

chapter Q-2

**ENVIRONMENT QUALITY ACT**

PRELIMINARY PROVISION

The purpose of this Act is to protect the environment and the living species inhabiting it, to the extent provided for by law. The Act makes it possible to take into consideration issues related to the protection of human health and safety as well as the realities of the territories and the communities living in them.

In order to respond to climate urgency and with a view to ensuring a fair transition for all that takes into account, among other things, the environmental, economic and social consequences, this Act promotes the reduction of greenhouse gases as well as adaptation to climate change and makes it possible to take into consideration the evolution of knowledge and technologies as well as the issues related to climate change.

The Act affirms the collective and public interest character of the environment, which is inseparable from its ecological, social and economic dimensions.

The fundamental objectives of the Act ensure that environmental protection, improvement, restoration, development and management are of general interest.

The Act ensures compliance with the principles of sustainable development as defined in the Sustainable Development Act (chapter D-8.1.1) and consideration of cumulative impacts.

A further purpose of the Act is to facilitate the implementation of the Great Lakes–St. Lawrence River Basin Sustainable Water Resources Agreement, which was approved by the National Assembly on 30 November 2006.

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2017, c. 4, s. 1; 2017, c. 14, s. 26; 2020, c. 19, s. 16.

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## TITLE I

### PROVISIONS OF GENERAL APPLICATION

1978, c. 94, s. 1; 2017, c. 4, s. 2.

## CHAPTER I

### DEFINITIONS

1972, c. 49, Div. I; 2017, c. 4, s. 2.

**1.** In this Act, unless the context indicates a different meaning, the following words and expressions mean or designate:

“atmosphere” : the ambient air surrounding the earth, excluding the air within any structure or underground space;

“contaminant” : a solid, liquid or gaseous matter, a microorganism, a sound, a vibration, rays, heat, an odour, a radiation or a combination of any of them likely to alter the quality of the environment in any way;

“contaminant release” : any deposit, discharge, issue or emission of contaminants in or into the environment;

“elimination of residual material” : any operation for the final deposit or discharge of residual materials in or into the environment, in particular by dumping, storage or incineration, including operations to treat or transfer residual materials with a view to their elimination;

“energy vector” : any source, material or electromagnetic wave, field, plasma, pressure and any direct or indirect cause of transfer, storage or liberation of energy;

“environment” : the water, atmosphere and soil or a combination of any of them or, generally, the ambient milieu with which living species have dynamic relations;

“field” : any zone of influence or area of space where a specified phenomenon is present;

“hazardous material” : a material which, by reason of its properties, is a hazard to health or to the environment and which, within the meaning of a regulation under this Act, is explosive, gaseous, flammable, poisonous, radioactive, corrosive, oxidizing or leachable or is designated as a hazardous material, and any object classed by regulation as a hazardous material;

“material wave” : a line or surface propagated by shock or vibration of gaseous, liquid or solid matter including infrasounds (0 to 16 Hertz), sounds (16Hz to 16KHz) including shock waves, ultrasounds (16KHz to MHz), and any mechanical oscillation;

“Minister” : the Minister of Sustainable Development, Environment and Parks;

“motor vehicle” : any motor vehicle within the meaning of section 4 of the Highway Safety Code (chapter C-24.2);

“municipality” : any municipality, the Communauté métropolitaine de Montréal, the Communauté métropolitaine de Québec, as well as an intermunicipal management board;

“person” : a natural person, partnership, cooperative or a legal person other than a municipality;

“plasma” : a state of matter characterized by disorganization of atoms at a very high temperature and which may exhibit a particular behaviour in an electric or magnetic field;

“pollutant” : a contaminant or a mixture of several contaminants present in the environment in a concentration or quantity greater than the permissible level determined by regulation of the Government, or whose presence in the environment is prohibited by regulation of the Government;

“pollution” : the condition of the environment when a pollutant is present;

“ray” : any transmission of energy in the form of particles or electromagnetic waves with or without production of ions when they pass through matter;

“reclamation of residual materials” : any operation to obtain usable substances or products, or energy, from residual materials through re-use, recycling or biological treatment, including composting and biomethanation, land farming, regeneration or any other process that does not constitute elimination;

“residual materials” : any residue resulting from a production, treatment or utilization process and any substance, material or product or, more generally, any object that is discarded or that the holder intends to discard;

“soil” : any land or underground space even if submerged in water, including an area of land covered by a structure;

“source of contamination” : any activity or condition causing the release of a contaminant into the environment;

“water” : surface water and underground water wherever located;

In addition, in this Act, “activities” includes work, structures and works, unless the context indicates otherwise.

1972, c. 49, s. 1; 1977, c. 5, s. 14; 1979, c. 49, s. 23; 1979, c. 83, s. 11; 1981, c. 7, s. 536; 1982, c. 25, s. 1; 1982, c. 26, s. 315; 1984, c. 29, s. 1; 1985, c. 30, s. 74; 1987, c. 25, s. 1; 1986, c. 91, s. 655; 1988, c. 49, s. 1; 1990, c. 85, s. 123; 1991, c. 80, s. 1; 1994, c. 17, s. 58; 1994, c. 41, s. 1; 1996, c. 2, s. 827; 1991, c. 80, s. 1; 1999, c. 40, s. 239; 1999, c. 36, s. 158; 1999, c. 75, s. 1, s. 54; 2000, c. 56, s. 221; 2006, c. 3, s. 35; 2017, c. 4, s. 254; 2017, c. 4, s. 3.

## CHAPTER II

### FUNCTIONS AND POWERS OF THE MINISTER

1979, c. 49, s. 24; 2017, c. 4, s. 4.

