

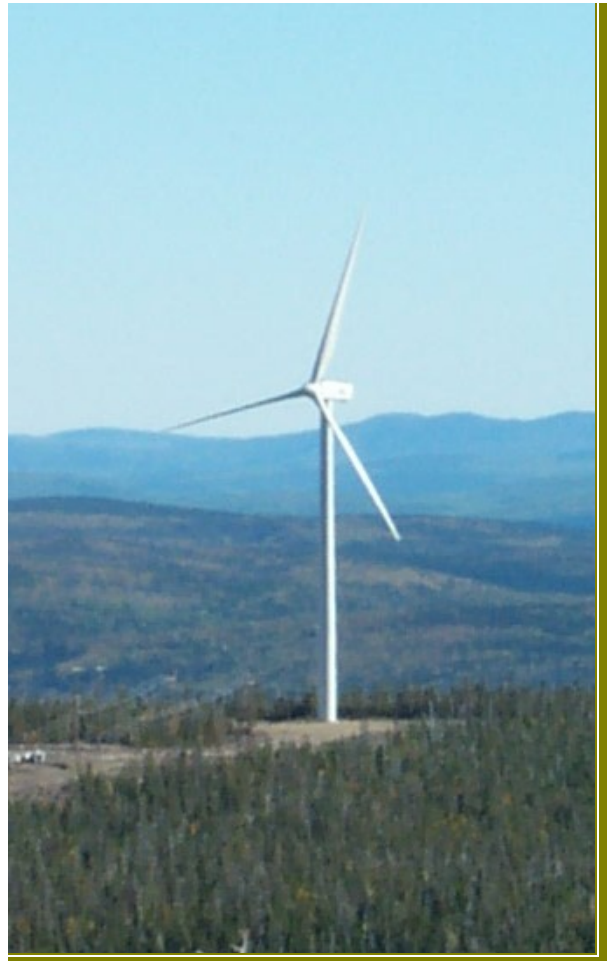


PROGRAM TO ALLOCATE PUBLIC LAND
FOR **WIND FARM CONSTRUCTION** Order
in Council 928-2005, amended by
Order in Council 647-2007

***INFORMATION GUIDE FOR CANDIDATES
IN THE 3RD TENDER SOLICITATION FOR
THE PURCHASE OF TWO SEPARATE
BLOCKS OF 250 MW OF ELECTRICITY
PRODUCED BY WIND TURBINES. ONE
FROM FIRST NATION PROJECTS AND THE
OTHER FROM COMMUNITY PROJECTS.
FOR A TOTAL INSTALLED CAPACITY OF
500 MW.***

NOTE :

This guide is a general summary of the application process for the Program to Allocate Public Land for Wind Farm Construction. For official regulations, refer to the complete text of the program, adopted by Order-in-Council No. 928-2005 on October, 2005, and published in the *Québec Official Gazette* on October 15, 2005, and amended by Order-in-Council N°647-2007 of August 7, 2007, and published in the *Québec Official Gazette* on August 15, 2007.



PART I

THE PROGRAM

BACKGROUND

Following a broadly based consultation begun in November 2004, the government of Québec published its energy strategy on May 4, 2006, defining the objectives to be achieved and the actions to be taken over the next ten years in the energy field. The document entitled "Using energy to build the Québec of tomorrow - Québec Energy Strategy 2006-2015" sets out six major orientations and priority actions in the matter of energy management and development. One of these orientations is described as "Develop wind power, an energy source for the future".

The Government will promote the development of the existing potential for wind generation that can be connected to the Hydro-Québec grid, with an objective of 4,000 MW by 2015.

Apart from its intervention aimed at developing the wind generation industry, the State is also involved in this new development market as a major land owner as the wind farms are likely to be installed on public land.

Due to the extent of the public land, it will be necessary to apply for the granting of land rights for wind farm construction. This means applying to lease lands for the construction of these farms, authorization for the construction of roads or passage easements for the energy transportation lines.

The goal of the program to allocate lands in the domain of the State for wind farm construction is not only to make accessible and reserve lands in the domain of the State for the development of the wind industry, but also to provide a framework for the granting of land rights for the use of those lands for that purpose. Program mechanisms regulate the issuance of letters of intent for developers who wish to submit a proposal in connection with a tender solicitation by Hydro-Québec. The Ministère des Ressources naturelles et de la Faune (hereafter the "Department") can then grant land rights to bidders retained by Hydro-Québec.

