

Regulations and other Acts

Gouvernement du Québec

O.C. 1043-2018, 7 August 2018

Environment Quality Act
(chapter Q-2)

Certain transitional measures to carry out 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 — Amendment

Regulation to amend the Regulation respecting certain transitional measures to carry out 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

WHEREAS 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 (2017, chapter 4) was assented to on 23 March 2017;

WHEREAS certain provisions of the Act relating to the new environmental authorization scheme came into force on 23 March 2018 pursuant to section 310 of the Act;

WHEREAS the Government made the Regulation respecting certain transitional measures to carry out 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 (chapter Q-2, r. 32.1);

WHEREAS the Regulation provides for various transitional measures necessary to carry out the provisions of the Environment Quality Act (chapter Q-2) relating to the new environmental authorization scheme, most of which apply until the regulations implementing the scheme are in force or until 1 December 2018, whichever comes first;

WHEREAS under section 306 of 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 Government must make the regulations referred to in that section;

WHEREAS many of the draft regulations implementing the new environmental authorization scheme, including regulations referred to in section 306 of the Act, were published in Part 2 of the *Gazette officielle du Québec* of 14 February 2018 with a notice that they could be made by the Government on the expiry of 60 days following that publication;

WHEREAS numerous comments were submitted to the Minister of Sustainable Development, the Environment and the Fight Against Climate Change during that consultation period, concerning in particular the necessity of amending the draft regulations and allowing for a new consultation;

WHEREAS since 23 March 2018, the new provisions of the Environment Quality Act relating to the environmental authorization scheme, including section 95.1, enable the Government to make regulations to provide a framework for the new scheme, in particular to determine the terms and conditions to apply to authorization applications and the sending of certain notices;

WHEREAS several of those terms and conditions already exist in the Regulation respecting certain transitional measures to carry out 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;

WHEREAS it is expedient to amend the Regulation, in particular to provisionally maintain the application of the rules set out in the Regulation and to make various adjustments of a technical nature;

WHEREAS under section 11 of the Regulations Act (chapter R-18.1), no proposed regulation may be made before the expiry of 45 days from its publication in the *Gazette officielle du Québec*;

WHEREAS under section 12 of that Act, a proposed regulation may be made without having been so published, in particular if the authority making it is of the opinion that the urgency of the situation requires it;

WHEREAS under section 13 of that Act, the reason justifying the absence of such publication must be published with the regulation;

WHEREAS the Government is of the opinion that the urgency owing to the following circumstances justifies the absence of prior publication of the Regulation to amend the Regulation respecting certain transitional measures to carry out 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:

— it is urgent to confirm to stakeholders that the terms and conditions set out in the Regulation respecting certain transitional measures to carry out 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 are provisionally maintained to enable a large number of the activities the stakeholders propose to carry out in the coming months to be adequately planned;

— most of the transitional measures currently in the Regulation will cease to have effect shortly and it is not possible to make, within that short time, the draft regulations implementing the new environmental authorization scheme published in Part 2 of the *Gazette officielle du Québec* of 14 February 2018 to reflect the comments received regarding the draft regulations, to enable adjustments to be made as a result of the comments and to enable a new consultation to be held concerning them;

IT IS ORDERED, therefore, on the recommendation of the Minister of Sustainable Development, the Environment and the Fight Against Climate Change:

THAT the Regulation to amend the Regulation respecting certain transitional measures to carry out 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, attached to this Order in Council, be made.

MARC-ANTOINE ADAM,
Associate Secretary General

Regulation to amend the Regulation respecting certain transitional measures to carry out 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

Environment Quality Act
(chapter Q-2, ss. 23, 30, 31.0.2, 31.0.5, 31.18, 31.20, 31.24, 31.83, 95.1, 1st par., subpars. 13, 16, 17, 18, 19, 21, 28 and 2nd par., ss. 115.8 and 118.5.0.1)

1. The Regulation respecting certain transitional measures to carry out 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 (chapter Q-2, r. 32.1) is amended by replacing the title by the following:

“Regulation respecting certain measures to facilitate the carrying out of the Environment Quality Act and its regulations”.

2. The Regulation is amended by inserting the following before section 1:

“0.1. The purpose of this Regulation is to provisionally establish certain measures relating to the new environmental authorization scheme to facilitate the carrying out of the provisions of the Environment Quality Act (chapter Q-2) that came into force on 23 March 2018 and to maintain the application of the regulations made under that Act before that date, with the necessary modifications.”.

3. Section 1 is amended

(1) by striking out “As of 23 March 2018,” in the portion before paragraph 1;

(2) by replacing paragraph 3 by the following:

“(3) a reference to a certificate of authorization issued under the first paragraph of section 22 of the Environment Quality Act, as it read before 23 March 2018, for an activity carried out on a shore or bank or floodplain is a reference to an authorization issued under the second paragraph of section 22 of that Act as it reads from that date.”;

(3) by adding the following paragraph:

“Any other reference, in any text or document, to a provision of the Environment Quality Act as it read before 23 March 2018 is a reference to the corresponding provision of the Environment Quality Act as it reads from that date.”

4. Section 2 is replaced by the following:

“2. The regulations made under the Environment Quality Act (chapter Q-2) as it read before 23 March 2018 are deemed to have been made under the new provisions of that Act that came into force on 23 March 2018.”

5. Section 3 is amended by replacing the portion before paragraph 1 by the following:

“3. For the purposes of section 118.5.0.1 of the Environment Quality Act (chapter Q-2), the following are also rendered accessible in the register referred to in that section:”

6. Section 4 is replaced by the following:

“4. The activities referred to in the first paragraph of section 39 of the Agricultural Operations Regulation (chapter Q-2, r. 26) are, to the extent they comply with the terms and conditions set out in that section, eligible for a declaration of compliance.

The same applies to the activities referred to in subparagraphs 3 to 7 of the first paragraph of section 269 and in the first and second paragraphs of section 270 of 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 (2017, chapter 4), to the extent they comply with the terms and conditions set out in those sections. The fees to be paid under section 271 of that Act apply to those declarations.

“4.1. The activities exempted from the application of all or part of section 22 of the Environment Quality Act (chapter Q-2) are

(1) the activities referred to in the regulations made under that Act as it read before 23 March 2018, to the extent they comply with the terms and conditions set out in the regulations; and

(2) the activities referred to in subparagraphs 1 and 2 of the first paragraph of section 269 of 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 (2017, chapter 4), to the extent they comply with the terms and conditions set out in that section.”

7. Section 5 is amended

(1) by replacing the portion before paragraph 1 by the following:

“5. For the purposes of the Environment Quality Act (chapter Q-2), the following rules apply:”

(2) by inserting the following after paragraph 9:

“(9.1) for the purposes of section 31.83, the time allocated to inform the Minister of the permanent cessation of a water withdrawal is set at 30 days;”

8. Section 6 is revoked.

9. Section 7 is amended by replacing the portion before paragraph 1 by the following:

“7. In addition to the modifications provided for in this Regulation and 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 (2017, chapter 4), the Regulation respecting industrial depollution attestations (chapter Q-2, r. 5) applies with the following modifications:”

10. Section 8 is amended by replacing the portion before paragraph 1 by the following:

“8. In addition to the modifications provided for in this Regulation and 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 (2017, chapter 4), the Regulation respecting hazardous materials (chapter Q-2, r. 32) applies with the following modifications:”

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