



Quebec's New Petroleum Resources Act

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[Erik Richer La Flèche](#)

In the early hours of Saturday, December 10, 2016, a bleary-eyed Quebec National Assembly voted 62 to 38 to adopt Bill 106, *An Act to implement the 2030 Energy Policy and to amend various legislative provisions*. The Minister of Natural Resources and Wildlife had introduced the bill on June 7, 2016 and the Government had very much wanted it to be passed by the end of the year. Energy policy has been a subject of much debate in Quebec for the better part of a decade and after numerous policy papers, expert panels, public consultations and other tergiversations, the Government was eager to remove a potential irritant from the political scene. The next Quebec election is scheduled for October 2018 and Premier Couillard's Liberals want the final years of their mandate to have a happier tone than the first three, when the focus was the cleanup of Quebec's public finances, replete with painful service and budget cuts. With Quebec having largely righted its financial affairs – at the time of writing, unemployment is at a 34-year low and tax revenues have materially increased – it was time to clear the tables.

The legislative process has been arduous. Bill 106 is an unusual statute, akin to an omnibus bill. It deals with four energy-related but nonetheless discrete subjects. The first three are relatively uncontroversial and supported by a wide-ranging consensus. The same cannot be said of the fourth chapter, which contains Quebec's first-ever law dedicated to the exploration and production of oil and gas: the *Petroleum Resources Act* (the PRA). The PRA, which is not yet in force, does the following:

1. It lays down the framework for a comprehensive oil and gas regulatory regime. Despite being quite detailed, the PRA does not at this time provide a complete picture. Nearly 50 sections of the PRA expressly provide for supplementary regulations. Many of these regulations concern matters critical to an investment decision, including the auction rules governing exploration licenses and the oil and gas royalty rates and calculation methodology.
2. It enables the authorities closely to monitor all phases of an exploration and production project. Oil and gas activities, including drilling, are subject to numerous environmental and technical authorizations.
3. It effectively requires projects to have local support, i.e., to be socially acceptable. Social acceptability does not mean unanimity but it does imply broad-based acceptance.
4. It provides for a strict liability regime. The upward limit of such regime will be set by regulations. Also, all projects must have a pre-approved site reclamation and well-closure plan, backed up by a guarantee.
5. It favours participation by well-funded and technically-advanced entities.
6. It is agnostic as to technology and geography, although the St. Lawrence River remains off-limits.
7. It depoliticizes many regulatory decisions while allowing the Government the opportunity to respond to the political climate of the day by tweaking licensing conditions and in, rare cases, suspending licences pending the resolution of court challenges.

Although Quebec has no intention at this time to promote oil and gas or its new law, it hopes that industry will accept the PRA as evidence that it is serious about allowing some oil and gas activities. Quebec is well aware that natural gas can serve as a transition fuel and that oil also has important non-energy uses, including as feed stock in industrial processes.

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