PROGRAM OBJECTIVES

The program aims to:

- establish wind farms on lands in the domain of the State subsequent to tender solicitations by Hydro-Québec;
- set the terms and conditions for granting land rights for the construction of wind farms on lands in the domain of the State;
- permit bidders on Hydro-Québec tender solicitations to submit projects for the construction of wind farms on lands in the domain of the State;
- set the lease rate for lands in the domain of the State used for wind power facilities based on the market rates.

WIND FARMS

For the purposes of the program, the term “wind farm” refers to all structures or equipment used to generate and deliver electricity from wind energy, as well as all related structures, devices, facilities, and equipment, except for wind measurement equipment.

AREA OF APPLICATION

The Program applies to lands in the domain of the State placed under the minister's authority, including those whose management is delegated to a regional county municipality (municipalité régionale de comté (MRC)) or a municipality in the context of a program delegating the management of lands in the domain of the State.

PART II

LETTER OF INTENT

The call for tenders issued by Hydro-Québec stipulates that all bidders must have identified a site for their project and taken the steps necessary to acquire the land or obtain the land rights to develop a wind farm. On public land, this requirement is fulfilled by obtaining a letter of intent.

A letter of intent is a document by which the minister agrees, under certain conditions, to grant land rights for wind farm construction on public land to an applicant who signs a contract with Hydro-Québec following the call for tenders. These conditions include obtaining the permits and authorization certificates required by law or regulation, as well as respect for harmonization objectives and criteria set out in the letter of intent.

The minister may, at his discretion, issue or refuse to issue any such letter of intent.

EFFECT OF THE LETTER OF INTENT

A letter of intent involves the reserving of the lands for the construction of wind farms and this for 60 days after the signature of all the wind energy sales contracts with Hydro-Québec following a tender solicitation. The minister may issue a letter to more than one applicant for the same land in the domain of the State.

The minister reserves the right to refuse to grant land rights to any public land for which a letter of intent has been requested, so as to protect its potential for wind farm construction under the call for tenders.

The holder of a letter of intent may not transfer it to a third party without the minister's prior approval. The minister may notify Hydro-Québec of any modification to the letter of intent.

DURATION OF VALIDITY OF THE LETTER OF INTENT

A letter of intent that awards land in the domain the State is valid for 24 months. Subject to the payment of the required fees, the minister may extend the duration of the validity. However, the minister may also cancel a letter of intent following a 30-day notice to the holder. A copy of the notice is sent to Hydro-Québec.

All letters of intent issued following tender solicitations by Hydro-Québec are null and void and without effect 60 days after the signature of all the wind energy sales contracts with Hydro-Québec following this tender solicitation.

APPLYING FOR A LETTER OF INTENT

Any person wishing to obtain a letter of intent from the Department may apply for one through their regional branch.

Applicants must provide the following information:

- a description of the project developer and partners, including the identification of a duly authorized respondent;
- a description of the project, including but not limited to
 - proposed nominal capacity
 - total area required
 - justification for area required
 - proposed number of wind turbines
- a location map of the intended site at a scale of 1/20 000 or greater, on which the boundary of the wind farm, the approximate location of the wind turbines, the electricity substation, the access routes and any other proposed equipment shall be represented;
- a digital file of the map (.shp format).

The minister reserves the right to require any further documentation or information deemed necessary to process the application.

On receipt of the application, the Department will analyze the project by carrying out, among others, the necessary consultations with the Departments and organizations concerned with the project.

If warranted, the Department will issue a letter of intent au requérant, indicating any harmonization objectives and criteria for the project land, as well as general conditions and requirements.

FEES

The fees payable to open a file are \$25 (plus GST and QST) and the fees payable to examine an application for a letter of intent are \$540 (plus GST and QST). If the application is approved, the fees payable for the issue of a letter of intent are \$4,318 (plus GST and QST) for 2009. The letter of intent is valid for two years. The fees are payable at the time of application by cheque or money order made out to the *Québec Minister of Finance*.