#### 2. The Minister may:

(a) coordinate research carried out by Government departments and bodies on the problems of the quality of the environment;

(b) *(paragraph repealed)*;

(c) prepare plans and programs for the conservation, protection and management of the environment and emergency plans to fight any form of contamination or destruction of the environment and, with the authorization of the Government, see to the carrying out of those plans and programs;

(d) grant, on the conditions determined by regulation of the Government, loans or subsidies to bodies or individuals to promote the training of experts in the fields contemplated by this Act;

(e) acquire, make, instal and operate in any part of the territory of Québec, all apparatus necessary for the supervision of the quality of the environment and implement any experimental project respecting the quality of water, the management of waste water or residual materials and, for such purposes, acquire by agreement or expropriation any necessary servitude or immovable;

(f) *(paragraph repealed)*;

(g) obtain from the departments of the Government, any body under their jurisdiction, municipalities, school service centres and school boards any information necessary for the application of the Act;

(h) *(paragraph repealed)*;

(i) *(paragraph repealed)*;

(j) devise and implement a program to abate the discharge of contaminants resulting from the operation of industrial establishments and to monitor the discharge of contaminants resulting from the operation of municipal wastewater treatment works.

1972, c. 49, s. 2; 1977, c. 5, s. 14; 1979, c. 49, s. 25; 1982, c. 25, s. 2; 1984, c. 29, s. 2; 1988, c. 49, s. 2; 1988, c. 84, s. 701; 1992, c. 56, s. 1; 1994, c. 17, s. 59; 1996, c. 2, s. 828; 1999, c. 75, s. 2; 2020, c. 1, s. 292.

**2.0.1.** The Minister shall transmit to La Financière agricole du Québec any information, including personal information, enabling it to ascertain compliance with this Act and the regulations thereunder as provided in the third paragraph of section 19 of the Act respecting La Financière agricole du Québec (chapter L-0.1).

La Financière agricole du Québec must, at the request of the Minister, provide any information, including personal information, enabling the Minister to ascertain compliance with this Act and with any regulation made thereunder that governs agricultural activities.

2002, c. 35, s. 1; 2006, c. 22, s. 164; 2015, c. 35, s. 7.

**2.1.** It shall be the responsibility of the Minister to elaborate and propose to the Government a protection policy for lakeshores, riverbanks, littoral zones and floodplains, to implement such policy and to coordinate its application.

The policy adopted by the Government must be published in the *Gazette officielle du Québec*.

1987, c. 25, s. 2.

**2.2.** In order to ensure ongoing supervision of the quality of the environment or to ensure, in the area of environmental protection, compliance with an international commitment made in accordance with the applicable legislative provisions or implementation of a Canadian intergovernmental agreement made in accordance with the applicable legislative provisions, the Minister may make regulations determining what information, other than personal information, a person or a municipality is required to provide regarding an enterprise, a facility or an establishment that the person or municipality operates, as well as how, when and how often this information must be provided.

A regulation made under the first paragraph may apply to all or part of Québec and may, in particular, relate to any information concerning the presence or release into the environment of contaminants, including their origin, nature, composition, characteristics, quantity, concentration and location or receiving environment, as well as to the parameters to be used to evaluate or measure the quantity or concentration of contaminants.

This information may vary with the category of the enterprise, facility or establishment, the nature of the contaminants, the quantity of contaminants released, and the technical characteristics of the apparatus or processes involved.

The only information that a person or municipality referred to in a regulation made under the first paragraph is required to provide is the information the person or municipality has, may reasonably be expected to have or may obtain by means of appropriate data processing.

2004, c. 24, s. 3; 2017, c. 4, s. 5.

**2.3.** The Minister may:

(a) grant subsidies for studies, research, preparation of programs, plans and projects concerning environmental protection;



(b) make loans and grant subsidies to municipalities for the construction, acquisition and operation of any waterworks, sewer or water treatment system or any residual materials recovery, reclamation or elimination facility;

(c) make loans and grant subsidies to any person for the construction, acquisition and operation of any water treatment system or residual materials recovery, reclamation or elimination facility.

Notwithstanding any inconsistent provision of the Municipal Aid Prohibition Act (chapter I-15), a municipality may, with the approval of the Minister and the Minister of Municipal Affairs, Regions and Land Occupancy, exercise the powers provided in paragraphs *a* and *c*.

1972, c. 49, s. 104; 1978, c. 64, s. 34; 1999, c. 43, s. 13; 1999, c. 75, s. 33; 2003, c. 19, s. 250; 2005, c. 28, s. 196; 2009, c. 26, s. 109; 2017, c. 4, s. 137.

**2.4.** The subsidies granted by the Minister to a municipality, as part of the water depollution program elaborated in accordance with section 2, may, at the request of a municipality, be deposited in trust in the hands of the Minister of Finance in order for him to pay out of those sums, at the due dates indicated by the municipality, all or part of the capital and interest of the bonds issued by the latter to finance the work for which those subsidies were intended.

1981, c. 11, s. 1; 2017, c. 4, s. 137.

**2.5.** The sums required for the application of this Act shall be paid out of the moneys appropriated annually for that purpose by the National Assembly.

1972, c. 49, s. 105; 2017, c. 4, s. 137.

**2.6.** In addition to the duties assigned to him by this Act, the Minister shall fulfil all the other duties conferred on him by the Government.

1972, c. 49, s. 122; 2017, c. 4, s. 196.

**3.** *(Repealed).*

1972, c. 49, s. 3; 1977, c. 5, s. 14; 1978, c. 15, s. 129; 1979, c. 49, s. 26.

**4.** *(Repealed).*

1972, c. 49, s. 4; 1977, c. 5, s. 14; 1979, c. 49, s. 26.

**5.** *(Repealed).*

1972, c. 49, s. 5; 1979, c. 49, s. 26.

**6.** *(Repealed).*

1972, c. 49, s. 6; 1979, c. 49, s. 26.

## CHAPTER II.1

### THE BUREAU D'AUDIENCES PUBLIQUES SUR L'ENVIRONNEMENT

1978, c. 64, s. 1; 2017, c. 4, s. 6.

**6.1.** A body hereinafter called the “Bureau” is established under the name of “Bureau d’audiences publiques sur l’environnement”.

1978, c. 64, s. 1.

