



**PROGRAM FOR THE AWARDING OF LANDS  
IN THE DOMAIN OF THE STATE FOR THE  
INSTALLATION OF WIND TURBINES**

***INFORMATION GUIDE FOR:***

- BIDDERS ON PROGRAMS TO PURCHASE ELECTRICITY PRODUCED BY WIND TURBINES
- BIDDERS ON TENDER SOLICITATIONS FOR THE PURCHASE OF WIND ENERGY
- CONTRACTORS WHO HAVE ENTERED INTO CONTRACTS BY MUTUAL AGREEMENT FOR THE SALE OF ELECTRICITY PRODUCED BY WIND TURBINES

*NOTE*

This Guide summarizes the main conditions of the **Program for the awarding of lands in the domain of the State for the installation of wind turbines**. For an official interpretation, please refer to the full text of the Program, adopted by Order-in-Council No. 466-2017 of May 10, 2017, and published in the *Gazette officielle du Québec*.



# PART I

## THE PROGRAM

The Program for the awarding of lands in the domain of the State for the installation of wind turbines (the Program) makes available and sets aside land in the domain of the State for the development of the wind industry and provides a framework for the granting of land rights so that those lands can be used for that purpose.

The Program contains mechanisms to structure:

- the issuing of letters of intent for bidders wishing to present a project in response to a tender solicitation by Hydro-Québec or by an electric power distributor outside Québec, or with a program to purchase electricity produced by wind turbines;
- the issuing of a reserved land area for bidders selected following a tender solicitation by Hydro-Québec or an electric power distributor outside Québec, or following a program to purchase electricity produced by wind turbines, or for electric power suppliers that have signed a contract by mutual agreement for the sale of electricity produced by wind turbines.

Subsequently, the Minister of Energy and Natural Resources has full discretion to award the land rights needed by holders of reserved land areas in order to install wind turbines.

### PURPOSE OF THE PROGRAM

The purpose of the Program is to:

1. Allow for the establishment of wind turbines on lands in the domain of the State following tender solicitations by Hydro-Québec, tender solicitations by electricity distributors outside Québec, a program to purchase electric power produced by wind turbines or a contract entered into by mutual agreement for the sale of electricity produced by wind turbines.
2. Set the terms and conditions for the awarding of land rights for the installation of wind power facilities on lands in the domain of the State.
3. Set the rent for lands in the domain of the State for the establishment of wind power facilities, based on market prices.

### WIND POWER FACILITIES

For the purposes of the Program, “wind power facilities” means any work or appliance used to produce electric power by means of wind energy and to deliver that power, as well as any related work, appliance, facility or equipment, except for wind measurement instruments.

### TERRITORY OF APPLICATION

The Program applies to lands in the domain of the State under the authority of the MERN, including lands that have already been the subject of a delegation of management in favour of a regional county municipality (RCM) or a municipality under a program relating to the delegation of management of lands in the domain of the State.

## PART II

### LETTER OF INTENT

Bidders responding to a tender solicitation by Hydro-Québec or by an electric power distributor outside Québec, or to a program to purchase electricity produced by wind turbines, must show that they have selected a site for their project and taken the necessary steps to acquire the land that constitutes the site or to obtain the right to use the land for the purpose of installing wind turbines. Where the land in question is in the domain of the State, the bidder must obtain a letter of intent to fulfill this requirement.

A letter of intent is a document in which the Minister undertakes to award, to an applicant, the land rights required to install wind power facilities on land in the domain of the State, subject to certain conditions, if the bidder enters into a contract of sale with Hydro-Québec or a distributor outside Québec, following a tender solicitation or as part of a program to purchase electricity produced by wind turbines.

The conditions include obtaining the permits, licences and certificates of authorization required by a law or by regulation, and complying with the harmonization objectives and criteria set out in the letter of intent.

The Minister has full discretion to issue or refuse to issue a letter of intent.

The Minister may issue a letter of intent to more than one applicant for the same land in the domain of the State as part of the same tender solicitation or the same program to purchase electricity produced by wind turbines. However, the Minister may not issue more than one letter of intent for the same land in the domain of the State for separate tender solicitations or separate electric power purchase programs.

