

Draft Regulation

Natural Heritage Conservation Act
(chapter C-61.01)

Réserve de biodiversité Kakinawigak

Notice is hereby given, in accordance with sections 10 and 11 of the Regulations Act (chapter R-18.1), that the Government intends to constitute the Réserve de biodiversité Kakinawigak and to approve the conservation plan applicable to the territory designated in the plan accompanying it and that it intends to make for that purpose the draft Regulation respecting the Réserve de biodiversité Kakinawigak, appearing below, on the expiry of 45 days following this publication

The constitution of the Réserve de biodiversité Kakinawigak, a name approved by the Commission de toponymie, will give to the territory of the proposed Réserve de biodiversité du lac des Quinze, set aside in July 2004, permanent protection status and will make the activities framework provided for in the Natural Heritage Conservation Act (chapter C-61.01) and in the draft Regulation prepared for the proposed biodiversity reserve applicable to the territory designated in the plan accompanying it.

The activities framework contains the general guidelines of the activities framework currently in force in the territory of the proposed Réserve de biodiversité du lac des Quinze. It provides for prohibitions in addition to those set out in the Natural Heritage Conservation Act and it regulates the carrying out of certain activities that may be carried out within the territory to better ensure the protection of the natural environment, in conformity with the principles of conservation and other objectives of management of the biodiversity reserve. Thus certain activities are subject to the prior authorization of the Minister.

Further information may be obtained by contacting Marc-André Bouchard, Acting Director, Direction des aires protégées, Ministère du Développement durable, de l'Environnement et de la Lutte contre les changements climatiques, édifice Marie-Guyart, 4^e étage, boîte 21, 675, boulevard René-Lévesque Est, Québec (Québec) G1R 5V7; telephone: 418 521-3907, extension 4712; fax: 418 646-6169; email: marc-andre.bouchard@mddelcc.gouv.qc.ca

Any person wishing to comment on the proposed biodiversity reserve is requested to submit written comments within the 45-day period to Marc-André Bouchard, at the above contact information.

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*Minister of Sustainable Development,
the Environment and the
Fight Against Climate Change*

Regulation respecting the Réserve de biodiversité Kakinawigak

Natural Heritage Conservation Act
(chapter C-61.01, s. 43 and s. 46, par. 1, subpars. e, f and g, and par. 2)

1. The Réserve de biodiversité Kakinawigak is constituted in the territory mapped in the Schedule I.

DIVISION I PROTECTION OF RESOURCES AND THE NATURAL ENVIRONMENT

2. Subject to the prohibition in the second paragraph, no person may introduce any specimens or individuals of a native or non-native species of fauna into the biodiversity reserve, including by stocking, unless the person has been authorized by the Minister.

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

Except with the authorization of the Minister, no person may introduce non-native species of flora into the biodiversity reserve.

3. No person may use fertilizers in the biodiversity reserve. Compost for domestic purposes is however permitted if it is used at least 20 metres from a watercourse or body of water, measured from the high-water mark.

The high-water mark means the mark defined by the Protection Policy for Lakeshores, Riverbanks, Littoral Zones and Floodplains (chapter Q-2, r. 35).

4. No person may remove species of flora, small fruits or any other non-timber forest product by mechanical means.

5. No person may, unless the person has been authorized by the Minister,

(1) intervene in a wetland area, including a marsh, swamp or peat bog;

(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) install or erect any construction, infrastructure or new works in the bed, on the banks or shores or the floodplain of a watercourse or body of water; no authorization is however required for minor works — quay or platform, boat shelter — installed for private purposes and may be free of charge under section 2 of the Regulation respecting the water property in the domain of the State (chapter R-13, r. 1);

(5) carry on an activity other than those referred to in the preceding paragraphs 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 in the biodiversity reserve, including by discharging or dumping waste or pollutants into the watercourse or body of water;

(6) carry out soil development work or an activity likely to degrade the soil or a geological formation, or to damage the vegetation cover, in particular by stripping, the digging of trenches or excavation work, including any burial, earthwork, removal or displacement of surface materials or vegetation cover, for any purpose;

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

(8) reconstruct or demolish a structure, infrastructure or works;

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

(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 any other similar event where

(a) fauna or flora species are taken or are likely to be taken; or

(b) motor vehicles or craft are used.

6. Despite paragraphs 6, 7 and 8 of section 4, no authorization is required to carry out the work described in paragraph 1 of this section if the requirements of paragraph 2 are met.