**6.2.** The Bureau is composed of not over five members including a president and a vice-president appointed, for a term not exceeding five years and renewable, by the Government which shall fix, as the case may be, the salary or the additional salary, allowances and indemnities to which they are entitled, and their other conditions of employment.

However, where required for the carrying out of the affairs of the Bureau, the Government may appoint additional members on a part-time basis for the time and with the remuneration determined by it.

Despite the first and second paragraphs, if a member's term expires in the course of work relating to a matter already referred to the member, the term is extended until the work is completed.

1978, c. 64, s. 1; 2017, c. 4, s. 7.

**6.2.1.** The president is responsible for the administration and general management of the Bureau.

2017, c. 4, s. 8.

**6.2.2.** The Government shall establish a member selection procedure that must include the creation of a selection committee.

A member may be reappointed without it being necessary to follow the selection procedure established under this section.

2017, c. 4, s. 8.

**6.2.3.** The Bureau and its members may not be prosecuted for an act done in good faith in the performance of their duties.

2017, c. 4, s. 8.

**6.3.** The function of the Bureau is to inquire into any question relating to the quality of the environment submitted to it by the Minister and to make to him a report of its findings and of its analysis thereof.

The Bureau must hold public hearings or targeted consultations where the Minister so requires. At the Minister's request, it must also hold mediation sessions.

However, the Bureau shall not inquire within the scope of the assessment and review procedure provided for in Chapters II and III of Title II.

Except for the purposes of section 31.3.5, the Minister shall publish a notice, on the Minister's department's website or by any other means he deems appropriate, of each mandate to inquire that he entrusts to the Bureau.

1978, c. 64, s. 1; 2017, c. 4, s. 9.

**6.4.** The Bureau may carry out two or more public hearing, targeted consultation and mediation mandates simultaneously.

Such mandates are conducted by one or more members of the Bureau, designated by the president.

1978, c. 64, s. 1; 2017, c. 4, s. 10.

**6.5.** For the purposes of the inquiries entrusted to them, the members of the Bureau have the powers and immunity of commissioners appointed under the Act respecting public inquiry commissions (chapter C-37), except the power to order imprisonment.

1978, c. 64, s. 1; 1992, c. 61, s. 493.

**6.6.** The Bureau shall adopt by-laws for its internal management. It must also adopt rules of procedure for the conduct of public hearings, targeted consultations and mediation sessions; such rules must include the terms and conditions of public participation by any appropriate technological means.

These rules come into force after their approval by the Government, on their date of publication in the *Gazette officielle du Québec*.

1978, c. 64, s. 1; 2017, c. 4, s. 11.

**6.7.** Every report of an inquiry by the Bureau shall be made public by the Minister within 15 days of receipt.

1978, c. 64, s. 1; 2017, c. 4, s. 12.

**6.8.** The secretary and the other officers and employees of the Bureau shall be appointed in accordance with the Public Service Act (chapter F-3.1.1).

1978, c. 64, s. 1; 1987, c. 73, s. 20; 2000, c. 8, s. 242.

**6.9.** The secretariat of the Bureau shall be in the territory of Ville de Québec.

The Bureau shall hold its hearings at any place in Québec.

1987, c. 73, s. 20; 2000, c. 56, s. 220.

**6.10.** Where the president is absent or unable to act, he shall be replaced by the vice-president.

1987, c. 73, s. 20.

**6.11.** *(Repealed)*.

1987, c. 73, s. 20; 2017, c. 4, s. 13.

**6.12.** *(Repealed)*.

1987, c. 73, s. 20; 2017, c. 4, s. 13.

### **DIVISION III**

*Repealed, 1987, c. 73, s. 21.*

1987, c. 73, s. 21.

**7.** *(Repealed)*.

1972, c. 49, s. 7; 1977, c. 5, s. 14; 1978, c. 64, s. 2; 1987, c. 73, s. 21.

**8.** *(Repealed)*.

1972, c. 49, s. 8; 1978, c. 64, s. 2; 1987, c. 73, s. 21.

**9.** *(Repealed)*.

1972, c. 49, s. 9; 1978, c. 64, s. 3; 1987, c. 73, s. 21.

**10.** *(Repealed)*.

1972, c. 49, s. 10; 1987, c. 73, s. 21.

**11.** *(Repealed).*

1972, c. 49, s. 11; 1987, c. 73, s. 21.

**12.** *(Repealed).*

1972, c. 49, s. 12; 1987, c. 73, s. 21.

**13.** *(Repealed).*

1972, c. 49, s. 13; 1977, c. 5, s. 14; 1979, c. 49, s. 38; 1987, c. 73, s. 21.

**14.** *(Repealed).*

1972, c. 49, s. 14; 1987, c. 73, s. 21.

**15.** *(Repealed).*

1972, c. 49, s. 15; 1978, c. 15, s. 140; 1983, c. 55, s. 161; 1987, c. 73, s. 21.

**16.** *(Repealed).*

1972, c. 49, s. 16; 1977, c. 5, s. 14; 1987, c. 73, s. 21.

**17.** *(Repealed).*

1972, c. 49, s. 17; 1987, c. 73, s. 21.

**18.** *(Repealed).*

1972, c. 49, s. 18; 1987, c. 73, s. 21.

**19.** *(Repealed).*

1972, c. 49, s. 19; 1987, c. 73, s. 21.

**CHAPTER III**

**THE RIGHT TO A HEALTHY ENVIRONMENT AND TO THE PROTECTION OF LIVING SPECIES**

1978, c. 64, s. 4; 2017, c. 4, s. 14.

**19.1.** Every person has a right to a healthy environment and to its protection, and to the protection of the living species inhabiting it, to the extent provided for by this Act and the regulations, orders, approvals and authorizations issued under any section of this Act and, as regards odours resulting from agricultural activities, to the extent prescribed by any standard originating from the exercise of the powers provided for in subparagraph 4 of the second paragraph of section 113 of the Act respecting land use planning and development (chapter A-19.1).