#### EFFECT OF THE LETTER OF INTENT

The MERN may refuse to grant any land right on land in the domain of the State in respect of which an application for a letter of intent was made in order to protect its potential for the installation of wind power facilities as a result of a tender solicitation or a program to purchase electricity produced by wind turbines.

The holder of a letter of intent may not transfer it to a third person without prior authorization from the Minister.

#### DURATION OF VALIDITY OF THE LETTER OF INTENT

A letter of intent to award land in the domain of the State is valid for 24 months. The Minister may extend that period, subject to the payment of the required fees. However, the Minister may cancel a letter of intent by giving a 30-day notice to the holder. A copy of the notice is also sent to Hydro-Québec.

The holder of a letter of intent issued in response to a tender solicitation or a program to purchase electricity produced by wind turbines must send a written confirmation of the bid to the Minister within 30 days after the closing date for bids set by the body that launched the tender solicitation or purchase program. After the 30-day period, letters of intent issued to holders who do not provide such proof become null and void and without effect.

In addition, the holder of a letter of intent issued in response to a tender solicitation or a program to purchase electricity produced by wind turbines must send a written confirmation of selection to the Minister within 30 days after the public announcement of the bidders selected.

All other letters of intent issued in response to that tender solicitation or program to purchase electricity produced by wind turbines become null and void and without effect 30 days after the public announcement of the selection of projects by the body that launched the tender solicitation or the program to purchase electricity produced by wind turbines.

All letters of intent issued in response to a tender solicitation by Hydro-Québec or in response to a program to purchase electricity produced by wind turbines become null and void and without effect 60 days after the signature of all contracts of sale for wind energy with Hydro-Québec following a tender solicitation or program to purchase electricity produced by wind turbines.

## APPLYING FOR A LETTER OF INTENT

(Form available online at [Quebec.ca](http://Quebec.ca))

A person wishing to obtain a letter of intent from the MERN may apply to the Centre de services du territoire public (CSTP) or to the [delegate RCM](#) concerned where applicable.

An application for a letter of intent must contain the following information:

1. Details of the tender solicitation or program to purchase electricity produced by wind turbines for which the installation of wind turbines is intended, as well as the bid closing date and the date proposed for the public announcement of the projects selected.
2. The name and particulars of the body that launched the tender solicitation or the program to purchase electricity produced by wind turbines and, where applicable, the electric power supplier that will be filing a bid in response to the tender solicitation, along with the date proposed for the commissioning of the wind power facilities.
3. A description of the project, including but not limited to:
  - a plan showing the location of the lands in the domain of the State concerned, to a scale of 1:20,000 or greater, and shape files;
  - the proposed number of wind turbines;
  - the proposed location of the wind power facilities;
  - the proposed megawatts (MW);
  - the area of land to be occupied by each wind turbine and justification for the area requested;
  - the proposed location of access roads to the wind power facilities;
  - the target markets for the sale of the energy produced;
  - a business plan for the project to install wind power facilities;
  - a resolution appointing the person authorized to act on behalf of the organization;
  - any other document or information showing the impact in terms of sustainable development, including the environmental, social and economic aspects (structure of the enterprise and partnership, financing plan, implementation deadline, economic benefits at the local and regional levels, investment, temporary and permanent employment by class, impact on the development of the wind sector in Québec, environmental impact, acceptance of the project by the community, etc.).

The MERN reserves the right to require any other document or information it considers necessary for the examination of the application.

Upon receipt of the application, the MERN will examine the project, among other things by carrying out the required consultations with the government departments and bodies concerned by the project.

Where applicable, the MERN will issue a letter of intent to the applicant, specifying any harmonization aims and criteria applicable to the area covered by the project, as well as the general conditions and requirements to which it will be subject.

## **FEES PAYABLE FOR THE LETTER OF INTENT**

For the period April 1, 2021 to March 31, 2022, the fees for opening a letter of intent file are \$116 (plus GST and QST), the fees for examining an application for a letter of intent, or for modifying or transferring the application, are \$637 (plus GST and QST), and the fees for issuing or renewing a letter of intent are \$5,085 (plus GST and QST). These fees are payable by cheque or postal order, made out to the Minister of Finance of Québec.

