) ensure that the fire is at all times under the immediate supervision of a person on the premises; and
- (3) ensure that the fire is completely extinguished before leaving the premises.

5.9. In the reserve, no person may

- (1) cause any excessive noise;
- (2) behave in a manner that unduly disturbs other persons in the reserve or interferes with their enjoyment of the reserve; or
- (3) harass wildlife.

For the purposes of subparagraphs 1 and 2 of the first paragraph, behaviour that significantly disturbs other persons and constitutes unusual or abnormal conditions for the carrying on of an activity authorized in the reserve or for the permitted use of property, a device or an instrument within the reserve is considered excessive or undue.

5.10. No person may destroy, remove, move or damage any poster, sign, notice or other type of signage posted by the Minister within the reserve.

5.11. No person may enter, carry on an activity or operate a vehicle in a given sector of the reserve if the signage erected by the Minister restricts access, traffic or certain activities in order to protect the public from a danger or to avoid placing the fauna, flora or other components of the natural environment at risk, unless the person has been authorized by the Minister and complies with the conditions the Minister determines.

§2.3. *Activities requiring an authorization*

5.12. No person may, for a period of more than 90 days in the same year and on the same site, establish a campsite or shelter or otherwise stay in the reserve, or occupy a site by installing or leaving property, unless the person has been authorized by the Minister and complies with the conditions the Minister determines.

For the purposes of this section, “same site” includes any other site within a radius of 1 kilometre from the site.

An authorization is not required if a person,

(1) on the date on which the protection status as a reserve takes effect, was a party to a lease or had already obtained another form of right or authorization allowing the person to legally occupy the land under the Act respecting the lands in the domain of the State or, if applicable, the Act respecting the conservation and development of wildlife (R.S.Q., c. C-61.1), and whose right to occupy the land is renewed or extended on the same conditions, subject to possible changes in fees;

(2) in accordance with the applicable provisions of law, has entitlement under a sublease, an assignment of a lease or a transfer of a right or authorization referred to in paragraph 1, and whose right to occupy the land is renewed or extended on the same conditions, subject to possible changes in fees; or

(3) elects to acquire land the person legally occupies on the date on which the protection status as a reserve takes effect, pursuant to the Act respecting the lands in the domain of the State.

5.13. (1) No person may carry on forest management activities to meet domestic needs or for the purpose of maintaining biodiversity, unless the person has been authorized by the Minister and carries on the activities in compliance with the conditions the Minister determines.

The conditions of that authorization may pertain, among other things, to species of trees or shrubs, the size of the stems that may be cut, the quantities authorized and the places where the activities may be carried on.

(2) Despite subsection 1, the authorization of the Minister under the conservation plan is not required if a person staying or residing in the reserve collects wood to make a campfire.

Such an authorization is also not required if a person collects wood to meet domestic needs to supply a trapping camp or a rough shelter permitted within the reserve in the following cases and on the following conditions:

(a) the wood is collected by a person in compliance with the conditions set out in the permit for the harvest of firewood for domestic purposes issued by the Minister of Natural Resources and Wildlife under the Forest Act; and

(b) the quantity of wood collected does not exceed 7 apparent cubic metres per year.

(3) Despite subsection 1, an authorization to carry on a forest management activity is not required if a person authorized by lease to occupy land within the reserve in accordance with the conservation plan carries on the forest management activity for the purpose of

(a) clearing permitted harvested areas, maintaining them or creating visual openings, and any other similar removal work permitted under the provisions governing the sale, lease and granting of immovable rights under the Act respecting the lands in the domain of the State;

(b) creating and maintaining access roads, stairs or other trails permitted under those provisions; or

(c) clearing the necessary area for the installation, connection, maintenance and repair of power, water, sewer or telecommunication lines, facilities and mains.

If the work referred to in paragraph *c* of subsection 3 is carried on for or under the responsibility of an enterprise providing any of those services, the work requires the prior authorization of the Minister, other than in the case of the exemptions provided for in sections 5.15 and 5.16.

5.14. No person may, unless the person has been authorized by the Minister and carries on the activity in compliance with the conditions the Minister determines,

(1) operate a store, restaurant, counter or other premises or facility for the sale, rental or production of goods or services; or

(2) sell or rent goods in the reserve, elsewhere than in a location referred to in paragraph 1, although an authorization is not required for the sale or rental of goods by a person authorized to do so pursuant to a contract with the Minister to provide goods and services in the reserve or for the sale or rental of goods by the Centre éducatif forestier du lac Joannès within the scope of its mission.

