

Draft Regulation

Natural Heritage Conservation Act
(chapter C-61.01)

Réserve de biodiversité des Drumlins-du-Lac-Clérac

Notice is hereby given, in accordance with sections 10 and 11 of the Regulations Act (chapter R-18.1), that the Government intends to establish the Réserve de biodiversité des Drumlins-du-Lac-Clérac 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 Regulation respecting the Réserve de biodiversité des Drumlins-du-Lac-Clérac, appearing below, on the expiry of 45 days following this publication.

The establishment of the Réserve de biodiversité des Drumlins-du-Lac-Clérac, a name approved by the Commission de toponymie, will give to the territory of the proposed Réserve de biodiversité des Drumlins-du-Lac-Clérac, set aside in September 2005, 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 that biodiversity reserve applicable to the territory designated in the plan accompanying it.

The draft Regulation contains the general guidelines of the activities framework currently in force in the territory of the proposed Réserve de biodiversité des Drumlins-du-Lac-Clérac. 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 on the proposed establishment of the Réserve de biodiversité des Drumlins-du-Lac-Clérac may be obtained by contacting Francis Bouchard, Director, Direction des aires protégées, Ministère 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 4426; fax: 418 646-6169; email: consultation.GOQ@environnement.gouv.qc.ca.

Any person wishing to comment on the proposed establishment of the Réserve de biodiversité des Drumlins-du-Lac-Clérac is requested to submit written comments within the 45-day period to Francis Bouchard at the above contact information.

BENOIT CHARETTE,
*Minister of the Environment and the
Fight Against Climate Change*

Regulation respecting the Réserve de biodiversité des Drumlins-du-Lac-Clérac

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 des Drumlins-du-Lac-Clérac is established in the mapped territory in the Schedule.

2. For the purposes of this Regulation,

(1) the words or terms “high-water mark”, “littoral zone”, “floodplain”, “lakeshore” and “riverbank” have the meaning given to them in the Protection Policy for Lakeshores, Riverbanks, Littoral Zones and Floodplains (chapter Q-2, r. 35);

(2) the term “wetlands and bodies of water” has the meaning given to it in section 46.0.2 of the Environment Quality Act (chapter Q-2);

(3) the term “forest development activity” has the meaning given to it in the Sustainable Forest Development Act (chapter A-18.1).

DIVISION I PROTECTION OF RESOURCES AND THE NATURAL ENVIRONMENT

3. Subject to the prohibition in the second paragraph, no person may introduce any 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 lake or watercourse 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.

4. 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 lake or watercourse, measured from the high-water mark.

5. No person may remove from the biodiversity reserve species of flora, small fruits or any other non-timber forest product by mechanical means.

6. No person may in the biodiversity reserve, unless the person has been authorized by the Minister,

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

(2) modify the natural drainage or water regime, including by creating or developing lakes and watercourses;

(3) dig, fill, obstruct or divert a lake or watercourse;

(4) install or construct a structure, infrastructure or new works in the littoral zone, on the banks or shores or the floodplains of a lake or watercourse; 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 paragraphs 1 to 4 likely to directly and substantially affect the biochemical characteristics or quality of wetlands and bodies of water in the biodiversity reserve, including by discharging or dumping residual materials or contaminants into the wetlands or bodies 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; 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 directly or 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.

7. Despite paragraphs 6, 7 and 8 of section 6, if the requirements provided for in the second paragraph are met, no authorization is required to carry out the following work:

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

(2) the construction or installation

(a) of a dependency or a facility ancillary to a trapping camp, a rough shelter, a shelter or a cabin, including a shed, a water withdrawal facility or a system for the discharge and disposal of waste water, grey water and toilet effluents; or

(b) of a trapping camp, a rough shelter, a shelter or a cabin if, on (*insert the date of coming into force of this Regulation*), such a building was permitted under the right of use or occupancy granted, but had not yet been carried out; or

(3) 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 structure, including a shed, a water withdrawal facility or a system for the discharge and disposal of waste water, grey water and toilet effluents.

The carrying out of the work referred to in the first paragraph must comply with the following requirements:

(1) the work involves a structure, infrastructure or works whose presence is permitted in the biodiversity reserve;

(2) the work is carried out within the area of the land or right of way subject to the right to use or occupy the land in the biodiversity reserve, whether the right results from a lease, servitude or other form of title, permit or authorization;

(3) the nature of the work or elements installed by the work will not operate to increase the area of land that may remain deforested beyond the limits permitted under 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 structure, works or infrastructure;

(4) the work is carried out in accordance with the prescriptions of any permit or authorization issued for the work or in connection with the structure, infrastructure or works to which they are related, and compliance with the laws and regulations that apply;

(5) in the case of forest roads, the work must not operate to alter or exceed the existing right of way, widen the roadway or convert the road to a higher class.

For the purposes of this section, repair and improvement work includes work to replace or install works or facilities with facilities to comply with the requirements of an environmental regulation.

8. No person may bury, incinerate, abandon or dispose of residual materials or snow, except if they are disposed of in waste disposal containers, facilities or sites determined by the Minister or, in other cases, with the authorization of the Minister.

DIVISION II RULES OF CONDUCT FOR USERS

9. No person may enter, carry on an activity or operate a vehicle in a given sector of the biodiversity reserve if the signage installed by the Minister restricts access, traffic or certain activities in the sector 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.

10. 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

11. 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.

For the purposes of the first paragraph,

- (1) the occupation or use of a site includes
 - (a) staying or settling in the biodiversity reserve, for instance for vacation purposes;
 - (b) setting up a camp or a shelter; and
 - (c) installing, burying or abandoning any property in the reserve, including equipment, a device or a vehicle; and

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

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

(1) on (*insert the date of coming into force of this Regulation*), was a party to a lease or had already obtained another form of right or another authorization allowing the person to legally occupy the land under the Act respecting the lands in the domain of the State (chapter T-8.1) 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

(2) 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 1, and whose right to occupy the land is renewed or extended on the same conditions, subject to possible changes in fees.

12. 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 within the biodiversity reserve and who collect wood required to make a campfire are not required to obtain the authorization of the Minister.

No such authorization is required if a person collects firewood to meet domestic needs to supply a trapping camp or a rough shelter permitted within the biodiversity 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 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.

In addition, no authorization to carry on a forest management activity is required if a person authorized by lease to occupy land within the biodiversity reserve in accordance with this Regulation carries on the 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 (chapter T-8.1), 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 upgrading of facilities, lines or mains for water, sewer, electric power or telecommunications services.

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 14 and 16.

13. 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 if the activity does not involve the taking of fauna or flora resources, or the use of a motor vehicle.

DIVISION IV AUTHORIZATION EXEMPTIONS

14. 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.

15. Despite the preceding provisions, an authorization is not required for a member of a Native community for an intervention within the biodiversity reserve where that intervention is part of the exercise of rights covered by section 35 of the Constitution Act, 1982 (Schedule B of the Canada Act, chapter 11 in the 1982 volume of the Acts of the Parliament of the United Kingdom) and those rights are credibly asserted or established.

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

(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 (chapter 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.

The Société informs the Minister of the various activities or interventions referred to in this section it proposes to carry out before the work is begun within 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 electric 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 purposes of access, construction or traffic incidental to the work.

DIVISION V FINAL

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

SCHEDULE**LOCATION PLAN OF THE RÉSERVE DE BIODIVERSITÉ DES DRUMLINS-DU-LAC-CLÉRAC**

(s. 1)