1978, c. 64, s. 4; 1996, c. 26, s. 72; 2001, c. 35, s. 31.

**19.2.** A judge of the Superior Court may grant an injunction to prohibit any act or operation which interferes or might interfere with the exercise of a right conferred by section 19.1.

1978, c. 64, s. 4.

**19.3.** The application for an injunction contemplated in section 19.2 may be made by any natural person domiciled in Québec frequenting a place or the immediate vicinity of a place in respect of which a contravention is alleged.

It may also be made by the Attorney General and by any municipality in whose territory the contravention is being or about to be committed.

1978, c. 64, s. 4; 1996, c. 2, s. 841.

**19.4.** In the case where an interlocutory injunction is applied for, the security contemplated in article 511 of the Code of Civil Procedure (chapter C-25.01) shall not exceed \$500.

1978, c. 64, s. 4; I.N. 2016-01-01 (NCCP).

**19.5.** Every application made pursuant to this division must be served on the Attorney General.

1978, c. 64, s. 4; I.N. 2016-01-01 (NCCP).

**19.6.** Every application for an injunction made under this division shall be heard and decided by preference.

1978, c. 64, s. 4.

**19.7.** Sections 19.2 to 19.6 do not apply in the case where a depollution project, land rehabilitation plan or program has been duly authorized or approved under this Act, or in the case where a depollution attestation has been issued under this Act, except with regard to any act contrary to the provisions of an authorization, a rehabilitation plan, a depollution program, a depollution attestation or any applicable regulation.

1978, c. 64, s. 4; 1988, c. 49, s. 3; 2002, c. 11, s. 1; 2017, c. 4, s. 15.

## CHAPTER IV

### ENVIRONMENTAL PROTECTION RESPONSIBILITIES

1972, c. 49, Div. IV; 2017, c. 4, s. 16.

#### DIVISION I

##### GENERAL PROVISIONS

2017, c. 4, s. 16.

**20.** No one may release or allow the release into the environment of a contaminant in a quantity or concentration greater than that determined in accordance with this Act.

The same prohibition applies to the release of any contaminant whose presence in the environment is prohibited by regulation or is likely to adversely affect the life, health, safety, welfare or comfort of human beings, or cause damage to or otherwise impair the quality of the environment or ecosystems, living species or property.

1972, c. 49, s. 20; 2017, c. 4, s. 16.

**21.** Anyone responsible for the accidental release into the environment of a contaminant referred to in section 20 must, without delay, stop the release and notify the Minister.

1972, c. 49, s. 21; 1979, c. 49, s. 33; 1988, c. 49, s. 38; 2017, c. 4, s. 16.

**DIVISION II**

**PROCEDURES TO REGULATE CERTAIN ACTIVITIES**

2017, c. 4, s. 16.

**§ 1. — Ministerial authorization**

2017, c. 4, s. 16.

**22.** Subject to subdivisions 2 and 3, no one may, without first obtaining an authorization from the Minister, carry out a project involving one or more of the following activities:

(1) the operation of an industrial establishment referred to in Division III, to the extent provided for in that division;

(2) any withdrawal of water, including related work and works, to the extent provided for in Division V;

(3) the establishment, alteration or extension of any water management or treatment facility referred to in section 32, and the installation and operation of any other apparatus or equipment designed to treat water, in particular in order to prevent, abate or stop the release of contaminants into the environment or a sewer system;

(4) any work, structures or other intervention carried out in wetlands and bodies of water referred to in Division V.1;

(5) the management of hazardous materials, to the extent provided for in subdivision 4 of Division VII.1;

(6) the installation and operation of an apparatus or equipment designed to prevent, abate or stop the release of contaminants into the atmosphere;

(7) the establishment and operation of a residual materials elimination facility;

(8) the establishment and operation of a residual materials reclamation facility, including any storage or treatment of such materials for the purpose of reclaiming them;

(9) any construction on land formerly used as a residual materials elimination site and any work to change the use of such land; or

(10) any other activity determined by government regulation.

The Minister's prior authorization must also be obtained for a project involving another activity likely to result in the release of contaminants into the environment or affect the quality of the environment, including the following activities:

(1) the construction of an industrial establishment;

(2) the operation of an industrial establishment other than one referred to in subparagraph 1 of the first paragraph;

(3) the use of an industrial process; or

(4) an increase in the production of property or services.

1972, c. 49, s. 22; 1978, c. 64, s. 5; 1979, c. 49, s. 33; 1988, c. 49, s. 4; 2017, c. 4, s. 16; 2017, c. 14, s. 27.

**23.** A person or municipality that applies to the Minister for an authorization must provide the following information and documents:

- (1) a description of the activity and its location;
- (2) the nature, quantity, concentration and location of any and all contaminants likely to be released into the environment; and
- (3) any other information or documents determined by regulation, which information or documents may vary according to the class of activities and the territory in which they will be carried on.

The information and documents referred to in subparagraphs 1 and 2 of the first paragraph are public, subject to the first paragraph of section 118.5.3. A regulation made under subparagraph 3 of the first paragraph may also determine which of the information and documents concerned are public.

The regulation may also prescribe the terms and conditions governing the authorization applications, including the use of a specific form; those terms and conditions may vary according to the type of structure, works, industrial process, industry, work or other activity.

The Minister will not consider any application that does not include the information and documents determined by regulation or does not comply with the terms and conditions prescribed in the regulation.

On sending an authorization application to the Minister, the applicant must also send a copy to the municipality in whose territory the project concerned by the application will be carried out.

1972, c. 49, s. 23; 2017, c. 4, s. 16.

**23.1.** A person or municipality that applies to the Minister for an authorization must, in the application, identify the information and documents that are not public under section 23 and that the person or municipality considers to be a confidential industrial or trade secret, and justify that claim.

If the Minister does not agree with the applicant's claim as to the confidentiality of the information and documents identified under the first paragraph and decides to make them public, the Minister must notify the applicant in writing of the decision. The Minister's decision becomes enforceable on the expiry of 15 days after the notice is sent.