## **MINIMUM PERIOD**

A minimum period of 60 days is required for examination and analysis of an application for a letter of intent. The Minister has full discretion to issue or refuse to issue a letter of intent before the expiry of the 60-day period.

## PART III

### RESERVED LAND AREA

The holder of a letter of intent who enters into a contract for the sale of energy produced by wind turbines following a tender solicitation by Hydro-Québec or an electric power distributor located outside Québec or with an electricity supplier who has signed an energy sale contract as part of such a tender solicitation, or following a program to purchase electricity produced by wind turbines, must apply to the Minister to obtain a reserved land area applicable to the lands in the domain of the State described in the letter of intent, as well as any other lands in the domain of the State required for the wind turbine installation project.

The holder of a letter of intent may also apply to the Minister for a reserved land area applicable to the lands in the domain of the State that are required to carry out the wind turbine installation project in a new location.

A contractor who has signed a contract entered into by mutual agreement for the sale of electricity produced by wind turbines may apply to the MERN to obtain a reserved land area applicable to lands in the domain of the State in order to carry out its wind turbine installation contract.

If more than one holder of a letter of intent for the same land in the domain of the State has signed a contract for the sale of electricity produced by wind turbines following a tender solicitation, or has been selected following such a tender solicitation or by a program to purchase electricity produced by wind turbines, or if more than one applicant has entered into a contract by mutual agreement for the sale of electricity produced by wind turbines for the same land in the domain of the State, the Minister reserves the right to issue a reserved land area only to the applicant whose project analysis shows the most positive impact in terms of sustainable development, in particular with respect to the environmental, social and economic aspects. Among other things, the assessment of the project's impact takes into account the information provided in the application for the letter of intent and/or for the reserved land area.

Reservation of a land area indicates that the Minister may award the holder the land rights required to install wind power facilities on the lands in the domain of the State described in the reservation document, subject to obtaining all the permits, licences and certificates required by an Act or a regulation in force at that time, and subject to compliance with the conditions of the Program and the conditions to be specified by the Minister.

The MERN has full discretion to award or refuse a reserved land area. The MERN may not award a reserved land area to more than one applicant for the same land in the domain of the State.

### EFFECT OF A RESERVED LAND AREA

A reserved land area causes the land in question to be set aside until the land rights required to install all the wind power facilities in the project have been granted.

The MERN may refuse to award a land right on land in the domain of the State that is reserved in order to protect its potential until the land rights required for the installation of all the wind power facilities in the project have been granted.

The holder of a reserved land area may not transfer it to a third person without prior authorization from the Minister.

## DURATION OF VALIDITY OF THE RESERVED LAND AREA

The reserved land area must be renewed each year and must be kept in force until all the land rights required to install all the wind power facilities in the project have been granted. At the time of the annual renewal, the size of the reserved land area may be reduced at the request of the holder, depending on the status of the land rights issued.

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

If no wind power facility has been installed within one year after the date proposed for its commissioning in the contract for the sale of energy produced by wind turbines, the reserved land area becomes null and void and without effect. However, the Minister may renew the reserved land area in response to a substantiated request by the holder.

The MERN may cancel a reserved land area with a 30-day notice.

## APPLYING FOR A RESERVED LAND AREA

(Form available online at [Quebec.ca](http://Quebec.ca))

A person wishing to obtain a reserved land area may apply to the CSTP or to the [delegate RCM](#) concerned, where applicable. An application for a reserved land area includes the following information:

1. Details of the tender solicitation or the program to purchase electricity produced by wind turbines for which the project to install wind turbines is intended, and the date proposed for the commissioning of the wind energy facilities.
2. If the application results from a contract entered into by mutual agreement, it must identify the contractor and state where the electricity will go. If the contractor is an electricity supplier and not an electricity distributor, written proof of a contract between the electricity supplier and an electricity distributor must also be provided. In all cases, the applicant must provide the Minister with a copy of the contract for the sale of electricity signed with the electricity distributor, or written proof of such a contract.
3. A description of the project, including but not limited to:
  - a plan showing the location of the lands in the domain of the State concerned, to a scale of 1:20,000 or greater, and shape files;
  - the proposed number of wind turbines;
  - the proposed location of the wind power facilities;
  - the proposed megawatts (MW);
  - the area of land to be occupied by each wind turbine and justification for the area required;
  - the proposed location of access roads to the wind power facilities;
  - a business plan for the project to install wind power facilities;
  - a resolution appointing the person authorized to act on behalf of the organization;
  - any other document or information showing the impact in terms of sustainable development, including the environmental, social and economic aspects (structure of the enterprise and partnership, financing plan, implementation deadline, economic benefits at the local and regional levels, investment, temporary and permanent employment by class, impact on the development of the wind sector in Québec, environmental impact, acceptance of the project by the community, etc.).

The Minister reserves the right to require any other document or information considered necessary for the examination of the application.

## **FEES PAYABLE**

No fees are payable for opening the file or examining the application for a reserved land area applicable to lands in the domain of the State described in a letter of intent issued as a result of a contract of sale for wind energy with Hydro-Québec or an electricity distributor outside Québec, following a tender solicitation, or as part of a program to purchase electricity produced by wind turbines. As of April 1, 2021, the fees for issuing the reserved land area are \$637.

If the application for a reserved land area does not follow a letter of intent, the fees for opening the file are those provided for in section 1 of Schedule 1 of the *Regulation respecting the sale, lease and granting of immovable rights on lands in the domain of the State* (chapter T-8.1, r. 7). The fees for examining the application are \$637 and the fees for issuing the reserved land area are \$5,085.

The rate payable annually for the reserved land area is \$11/ha for applications filed after May 17, 2017, taxable and payable within 30 days after the letter confirming that the reserved land area has been awarded is sent. This amount is not reimbursable and is payable by cheque or postal order, made out to the Minister of Finance of Québec.

## PART IV

### AWARDING OF LAND RIGHTS

The Minister has discretion to award the holder of a reserved land area the land rights required for the installation of wind power facilities, by lease or otherwise. The land rights are subject to the *Act respecting the exportation of electric power* (chapter E-23).

To obtain a land right under the Program, the holder of a reserved land area must be a legal person.

#### **APPLYING FOR LAND RIGHTS**

(Form available online at [Quebec.ca](http://Quebec.ca))

To obtain land rights, the holder of a reserved land area must apply to the Centre de service du territoire public (CSTP) for the right to use lands in the domain of the State for the installation of wind power facilities. An application is required for each infrastructure to be installed (e.g. wind turbines, transformer stations, operations and maintenance building, transmission facilities (collector system)).

The application must include:

- a plan showing the location of the site concerned, to a scale of 1:20,000 or greater, and shape files, showing the wind turbines, electricity elevation station, access roads and all other proposed equipment;
- a timeframe for the work;
- the authorizations required by the government authorities, including but not limited to the certificates of authorization from the Ministère de l'Environnement et de la Lutte contre les changements climatiques and any municipal permits, licences and certificates.

The MERN reserves the right to require any other document or information it considers necessary for the examination of the application.

During or after the granting of land rights, the applicant, at its own expense, must have the land surveyed in accordance with the Minister's instructions.

When all these conditions have been met to the Minister's satisfaction, the MERN may grant the land rights required to carry out the project.

#### **FEES PAYABLE**

The holder of a reserved land area who applies for land rights relating to lands in the domain of the State must pay the fees set out in the *Regulation respecting the sale, lease and granting of immovable rights on lands in the domain of the State* (c. T-8.1, r.7, enacted by order-in-council no. 231-89 of February 22, 1989).

#### **RENT**

The Minister may grant land rights on lands in the domain of the State for the installation of wind power facilities arising from a tender solicitation by Hydro-Québec or by an electricity distributor outside Québec, or with an electricity supplier that has entered into a contract of sale for energy within the framework of a tender solicitation, or as a result of a program to purchase electricity produced by wind turbines, in accordance the provisions of the *Regulation respecting the sale, lease and granting of immovable rights on lands in the domain of the State*, enacted by order-in-council no. 231-89 of February 22, 1989. An exception is made for the rent payable for lands in the domain of the State for the installation of a wind turbine, which is fixed by the Program for the awarding of lands in the domain of the State for the installation of

wind turbines, adopted by order-in-council no. 466-2017 of May 10, 2017, and published in the *Gazette officielle du Québec*.

