

# A NEW ACT TO MOVE QUÉBEC FORWARD IN A RESPONSIBLE WAY FOR EVERYONE'S BENEFIT

**The National Assembly has adopted Bill 102, entitled the “Act to amend the Environment Quality Act to modernize the environmental authorization scheme and to amend other legislative provisions, in particular to reform the governance of the Green Fund.”**

The new Act stems from a vision that seeks to provide Québec with a clear, predictable and optimized authorization scheme, while maintaining the highest environmental protection requirements.

The new approach is based on environmental risk and enables the Ministère to focus its efforts on projects that have significant impacts on the environment.

The Ministère must also work to achieve a service culture grounded in the values of transparency, rigor and fairness for the entire population.

Consequently, the new Act makes procedures more effective and predictable for project proponents as well as for the communities concerned by the projects. It is part of an approach that fosters coherence, simplification and efficiency.

The new Act also completely reforms the governance of the Green Fund by emphasizing the principles of rigor, transparency and accountability.



## THE MAIN THRUSTS OF THE NEW ENVIRONMENT QUALITY ACT (EQA)

### Modulation of the authorization scheme based on environmental risk while maintaining the highest environmental requirements

Ranking projects based on their environmental risk will allow the Ministère's employees to focus their efforts where they are most needed and concentrate on cases involving the greatest environmental risks. Projects will be ranked according to four risk levels requiring four different types of framework:

- ▶ **High risk:** environmental impact assessment and review process
- ▶ **Moderate risk:** ministerial authorization
- ▶ **Low risk:** declaration of compliance (**New**)
- ▶ **Negligible risk:** exemption

Modulation based on environmental risk will eliminate about 1,500 ministerial authorizations out of an average of 5,000 per year.

Starting now, three types of activities require a simple declaration of compliance:

- ▶ some water and sewer system extensions;
- ▶ some work for the rehabilitation of contaminated land;
- ▶ the establishment and subsequent operation of an asphalt concrete plant under certain conditions.

### Simple authorizations, predictable processes and less time involved

From now on, a single type of authorization will encompass the vast majority of certificates, authorizations, attestations, approvals, permits and permissions previously required by the Act.

The scheme will be simplified for pilot projects carried out for the purposes of research and experimentation as well as in emergency situations. Additionally, in cases of business transfers, environmental rights and obligations will be transferred by operation of law. The Minister will no longer need to authorize transfers.

The Act will result in a time reduction of up to 20% for projects subject to the environmental impact assessment and review process (high risk).

Placing new, detailed authorization application forms online on the Ministère's website will help increase the predictability of the review process.

### Striking a balance between the responsibilities of the Ministère and project proponents

Modernizing the authorization scheme will lead to a better balance of responsibilities between the Ministère and project proponents when processing authorization applications. For example, incomplete applications will no longer be accepted. In turn, the Ministère will assist project proponents by providing them with better support and clearer guidance concerning its requirements. This approach will help reduce the time involved.

Clearly defined expectations and increased support for applicants by the Ministère mean substantial time savings.

### Broad access to information and many opportunities for the public to participate

Each year, the Ministère receives 12,000 access to information requests. People want to have more information and they want it earlier in the process. Modernizing the authorization scheme will significantly improve access to information and the transparency of authorization procedures. According to the Act, new authorizations and all related documents are now considered public information, subject to confidential industrial and trade secrets.

All documents, with the exception of industrial and trade secrets, will be progressively added to a register to be created for this purpose. In the meantime, information will be available on request.

### Integration of 16 principles from the Sustainable Development Act

The measures adopted in the amended Act will be applied in accordance with the principles of the Sustainable Development Act, including health and quality of life, prevention, precaution, and ecosystem support capacity.

Strategic environmental assessment, which is the preferred tool for implementing sustainable development, has been framed within the Act and will apply to the Administration's programs that will be defined by regulation.

### The fight against climate change has been taken into account in the authorization process

Measures provided for in the Act will help to achieve government greenhouse gas (GHG) reduction targets.

The introduction of a "climate test" will make it possible to intervene ahead of projects in order to assess and minimize their GHG emissions. If the estimated GHG emissions of an authorization applicant's project reach or exceed a given threshold, the applicant must demonstrate its project's GHG emissions optimization by justifying its technological choices, procedures and energy sources.

On an exceptional basis, the Government will be able to require a project to undergo the environmental impact assessment and review procedure even though it is not normally subject to it if the project involves major climate change issues or other major environmental issues raising public concerns that would justify requiring the procedure.

### A better internalization of costs associated with environmental authorizations and activities stemming from them

This is a sustainable development principle. The scheme's self-financing plan will be expanded and the fee schedule will be revised based on the new authorization scheme. The Act already provides for new fees that come into force immediately for declarations of compliance.



## OTHER LEGISLATIVE AMENDMENTS

The new Act contains amendments other than those concerning the EQA. Most of them pertain to the Green Fund, the highly effective tool that supports businesses, municipalities and citizens in their transition to a low-carbon world. These amendments came into force when the Act was passed.

### Green Fund

- ▶ The Conseil de gestion du Fonds vert (Green Fund management board) has been established;
- ▶ The principles of rigor, transparency and accountability have been strengthened;
- ▶ The Green Fund's activities are focused on the fight against climate change, residual materials management and water governance;
- ▶ The Fund for the Protection of the Environment and the Waters in the Domain of the State has been established.

## AN ENVIRONMENTAL AUTHORIZATION SCHEME THAT BENEFITS EVERYONE

The new Act provides mutual benefits for all segments of society affected by the EQA.