MINIMUM PROCESSING PERIOD

There is a minimum processing period of 60 days for the study and assessment of all applications for letters of intent. The minister may, at his discretion, issue or refuse to issue any letter of intent before the expiration of this period.

PART III

RESERVED LAND AREA

A bidder, who has signed a wind energy sales contract with Hydro-Québec following a tender solicitation, must present the minister with an application to obtain a land reservation applicable to the lands of the domain of the State described in its letter of intent, together with, where necessary, any other lands in the domain of the State required for the realization of its wind farm construction project.

The reserved land area indicates that the minister may grant the applicant the land rights required to install wind power facilities on lands in the domain of the State described therein, subject to obtaining all the permits and certificates required under an Act or a regulation then in force, and compliance with the requirements of the program and the conditions to be specified by the minister.

EFFECT OF RESERVED LAND AREA

A land reservation involves the reserving of the lands in question until the granting of the land rights required for the construction of all the wind energy facilities for the entire wind energy facilities of the project. The minister may not grant a reserved land area to more than one applicant on the same land in the domain of the State.

The minister may refuse to grant any land rights to land in the domain of the State covered by a land reservation in order to protect its potential until the granting of the land rights for the construction of all the wind energy facilities for the entire wind energy facilities of the project.

The holder of a reserved land area may not transfer the entitlement to a third party without prior authorization from the minister. The minister must notify Hydro-Québec of any modification relating to the reserved land area.

DURATION OF VALIDITY OF THE RESERVED LAND AREA

The reserved land area must be renewed annually and kept in force until the land rights required for the installation of all the wind power facilities in the project have been granted in full.

Failure to pay the annual rate for the reserved land area releases the minister from all obligations relating to the granting of land rights for the installation of the wind power facilities in the project.

The minister may cancel a reserved land area following a 30-day notice.

APPLYING FOR A LAND RESERVATION

To obtain a reserved land area, bidders selected by Hydro-Québec must complete and submit to the Department the appropriate application. This application must include the following:

- a description of the project developer and partners, including the identification of a duly authorized respondent;

- a description of the project, including but not limited to
 - proposed nominal capacity
 - total area required
 - justification for area required
 - proposed number of wind turbines
- a location map of the intended site at a scale of 1/20 000 or greater, on which the boundary of the wind farm, the approximate location of the wind turbines, the electricity substation, the access routes and any other proposed equipment shall be represented;
- a digital file of the map (.shp format);
- contracts in relation to the sale of electricity produced from wind energy or markets covered by such contracts, or a document from Hydro-Québec certifying the signature of a contract with the promoter in respect of the project retained;
- a business plan in respect of the financing and realization of the project;
- a timetable for the realization of the work.

Any other document or information the minister may deem necessary to process the application.

RATE

There is no fee to open a file or to process an application for a reserved land area where it results from a contract to purchase wind power entered into with Hydro-Québec following a tender solicitation.

However, the annual rate for the reserved land area is \$4/ha taxable and payable within 30 days of the issue of the letter confirming the reserved land area. This rate is not refundable.

PART IV

GRANTING OF LAND RIGHTS

The minister may, at his discretion, grant selected bidders lease or other land rights for the construction of wind farms.

To obtain land rights under the program, the bidder must be a corporate body.

APPLYING FOR LAND RIGHTS

To obtain land rights, bidders selected by Hydro-Québec must complete an application for the use of public land and submit it to the Department's General regional office. This application must include the following:

- a location map of the intended site at a scale of 1/20 000 or greater, on which the wind turbines, the electricity substation, the access routes and any other proposed equipment shall be represented
- a list of measures steps taken to meet harmonization objectives and criteria, where applicable
 - documents and reports requested in the letter of intent (agreement, reports, studies, etc.)
 - required permits and certificates of authorization
 - any other relevant information

On the awarding of the land rights, the applicant must have the land surveyed as directed by the Minister, at the applicant's expense.

Once all conditions have been met to the minister's satisfaction, the Department may grant the land rights required for the project.

FEES PAYABLE

Holders of a reserved land area who file an application to obtain land rights in respect of land in the domain of the State shall be responsible for all fees payable under the *Regulation respecting the sale, lease and granting of immovable rights on lands in the domain of the State*.