This section does not have the effect of restricting the scope of section 118.4.

2017, c. 4, s. 16.

**24.** When assessing a project's impacts, the Minister shall take the following elements into consideration:

- (1) the nature of the project and how it is to be carried out;
- (2) the characteristics of the milieu affected;
- (3) the nature, quantity, concentration and location of any and all contaminants that are likely to be released into the environment;
- (4) if the project results from a program that has undergone a strategic environmental assessment under Chapter V, the findings of the assessment;
- (5) in the cases provided for by government regulation, the greenhouse gas emissions attributable to the project and the reduction measures the project may entail; and

(6) if the application concerns an activity in a flood zone of a lake or watercourse or a mobility zone of a watercourse, the consequences of the activity for the persons and property located in that zone.

The Minister may also take into account the expected climate change risks to and impacts on the project and the milieu in which it will be carried out, the adaptation measures the project may entail and Québec's commitments with regard to the reduction of greenhouse gases.

The Minister may, within the time and in the manner and form the Minister determines, require a residual materials management plan specifying the nature and estimated quantity of residual materials that will be generated by the activity over a given period and their mode of management, as well as any other information, document or study the Minister deems necessary in order to know the impacts of the project on the quality of the environment, on the life, health, safety, welfare or comfort of human beings or on ecosystems, other living species or property before making a decision.

1972, c. 49, s. 24; 1979, c. 49, s. 33; 1988, c. 49, s. 5; 2017, c. 4, s. 16; 2021, c. 7, s. 80.

**24.1.** *(Replaced).*

2002, c. 35, s. 2; 2017, c. 4, s. 16.

**24.2.** *(Replaced).*

2002, c. 35, s. 2; 2017, c. 4, s. 16.

**24.3.** *(Replaced).*

2002, c. 35, s. 2; 2017, c. 4, s. 16.

**24.4.** *(Repealed).*

2002, c. 35, s. 2; 2002, c. 53, s. 1.

**25.** On issuing an authorization, the Minister may prescribe any condition, restriction or prohibition the Minister deems advisable for protecting the quality of the environment and preventing adverse effects on the life, health, safety, welfare or comfort of human beings or on ecosystems, living species or property, and which may concern, among other things,

(1) measures to mitigate the impacts of the activity on the environment, human health or other living species, and measures to protect the quality of the environment, including measures aimed at regulating the activity concerned or the operation of the facility or establishment concerned;

(2) an environmental monitoring program and the sending of monitoring reports, and any other supervision or control measures, including the installation of equipment or an apparatus for that purpose;

(3) measures to ensure that the characteristics and support capacity of the receiving environment and its ecosystem are respected;

(4) the period when an activity will be carried out;

(5) residual materials management;

(6) site restoration measures and post-closure management on cessation of activities;

(7) the forming of a watchdog committee;

(8) measures to reduce the greenhouse gas emissions attributable to the activity;



(9) the adaptation measures required because of the expected climate change risks to and impacts on the activity or the milieu in which the activity will be carried on; and

(10) flood-proofing measures to take into consideration the flood zone of a lake or watercourse and the mobility zone of a watercourse.

However, before prescribing a condition, restriction or prohibition under this section, the Minister must notify the prior notice prescribed by section 5 of the Act respecting administrative justice (chapter J-3) to the person concerned and grant the latter at least 15 days to submit observations.

1972, c. 49, s. 25; 1978, c. 64, s. 6; 1979, c. 49, s. 33; 1986, c. 95, s. 272; 1988, c. 49, s. 38; 1996, c. 2, s. 841; 1997, c. 43, s. 508; 2017, c. 4, s. 16; 2021, c. 7, s. 81.

**26.** If of the opinion that it is necessary, the Minister may, in an authorization, prescribe any standard, condition, restriction or prohibition that differs from those prescribed by government regulation, if

(1) the Minister deems that those that apply are insufficient to ensure that the support capacity of the receiving environment is respected; or

(2) the Minister deems that those that apply are insufficient to ensure the health, safety, welfare or comfort of human beings, protect other living species or prevent adverse effects on property.

For each standard, condition, restriction or prohibition prescribed under the first paragraph, the Minister may, in the authorization, specify an implementation date as well as the implementation requirements and schedule.

However, before prescribing a standard, condition, restriction or prohibition under this section, the Minister must notify the prior notice prescribed by section 5 of the Act respecting administrative justice (chapter J-3) to the person concerned and grant the latter at least 15 days to submit observations. The prior notice must also specify the criteria according to which the standard, condition, restriction or prohibition may be prescribed.

1972, c. 49, s. 26; 1979, c. 49, s. 33; 1986, c. 95, s. 273; 1988, c. 49, s. 38; 1997, c. 43, s. 509; 2017, c. 4, s. 16; 2021, c. 7, s. 82.

**27.** An authorization, including the documents forming an integral part of it, must contain

(1) a description of the activity and its location;

(2) a description of the contaminants, their source and the points of release into the environment;

(3) the specific conditions, restrictions, prohibitions and standards applicable to the activity; and

(4) the applicable monitoring, supervision and control measures, such as the methods for collecting, analyzing and calculating any release of contaminants or for collecting, preserving and analyzing samples.

The information referred to in the first paragraph is public unless it constitutes a confidential industrial or trade secret under section 23.1 or is information referred to in the first paragraph of section 118.5.3. To the same extent, studies and other analyses submitted by the applicant and on which the authorization issued by the Minister is based are also public.

This section does not have the effect of restricting the scope of section 118.4.

1972, c. 49, s. 27; 1979, c. 49, s. 33; 1988, c. 49, s. 38; 2017, c. 4, s. 16.

**27.1.** *(Replaced).*

1978, c. 64, s. 7; 1979, c. 49, s. 33; 1988, c. 49, s. 38; 2011, c. 20, s. 1; 2017, c. 4, s. 16.