### A progressive entry into force

It should be noted that some provisions in Bill 102 came into force when the Act was passed. The other amendments introduced by the Act and the regulations stemming from it will take effect 12 months after its passage, and a very small number will take effect after 24 months. During this transition period, the EQA's provisions that were in force before the Act's passage will continue to apply.

### The public has quicker access to much more information, even though the Act will increase environmental protection.

The new authorization scheme meets the needs of today's society, which wants more information, more transparency and more opportunities to participate in order to express its concerns and views.

#### In force as of now:

- ▶ New authorizations, including documents and studies that are an integral part of them, are now public information;
- ▶ The same applies to new authorization applications, including information pertaining to contaminants likely to be released into the environment, subject to the protection of confidential industrial and trade secrets of the companies concerned;
- ▶ Declarations of compliance are likewise public information;
- ▶ All these documents will eventually be posted on the web. In the meantime, they are available on request.

#### In force a year from now:

Concerning high environmental risk projects:

- ▶ The creation of an environmental assessment register compiling all information delivered when the project notice is filed and throughout the process. In the meantime, the information will be available on request;
- ▶ The opportunity for the public to share its observations on issues that the project proponent's impact assessment should address.

Additional ways for the public to participate have been added to the existing public participation processes of the Bureau d'audiences publiques sur l'environnement (BAPE):

- ▶ Recourse to mediation and targeted consultation for which the Minister may mandate the BAPE;
- ▶ Recommendation to the Minister by the BAPE of the type of mandate (public hearing, targeted consultation or mediation);
- ▶ Option for the Minister to mandate the BAPE to hold a public hearing on a project without a public information period beforehand or a request, when such a hearing seems inevitable due to the nature of the issues raised or when public concerns warrant it;
- ▶ Reduction of the time frame to two weeks for the Minister to make public the BAPE's investigation and public hearing reports.

### Businesses benefit from a streamlined, clearer and simpler authorization process.

Project proponents benefit from a streamlined, clearer and simpler authorization process, resulting in a reduction in the amount of time involved in many cases.

#### In force as of now:

- ▶ Three types of activities are now eligible for the declaration of compliance mechanism (low-risk activities):
  - ♦ Some water and sewer system extensions;
  - ♦ Some work for the rehabilitation of contaminated land;
  - ♦ The establishment and subsequent operation of an asphalt concrete plant under certain conditions;
- ▶ The project proponent will be able to begin activities 30 days after filing the declaration;
- ▶ Project proponents are no longer required to include a certificate of compliance with municipal by-laws in their authorization application.
  - ♦ However, they must notify their municipality of a new project by sending it a copy of the project notice submitted to the Ministère.

#### In force a year from now:

- ▶ Exemption from the requirement to obtain authorization for negligible risk activities;
- ▶ Only one application will be filed for the same project involving several separate activities;
- ▶ In instances of business transfers, environmental rights and obligations will be transferred by operation of law.
  - ♦ The Minister will no longer need to authorize transfers;
- ▶ Special permission for pilot projects intended for research and experimentation:
  - ♦ The goal must be to assess the environmental performance of a new technology;
  - ♦ The proponent must file an experimental protocol.

### Specific benefits for the agricultural sector

Agricultural producers benefit from the increase in ministerial authorization thresholds for some breeding facilities. This exempts some producers from having to apply for a ministerial authorization.

#### In force as of now:

- ▶ Increase in thresholds requiring authorization:
  - ♦ From 3,200 kg to 4,200 kg of phosphorus annually when a new breeding facility is established.
    - Below the threshold, a simple declaration of compliance (currently a project notice) will be required.
- ▶ For existing breeding facilities that increase their annual production of phosphorus, the intervals between each threshold have been increased from 500 kg to 1,000 kg.



## Municipalities enjoy greater autonomy.

The new environmental authorization scheme strengthens the relationship of trust that the Government has built with Québec's municipalities. They now enjoy greater autonomy.

### In force as of now:

- ▶ Declaration of compliance for many water and sewer line extension projects:
  - ♦ Work can begin 30 days after the declaration of compliance is submitted;
  - ♦ Significant time savings since the average time was previously 200 days;
- ▶ The Act abolishes the requirement to form a commission in charge of public consultation during the drafting and revision (every seven years instead of every five years) of residual materials management plans (RMMPs) by regional municipalities.

### In force a year from now:

- ▶ In cases of a real or anticipated disaster:
  - ♦ The Minister will be able to exempt a municipality from the requirement to obtain an authorization for all or part of the work to be carried out;
  - ♦ The Government can exempt work subject to the environmental impact assessment and review procedure;
- ▶ Municipal employees will have the same powers as those of the Ministère when their municipality is required to apply a regulation made under the EQA;
- ▶ Creation of a general authorization intended for municipalities:
  - ♦ Regional municipalities will be able to perform maintenance work on watercourses on their territory;
  - ♦ The general authorization is valid for a maximum of five years.

## QUALITY SERVICE DELIVERY

The new environmental authorization scheme is accompanied by changes in the Ministère's operating procedures. This will include holding start-up meetings with project proponents. The Ministère's staff is making the improvement of the quality of its service an ongoing priority at each stage of the authorization process.

### The government corporation RECYC-QUÉBEC

- ▶ The new Act makes RECYC-QUÉBEC the one-stop service for municipalities with respect to the following aspects of residual materials management.
  - ♦ The government corporation's mandate has been expanded and extends beyond the regional planning of residual materials management in order to increase its level of support.
  - ♦ The Act streamlines the residual materials management plan (RMMP) process. Draft plans should be sent directly to the government corporation.
  - ♦ The Société québécoise de récupération et de recyclage (RECYC-QUÉBEC) will now be responsible for developing all plans and programs implemented under the Québec Residual Materials Management Policy.

Développement durable,  
Environnement et Lutte  
contre les changements  
climatiques

Québec