RENT (2nd and 3rd call for tenders)

The minister may award land rights for the installation of wind power facilities resulting from a tender solicitation by Hydro-Québec on lands in the domain of the State in accordance with the provisions of the *Regulation respecting the sale, lease and granting of immovable rights on lands in the domain of the State*, enacted by Decree No. 231-89 of February 22, with the exception of rent for the leasing of land in the domain of the State for the installation of a wind turbine, which is established by the *Program for the awarding of lands in the domain of the State for the installation of wind turbines*, enacted by Decree No. 928-2005 of October 12, 2005, published in the *Gazette officielle du Québec* of October 15, 2005 and amended by Decree No. 647-2007 of August 7, 2007, published in the *Gazette officielle du Québec* of August 15, 2007.

The annual rent for the leasing of land in the domain of the State for the installation of a wind turbine is calculated on the basis of the wind energy production capacity based on a rate of \$5,187 per taxable MW for 2009.

This rate is adjusted and rounded off to the nearest dollar on 1 April each year based on the change in the Average Consumer Price Index for the preceding year using the index established for the whole of Québec by Statistics Canada as the base.

TERM OF THE LAND RIGHTS AWARDED

The term of the land rights awarded for the installation of wind power facilities may exceed by 1 year the term of the wind energy sales contract entered into with Hydro-Québec. The term is calculated as of the first day of the month following the signing.

In the event that the wind energy sales contract entered into with Hydro-Québec ends before the scheduled term, the land rights awarded will end on the date indicated in a written notice from the Minister.

RENEWAL

Land rights may be renewed subject to the applicable program conditions and regulations in effect at the time of renewal.

PARTICULARS

The Department is authorized to include in land right contracts any provisions it deems necessary to meet the program objectives.

REVOCAATION

Land rights may be revoked if the selected bidder fails to complete the wind farm project in accordance with the land use plan within 24 months of signing the contract granting the rights. The minister reserves the right to extend this period.

The Department may revoke any land rights granted based on incorrect or fraudulent information provided by the selected bidder.

PART V

OTHER TERMS AND CONDITIONS

TIMBER RIGHTS

If the wind farm is to be constructed on land subject to a timber supply and forest management agreement (TSFMA) or any other forestry contract or agreement under the *Forest Act* (R.S.Q. c. F-4.1), the contract holder is entitled to harvest the timber on the land in question.

However, timber harvesting rights can be transferred to the developer upon agreement with the contract holder. In such instances, the merchantable timber harvested must be reserved for the wood processing company that holds forestry rights to the land.

REGULATORY PROVISIONS

Public lands allocated for wind energy production are subject to regulatory provisions adopted under the *Act respecting lands in the domain of the State* to the extent that these provisions are compatible with the program. The provisions of the program do not release public land lessees from the laws and regulations in effect.

All regulations in effect regarding the management of public forests must also be respected (*Regulation respecting standards of forest management for forests in the public domain, etc.*).

EXCLUSIONS

This program does not apply to authorizations and land rights for the installation of wind measurement equipment or agreements on wind farm construction signed by the government, its representatives, and third parties before the program comes into effect.

The program to allocate lands in the domain of the State for wind farm construction approved by Order in Council 928-2005 and amended by Order in Council 647-2007 replaces that adopted by Order in Council 28-2004 dated January 14, 2004. However, the authorizations and rights granted under that program continue to apply in accordance with its provisions until their expiry.

OTHER WIND POWER FACILITIES

The minister may grant land rights on lands in the domain of the State for the installation of wind power facilities that do not follow tender solicitations by Hydro-Québec, in accordance with the provisions of the *Regulation respecting the sale, lease and granting of immovable rights on lands in the domain of the State* made by Order in Council 231-89 of February 22, 1989, as amended, only in the following cases:

- Wind power facilities intended for experimentation;
- Wind power facilities intended for self-generation;
- Wind power facilities of a maximum production capacity of 2 MW; one project of this type authorized per applicant;

- Wind power facilities for the development or consolidation of an existing wind farm, to a maximum of 50% of the power installed or proposed as of the coming into force of this program, subject to the condition that the applicant has a purchase contract with Hydro-Québec for the supplementary energy;
- Wind measurement equipment.