**28.** In addition to the cases provided for in this Act, the Government may, by regulation and for any activity or class of activities it determines, prescribe the valid term of an authorization.

The Government may also determine by regulation the activities or classes of activities for which the authorization may be renewed, subject to the terms and conditions determined in the authorization. Such a regulation may also specify the provisions of this Act that apply to a renewal.

1972, c. 49, s. 28; 1979, c. 49, s. 33; 1988, c. 49, s. 6; 2017, c. 4, s. 16.

**29.** Subject to subdivisions 2 and 3, if the purpose of a project referred to in section 22 is to assess the environmental performance of a new technology or practice, the Minister may issue an authorization for research and experimental purposes and allow a person or municipality to depart from a provision of this Act or of a regulation made under this Act.

In addition to the information and documents required under section 23, the authorization application must be accompanied by an experimental protocol describing, among other things, the nature, scope and objectives of the research and experimentation project, its apprehended impact on the environment and, if applicable, the environmental protection and impact monitoring measures required.

In addition to the elements mentioned in section 24, the Minister's analysis must take into consideration the pertinence of the objectives of the research and experimentation project and the quality of the measures proposed in the protocol.

The Minister shall set the term of an authorization granted for research and experimental purposes. The holder of such an authorization must submit activity reports to the Minister at the intervals and in the manner and form determined by the Minister.

1972, c. 49, s. 29; 1977, c. 5, s. 14; 1978, c. 64, s. 8; 1984, c. 38, s. 158; 1987, c. 25, s. 3; 1988, c. 84, s. 705; 1990, c. 26, s. 1; 2017, c. 4, s. 16.

**29.1.** *(Repealed).*

1994, c. 41, s. 2; 1999, c. 75, s. 54.

**30.** In the following cases, the holder of an authorization may not make a change in the activities authorized by the Minister without first obtaining from the latter an amendment of the authorization:

(1) the change is likely to result in a new release of contaminants into the environment, an increase in previously authorized releases or an alteration in the quality of the environment;

(2) the change is intended to increase the production of property or services beyond the authorized quantity;

(3) the change is incompatible with the authorization issued, in particular with one of its conditions, restrictions or prohibitions;

(4) the change concerns the alteration of a residual materials elimination facility or a hazardous materials management activity; or

(5) any other case prescribed by government regulation.

The Minister may, in the case of an application to amend an authorization for an activity referred to in section 22, modify any condition, restriction or prohibition prescribed for an activity previously authorized in the context of the project, or impose further conditions, restrictions or prohibitions if this is necessary to take into account the impact of the change being sought and to protect the environment.

Before making a decision under the second paragraph, the Minister must notify the prior notice prescribed by section 5 of the Act respecting administrative justice (chapter J-3) to the person concerned and grant the latter at least 15 days to submit observations.

1972, c. 49, s. 30; 1979, c. 49, s. 33; 1988, c. 49, s. 38; 1990, c. 26, s. 2; 2017, c. 4, s. 16.

**31.** Sections 23 to 27 and the first paragraph of section 28 apply, with the necessary modifications, to any application made under section 30 to amend an authorization.

In the case of an application to amend an authorization for research and experimental purposes, the third paragraph of section 29 applies, with the necessary modifications. In addition, the protocol required under the second paragraph of that section must be updated by the applicant, if applicable.

1972, c. 49, s. 31; 1978, c. 64, s. 9; 1979, c. 49, s. 33; 1982, c. 25, s. 3; 1988, c. 49, s. 7; 1990, c. 26, s. 3; 1991, c. 30, s. 1; 1992, c. 56, s. 11; 1994, c. 41, s. 3; 1997, c. 21, s. 1; 1999, c. 40, s. 239; 1999, c. 75, s. 3, s. 54; 2001, c. 59, s. 1; 2002, c. 53, s. 2; 2004, c. 24, s. 4; 2006, c. 3, s. 29; 2002, c. 53, s. 2; 2011, c. 20, s. 2; 2011, c. 18, s. 269; 2017, c. 4, s. 255; 2017, c. 4, s. 16.

**31.0.1.** Authorization holders must notify the Minister as soon as possible of any change in their contact information.

2002, c. 53, s. 3; 2004, c. 24, s. 5; 2017, c. 4, s. 16.

**31.0.2.** Any person or municipality that wishes to continue or carry on an activity authorized under this subdivision must obtain a transfer of the authorization concerned from its holder. The latter must, to that end, first send the Minister a notice of transfer containing the information and documents prescribed by government regulation.

In addition, the transferee must attach to the notice the declaration provided for in section 115.8 and, if applicable, any guarantee or liability insurance required by government regulation for the activity concerned.

Within 30 days of receiving the documents mentioned in the first and second paragraphs, the Minister may notify to the transferor and transferee a notice of the Minister's intention to oppose the transfer for any of the reasons provided for in sections 115.5 to 115.7. If the Minister does not send such a notice within that time, the transfer is deemed to have been completed.

The Minister's notice of intention must grant the transferor and transferee at least 15 days to submit their observations.

Within 15 days of receiving the observations or of the expiry of the period for submitting them, the Minister shall notify the decision to the transferor and transferee.

Once the transfer of an authorization has been completed, the new holder has the same rights and obligations as the transferor. In addition, any guarantee or liability insurance provided in accordance with the second paragraph is an integral part of the authorization.

Despite this section, an authorization for research and experimental purposes issued under section 29 is not transferable.

2017, c. 4, s. 16.

**31.0.3.** The Minister shall refuse to issue or amend an authorization if the applicant has not demonstrated that the project complies with this Act and the regulations.