§2.4. Authorization exemptions

5.15. Despite the preceding provisions, an authorization is not required for an activity or other form of intervention within the reserve if urgent action is necessary to prevent harm to the health or safety of persons, or to repair or prevent damage caused by a real or apprehended catastrophe. The person concerned must, however, immediately inform the Minister of the activity or intervention that has taken place.

The members of a Native community who, for food, ritual or social purposes, carry on an intervention or an activity within the reserve are also exempted from obtaining an authorization, and are also exempted from the application of section 5.3.

5.16. Despite the preceding provisions, the following activities and interventions involving the production, transmission and distribution of electricity carried out by Hydro-Québec (Société) or by any other person for Hydro-Québec do not require the prior authorization of the Minister under the conservation plan:

(1) any activity or intervention required within the reserve to complete a project for which express authorization had previously been given by the Government and the Minister, or only by the latter, in accordance with the Environment Quality Act (R.S.Q., c. Q-2), if the activity or intervention is carried out in compliance with the authorizations issued;

(2) any activity or intervention necessary for the preparation and presentation of a pre-project report for a project requiring an authorization under the Environment Quality Act;

(3) any activity or intervention relating to a project requiring the prior authorization of the Minister under the Environment Quality Act if the activity or intervention is in response to a request for a clarification or for additional information made by the Minister to the Société and it is carried out in accordance with the request; and

(4) any activity or intervention by the Société, if the conditions for the carrying out of the activity or intervention have been determined in an agreement between the Minister and the Société and the activity or intervention is carried out in compliance with those conditions.

The Société is to keep the Minister informed of the various activities or interventions referred to in this section it proposes to carry out before the work is begun in the reserve.

For the purposes of this section, the activities and interventions of the Société include but are not restricted to pre-project studies, analysis work or field research, work required to study and monitor the impact of power transmission and distribution line corridors and rights-of-way, geological or geophysical surveys and survey lines, and the opening and maintenance of roads required for the purpose of access, construction or equipment movement incidental to the work.

§2.5. General provisions

5.17. Every person who applies to the Minister for an individual authorization or an authorization for a group or a number of persons must provide all information or documents requested by the Minister for the examination of the application.

5.18. The Minister's authorization, which is general and can be used by more than one person, may be communicated to the persons concerned by any appropriate means including a posted notice or appropriate signage at the reception centre or any other location within the reserve that is readily accessible to the public. The Minister is to provide a copy to any person concerned.

§3. Activities governed by other statutes

Certain activities likely to be carried on within the reserve are also governed by other legislative and regulatory provisions, including provisions that require the issue of a permit or authorization or the payment of fees. Certain activities may also be prohibited or limited by other Acts or regulations that are applicable within the reserve.

A special legal framework may govern permitted and prohibited activities within the reserve in connection with the following matters:

— Environmental protection: measures set out in particular in the Environment Quality Act (R.S.Q., c. Q-2);

— Archaeological research: measures set out in particular in the Cultural Property Act (R.S.Q., c. B-4);

— Development of wildlife resources: measures set out in particular in the Act respecting the conservation and development of wildlife (R.S.Q., c. C-61.1), including the provisions pertaining to outfitting operations and beaver reserves and the measures contained in applicable federal legislation, in particular the fishery regulations;

— Removal of species of fauna or flora that are threatened or vulnerable or are likely to be designated as such: measures prohibiting the removal of the species under the Act respecting threatened or vulnerable species (R.S.Q., c. E-12.01);

— Access and land rights: measures set out in particular in the Act respecting the lands in the domain of the State (R.S.Q., c. T-8.1);

— Operation of vehicles: measures set out in particular in the Act respecting the lands in the domain of the State (R.S.Q., c. T-8.1) and in the regulation on motor vehicle traffic in certain fragile environments made under the Environment Quality Act (R.S.Q., c. Q-2).”.

2. These Amendments come into force on the fifteenth day following the date of their publication in the *Gazette officielle du Québec*.

SCHEDULE I
(s. 5.3)

PLAN OF THE VAUDRAY AND JOANNÈS LAKES BIODIVERSITY RESERVE