For the period April 1, 2021 to March 31, 2022, 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 production capacity of the wind turbine, at a taxable rate of \$6,107 per MW.

This rate is adjusted and rounded to the nearest dollar on April 1 of each year, based on the change in the average consumer price index for the preceding year, using the index established by Statistics Canada for Québec as a whole.

### **TERM OF THE LAND RIGHTS AWARDED**

The term of land rights awarded for the installation of wind power facilities may exceed by one year the term of the contract for the sale of energy produced by wind turbines. That term is calculated from the first day of the month following its signature.

If the contract for the sale of energy produced by wind turbines ends before the proposed term, the land rights awarded will end on the date indicated in a written notice from the Minister. The holder of the land rights must inform the Minister that the contract has ended within 30 days following the end date.

### **RENEWAL**

Land rights awarded may be renewed subject to the conditions of the Program and any applicable regulations then in force.

### **SPECIAL CONDITIONS**

The Minister is authorized to include any special clause in a land rights contract that is conducive to the pursuit of the Program's objectives, including any accession clause or any clause concerning the renunciation of the benefit of accession and any clause authorizing the Minister to acquire the wind power facilities at the end of the term.

### **REVOCAATION**

The land rights may be revoked if the holder has not completed the installation of the wind power facilities in accordance with the development plan within a period of 24 months following the signing of the contract relating to the granting of the land rights. The Minister reserves the right to extend that period.

Any land right obtained on the basis of erroneous or fraudulent information provided by the applicant may be revoked by the Minister.

# PART V

## OTHER TERMS AND CONDITIONS

### **REGULATORY PROVISIONS**

The regulatory provisions made under the *Act respecting the lands in the domain of the State* (chapter T-8.1), to the extent that they are consistent with the Program, remain applicable to the terms and conditions of the awarding of land rights for the installation of wind power facilities as part of the Program. The provisions of the Program do not exempt lessees of lands in the domain of the State from the requirement to comply with the regulations and legislation in force, including the *Act respecting the exportation of electric power*.

Compliance with current regulations respecting work carried out in the public forests is also required [*Regulation respecting the sustainable development of forests in the domain of the State* (RSDF)].

### **EXCLUSIONS**

The Program does not apply to authorizations and land rights for the installation of wind measuring instruments, or to agreements entered into between the government, its agents and third parties for the installation of wind turbines before the Program came into force.

The Program for the awarding of lands in the domain of the State for the installation of wind turbines, approved by order-in-council no. 928-2005 and amended by order-in-council no. 647-2007, order-in-council no. 1177-2009, order-in-council no. 1246-2013 and order-in-council no. 466-2017 of May 10, 2017, published in the *Gazette officielle du Québec*, replaces that adopted by order-in-council no. 28-2004 of January 14, 2004. However, the authorizations and rights granted under the previous Program continue to apply in accordance with the rents and rates provided for therein, until they expire.

### **INDEXATION**

All the rents, fees and rates determined by the Program will be adjusted and rounded to the nearest dollar on April 1 of each year, based on the change in the average consumer price index for the period of January 1 to December 31 of the preceding year, using the index established by Statistics Canada for the whole of Québec.

### **OTHER WIND POWER FACILITIES**

The Minister may award land rights for the installation of wind power facilities that do not result from a tender solicitation by Hydro-Québec or by an electricity distributor outside Québec, or with an electricity supplier that has entered into a contract for the sale of energy within the framework of a tender solicitation or as a result of a program to purchase electricity produced by wind turbines on land 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 order-in-council no. 231-89 of February 22, 1989, and its subsequent amendments, but only in the following cases:

- wind power facilities intended for experimentation;
- wind power facilities intended for self-generation;
- wind power facilities with a maximum production capacity of 3 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 10% of the power installed or proposed at the coming into force of the Program, subject to the condition that the applicant has a purchase contract for the supplementary energy;
- wind measurement instruments.

**FOR ADDITIONAL INFORMATION ON THE PROGRAM, PLEASE CONTACT:**

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