Furthermore, in addition to the reasons for refusal provided for by other provisions of this Act, the Minister may refuse to issue or amend an authorization if

(1) the applicant has not provided, within the time determined by the Minister, all the information, documents or studies required for the application to be analyzed;

(2) the Minister is of the opinion that the measures to be implemented in connection with the project or its modification are insufficient to ensure adequate protection of the environment, the health, safety, welfare or comfort of human beings, protect other living species or prevent adverse effects on property;

(3) the project is to be carried out in an area entered in the registers provided for in sections 5, 6.1 and 24.1 of the Natural Heritage Conservation Act (chapter C-61.01); or

(4) the project is to be carried out in the habitat of a threatened or vulnerable species governed by the Regulation respecting threatened or vulnerable wildlife species and their habitats (chapter E-12.01, r. 2) for which a plan has been prepared under the Regulation Respecting Wildlife Habitats (chapter C-61.1, r. 18) or in the habitat of a threatened or vulnerable species governed by the Regulation respecting threatened or vulnerable plant species and their habitats (chapter E-12.01, r. 3).

Before making a decision under this section, the Minister must notify the prior notice prescribed by section 5 of the Act respecting administrative justice (chapter J-3) to the person concerned and grant the latter at least 15 days to submit observations.

2017, c. 4, s. 16; 2017, c. 14, s. 28; 2021, c. 1, s. 55; 2021, c. 7, s. 83.

**31.0.4.** At the Minister's request, an authorization holder must provide all information necessary for the Minister to assess whether a contaminant release complies with the standards prescribed by government regulation and with the conditions, restrictions or prohibitions set out in the authorization.

2017, c. 4, s. 16.

**31.0.5.** An authorization holder must, in the case of activities or classes of activities determined by government regulation, and within the time prescribed by that regulation, inform the Minister of any permanent cessation of authorized activities. In addition to any cessation-of-activity measures prescribed by such a regulation or by the authorization, the holder must comply with any measures required by the Minister to prevent the release of contaminants into the environment and ensure, among other things, site cleaning and decontamination, residual materials management, equipment and facility dismantling and environmental monitoring.

A permanent cessation of the activity for two consecutive years entails cancellation of the authorization by operation of law, except any measures set out in the authorization that concern site restoration on cessation of activities, or post-closure management. However, the Minister may, at the holder's request, maintain the authorization in force for the period and according to the conditions, restrictions and prohibitions the Minister determines.

2017, c. 4, s. 16; I.N. 2019-05-01.

**31.0.5.1.** Subject to subdivisions 2 and 3, the Minister may issue to a municipality a general authorization for carrying out maintenance work on a watercourse referred to in section 103 of the Municipal Powers Act (chapter C-47.1) or for carrying out work in a lake to regulate the water level or maintain the lake bed.

The Minister shall determine the duration of the general authorization, which may not exceed five years. This subdivision, except sections 29 and 31.0.2, applies to the general authorization.

2017, c. 4, s. 16.

§ 2. — *Declaration of compliance*

2017, c. 4, s. 16.

**31.0.6.** The Government may, by regulation, designate the activities referred to in section 22 or 30 that, subject to the conditions, restrictions and prohibitions determined in the regulation, are eligible for a declaration of compliance under this subdivision.

The person or municipality must file the declaration of compliance with the Minister at least 30 days before beginning the activity or, in the cases determined by government regulation, within any shorter time limit and attest that the activity will comply with the conditions, restrictions and prohibitions determined under the first paragraph.

The provisions of the regulation may vary according to the class of activities, persons or municipalities, the territory concerned or the characteristics of a milieu. The regulation may also prescribe any transitional measure applicable to activities in progress that become eligible for such a declaration on the date of its coming into force.

Activities declared in accordance with this subdivision are not subject to subdivision 1.

2017, c. 4, s. 16; 2017, c. 14, s. 29.

**31.0.7.** Declarations of compliance filed with the Minister must include the information and documents determined by regulation of the Government, in the manner and form specified in the regulation.

The regulation may, in particular, require that a declaration be signed by a professional or any other person qualified in the field concerned, who must attest that the proposed activity meets any conditions, restrictions and prohibitions determined in the regulation. It may also require that the declaration be accompanied by a financial guarantee.

2017, c. 4, s. 16.

**31.0.8.** A regulation made under section 31.0.6 may also require the filing, after certain classes of activities it specifies have been carried out, of a certificate of compliance with the applicable conditions, restrictions and prohibitions, signed by a professional or any other person qualified in the field concerned, in the manner and form specified in the regulation.

2017, c. 4, s. 16.

**31.0.9.** Any person or municipality that continues the activities of a declarant must inform the Minister as soon as possible and attest that those activities will be continued in accordance with the conditions, restrictions and prohibitions prescribed by regulation of the Government, and, if applicable, provide the Minister with the financial guarantee referred to in the second paragraph of section 31.0.7.

2017, c. 4, s. 16.

**31.0.10.** This subdivision does not have the effect of restricting any power the Minister may exercise where an activity for which a declaration of compliance was filed under this subdivision is carried out in contravention of this Act or the regulations.

In addition, a person or municipality that carries on an activity in contravention of the conditions, restrictions or prohibitions determined in a regulation made under section 31.0.6 is deemed to carry on the activity without the authorization required under subdivision 1 and is liable to the remedies, penalties, fines and other measures applicable in such a case.

2017, c. 4, s. 16.

§ 3. — *Exemptions*

2017, c. 4, s. 16.

**31.0.11.** The Government may, by regulation and subject to any conditions, restrictions and prohibitions specified in it, exempt certain activities referred to in section 22 from subdivision 1.

Such a regulation may exempt any part of the territory of Québec and any class of persons, municipalities or activities it specifies from that subdivision, and, if necessary, set out conditions, restrictions and prohibitions which may vary according to the type of activity, the territory concerned and the characteristics of a milieu.

The Government may also, by regulation, require a declaration of activity, in the manner and form prescribed in the regulation, for activities exempted under the first or second paragraph.

A regulation made under this section may also prescribe any transitional measure applicable to the activities concerned that are in progress on the date of its coming into force.

2017, c. 4, s. 16.

**31.0.12.** The Minister may, subject to the conditions, restrictions and prohibitions the Minister determines, exempt all or part of an activity from all or some of the provisions of this division or of a regulation made under this Act, if the activity is urgently required to repair damage caused by a disaster within the meaning of the Civil Protection Act (chapter S-2.3) or to prevent damage that could be caused by an apprehended disaster.