Except for the wind power facilities specified above, the minister may not grant land rights for wind power facilities that do not follow a Hydro-Québec tender solicitation.

FOR MORE INFORMATION ON THIS PROGRAM, PLEASE CONTACT

A point of service of the Ministère des Ressources naturelles et de la Faune in your region.

Demande de lettre d'intention pour l'utilisation des terres du domaine de l'État à des fins d'implantation d'éoliennes

RENSEIGNEMENTS

Les frais exigibles

Les frais d'ouverture d'un dossier sont de 28,22 \$ (25 \$ plus la TPS et la TVQ) et les frais d'étude d'une demande, de 609,53 \$ (540\$ plus la TPS et la TVQ). Joindre un chèque ou mandat-poste de 637,75 \$ à l'ordre du ministre des Finances du Québec.

Nos coordonnées

Pour obtenir des renseignements supplémentaires, communiquez avec la direction générale en région :
(Inscrire la région et ses coordonnées)

1. IDENTITÉ DU DEMANDEUR

Nom : _____

Adresse : _____
Numéro Rue Bureau

_____ Ville Province Code postal

Téléphone : _____

Télécopieur : _____

Adresse électronique : _____

Représenté(e) par :

Nom : _____

Fonction : _____

2. LOCALISATION DU TERRAIN DEMANDÉ

Municipalité ou MRC : _____

3. TYPE DE PROJET

– Projet autochtone Projet communautaire

4. DOCUMENTS À JOINDRE

- Une présentation du soumissionnaire et de ses partenaires y compris l'identité d'un répondant dûment autorisé.
- Une description du projet comprenant, sans s'y restreindre :
 - la puissance nominale projetée,
 - la superficie d'occupation requise,
 - une justification de la superficie demandée,
 - le nombre d'éoliennes projetées.
- Un plan de localisation du site visé à une échelle de 1/20 000 ou plus, sur lequel seront représentés le périmètre du parc éolien, la localisation approximative des éoliennes, le poste d'élévation électrique, les voies d'accès et tout autre équipement projeté.
- Un fichier numérique du plan (format.shp).

Le ministre se réserve le droit d'exiger tout autre document ou renseignement qu'il juge à propos pour l'étude de la demande.

5. SIGNATURE

Je déclare que tous les renseignements mentionnés ci-dessus sont exacts.

Signature

Date

Demande de réserve de superficie pour l'utilisation des terres du domaine de l'État à des fins d'implantation d'éoliennes

RENSEIGNEMENTS

Les frais exigibles

Le tarif pour la réserve de superficie est de 4 \$/ha/an (plus TPS et TVQ).

Nos coordonnées

Pour obtenir des renseignements supplémentaires, communiquez avec la

Direction générale régionale :
(Inscrire la région et ses coordonnées).

1. RENSEIGNEMENTS SUR L'IDENTITÉ DU DEMANDEUR

Nom : _____

Adresse : _____
Numéro Rue Bureau

_____ Ville Province Code postal

Téléphone : _____

Télécopieur : _____

Adresse électronique : _____

Représenté par :

Nom : _____

Fonction : _____

2. LOCALISATION DU TERRAIN DEMANDÉ

Municipalité ou MRC : _____

3. TYPE DE PROJET

Projet autochtone Projet communautaire

4. DOCUMENTS À JOINDRE

- Une présentation du soumissionnaire retenu et de ses partenaires, incluant l'identification d'un répondant dûment autorisé;
- une description du projet comprenant, sans s'y restreindre :
 - la puissance nominale projetée,
 - la superficie d'occupation requise,
 - une justification de la superficie demandée,
 - le nombre projeté d'éoliennes;
- un plan de localisation du site visé à une échelle de 1/20 000 ou plus, sur lequel seront représentés le périmètre du parc éolien, les éoliennes, le poste d'élévation électrique, les voies d'accès et tout autre équipement projeté;
- un fichier numérique du plan (format.shp).

Le ministre se réserve le droit d'exiger tout autre document ou renseignement qu'il juge à propos pour l'étude de la demande.

5. SIGNATURE

Je déclare que tous les renseignements mentionnés ci-dessus sont exacts.

Signature

Date