(1) The work involves

(a) the maintenance, repair or improvement of any construction, infrastructure or works, including a camp, a cabin, a road or a trail, including an ancillary facility such as a lookout or stairs;

(b) the construction or installation

i. of a dependency or a facility ancillary to a trapping camp, a rough shelter, a shelter or a cabin, including a shed, a well, a water intake or sanitary facilities; or

ii. of a trapping camp, a rough shelter, a shelter or a cabin if, on the date status as a biodiversity reserve takes effect, such a building was allowed under the right of use or occupancy granted, but was not yet carried out; or

(c) the demolition or reconstruction of a trapping camp, a rough shelter, a shelter or a cabin, including a dependency or a facility ancillary to such a construction, including a shed, a well, a water intake or sanitary facilities;

(2) The work is carried out in compliance with the following:

(a) the work involves a construction, infrastructure or works whose presence is allowed in the territory of the biodiversity reserve;

(b) the work is carried out within the area of the land or right of way covered by the right of use or occupancy in the biodiversity reserve, whether the right results from a lease, a servitude or another form of title, permit or authorization;

(c) the nature of the work or elements erected by the work will not operate to increase the area of land that may remain deforested beyond the limits allowed by the provisions applicable to the sale, lease and granting of immovable rights under the Act respecting the lands in the domain of the State (chapter T-8.1) and, if applicable, the limits set under an authorization issued in connection with that construction, works or infrastructure;

(d) the work is carried out in accordance with the prescriptions of any permit or authorization issued for the work or in connection with the construction, infrastructure or works to which they are related, as well as in compliance with the applicable legislative and regulatory measures;

(e) in the case of forest roads, the work must not result in altering or exceeding the existing right of way, enlarging the driving roadway or converting the road into a higher class road.

For the purposes of this section, repair and improvement work includes work to replace or install structures or facilities with a view to complying with the requirements of environmental regulations.

7. 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.

Despite the first paragraph, an outfitter holding a lease for accommodation purposes in the reserve does not need an authorization to use a disposal facility or site, in compliance with the Environment Quality Act (chapter Q-2) and its regulations, if the outfitter was already using the facility or site before protection status as a biodiversity reserve took effect.

DIVISION II RULES OF CONDUCT FOR USERS

8. No person may enter, carry on an activity or operate a vehicle in a given sector of the biodiversity 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.

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

DIVISION III ACTIVITIES REQUIRING AN AUTHORIZATION

10. No person may, for a period of more than 90 days in the same year, occupy or use the same site of the biodiversity reserve, unless the person has been authorized by the Minister.

(1) For the purposes of the first paragraph,

(a) the occupation or use of a site includes

i. staying or settling in the biodiversity reserve, for instance for vacation purposes;

ii. setting up a camp or shelter; and

iii. installing, burying or abandoning any property in the reserve, including equipment, a device or a vehicle; and

(b) the expression “same site” includes any other site within a radius of 1 kilometre from the site;

(2) Despite the first paragraph, an authorization is not required if a person,

(a) on the date on which the protection status as a biodiversity 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 (chapter C-61.1), and whose right to occupy the land is renewed or extended on the same conditions, subject to possible changes in fees; or

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

11. 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.

Despite the first paragraph, persons staying or residing in the biodiversity reserve and who collect wood required to make a campfire are not required to obtain the authorization of the Minister.

Such an authorization is also not required if a person collects firewood 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:

(1) 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 Forests, Wildlife and Parks under the Sustainable Forest Development Act (chapter A 18.1);

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

Despite the first paragraph, an authorization to carry on a forest management activity is not required if a person authorized by lease to occupy land within the biodiversity reserve in accordance with this plan carries on the forest management activity for the purpose of

(1) clearing, maintaining 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, including for access roads, stairs or other trails permitted under those provisions; or

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

If the work referred to in subparagraph 2 of the fourth paragraph 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 12 and 14.

12. No person may carry on commercial activities in the biodiversity reserve, except with the authorization of the Minister.

Despite the first paragraph, no authorization is required

(1) if the activity does not involve the taking of fauna or flora resources, or the use of a motor vehicle; or

(2) to carry on commercial activities if, on the date on which protection status as a biodiversity reserve takes effect, the activities were the subject of a right of use of the land for such purpose, whether or not the right results from a lease or another form of title, permit or authorization, within the limits of what the right allows.

DIVISION IV AUTHORIZATION EXEMPTIONS

13. Despite the preceding provisions, an authorization is not required for an activity or other form of intervention within the biodiversity 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.

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

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

(1) any activity or intervention required within the biodiversity 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 requirements of the Environment Quality Act, 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.

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 traffic incidental to the work.

DIVISION V FINAL

16. This Regulation comes into force on the fifteenth day following the date of its publication in the *Gazette officielle du Québec*.