The Minister may, at any time, modify the conditions, restrictions and prohibitions determined under the first paragraph if of the opinion that doing so is necessary to ensure adequate protection of the environment and prevent adverse effects on the life, health, safety, welfare or comfort of human beings or on ecosystems, other living species or property.

2017, c. 4, s. 16.

§ 4. — *Environmental impact assessment and review of certain projects*

1978, c. 64, s. 10; 2017, c. 4, s. 17.

**31.1.** No person may undertake any construction, work, activity or operation, or carry out work according to a plan or program, in the cases provided for by regulation of the Government without following the environmental impact assessment and review procedure provided for in this subdivision and obtaining an authorization from the Government.

1978, c. 64, s. 10; 2017, c. 4, s. 18.

**31.1.1.** The Government may, exceptionally and on the recommendation of the Minister, make a project not referred to in section 31.1 subject to the procedure provided for in this subdivision if

- (1) in its opinion the project may raise major environmental issues and public concern warrants it;
- (2) the project involves a new technology or new type of activity in Québec whose apprehended impacts on the environment are, in its opinion, major; or
- (3) in its opinion, the project involves major climate change issues.

The Minister must, within three months after an authorization application is filed in the register provided for in section 118.5, inform the applicant of the Minister's intention to recommend to the Government that it make the project subject to the procedure provided for in this subdivision.

The Minister may also make the project subject to the procedure provided for in this subdivision if the applicant applies to the Minister in writing to that effect, giving reasons in support of the application.

2017, c. 4, s. 19.

**31.2.** Whoever wishes to carry out a project referred to in section 31.1 or 31.1.1 must file a written notice with the Minister describing the general nature of the project. On filing such a notice with the Minister, the person must also send a copy to the municipality in whose territory the project will be carried out.

1978, c. 64, s. 10; 2017, c. 4, s. 20.

**31.3.** On receiving the notice referred to in section 31.2, the Minister shall send to the project proponent, within a reasonable time prescribed by government regulation, a directive specifying the nature, scope and extent of the environmental impact assessment statement the proponent must prepare.

The directive may also specify the time limit for sending the impact assessment statement to the Minister. If the proponent fails to send the statement within that time, the Minister may update the directive.

Where applicable, the directive must take into account the findings of any strategic environmental assessment conducted under Chapter V within the scope of the program under which the project is to be carried out.

1978, c. 64, s. 10; 1999, c. 40, s. 239; 2017, c. 4, s. 20.

**31.3.1.** After receiving the Minister's directive, the project proponent must, within the time prescribed by government regulation, publish a notice to announce the commencement of the project's environmental assessment and the filing, in the environmental assessment register created under section 118.5.0.1, of the notice required under section 31.2 and the Minister's directive. The notice announcing the commencement of the assessment must also mention that any person, group or municipality may submit observations to the Minister, in writing and within the time prescribed by government regulation, on the issues the impact assessment statement should address.

Following that consultation, the Minister shall send to the project proponent, and publish in the environmental assessment register, the observations made and issues raised whose relevance warrants that it be mandatory to take them into account in the impact assessment statement.

2017, c. 4, s. 20.

**31.3.2.** Once an environmental impact assessment statement has been filed with the Minister, the latter shall make it public in the environmental assessment register.

2017, c. 4, s. 20.

**31.3.3.** If the Minister considers that the impact assessment statement does not satisfactorily deal with the subjects it is required to address under the directive or does not satisfactorily take into account the observations made and issues raised during the consultation referred to in section 31.3.1, the Minister shall send his findings to the project proponent and specify the questions the proponent must answer for the statement to be admissible.

2017, c. 4, s. 20.

**31.3.4.** If the Minister considers that the impact assessment statement remains inadmissible despite the project proponent's answers, if any, the Minister shall send a notice to the proponent to that effect.

Such a notice terminates the environmental assessment of the project.

Before making a decision under the first paragraph, the Minister must notify the prior notice prescribed by section 5 of the Act respecting administrative justice (chapter J-3) to the person concerned and grant the latter at least 15 days to submit observations.

2017, c. 4, s. 20.

**31.3.5.** If the Minister considers the impact assessment statement to be admissible, the Minister shall direct the project proponent in writing to hold the public information period prescribed by government regulation.

Any person, group or municipality may, during that period, apply to the Minister for a public consultation or mediation on the project.

Unless the Minister considers the application to be frivolous, in particular if he considers that the reasons given in support of it are not serious or that a public consultation or mediation on the concerns raised would not be useful for analyzing the project, the Minister shall send a copy to the Bureau.

After analyzing the applications received, the Bureau must recommend to the Minister, within the time prescribed by government regulation, the type of mandate described in the fifth paragraph that should be conferred on the Bureau.

The Minister shall then mandate the Bureau to hold

- (1) a public hearing;
- (2) a targeted consultation on the concerns identified by the Minister or with regard to the persons, groups or municipalities to be consulted; or
- (3) mediation, if the Minister considers that the nature of the concerns raised warrants it and that there is a possibility that the interested parties will reach a compromise.

If the impact assessment statement is considered admissible and, given the nature of the issues raised by the project, a public hearing appears certain, in particular if the public's concerns warrant it, the Minister may mandate the Bureau to hold such a hearing on the project without the proponent having to undertake the stage referred to in the first paragraph.

2017, c. 4, s. 20.

**31.3.6.** If mediation does not allow the parties to reach an agreement, the Minister may mandate the Bureau to hold a public hearing or targeted consultation if he considers that the nature of the concerns raised during mediation warrants it or that such a hearing or consultation could bring to light additional elements useful for analyzing the project.

2017, c. 4, s. 20.

**31.3.7.** At the close of each mandate mentioned in the fifth paragraph of section 31.3.5, the Bureau shall, within the time prescribed by government regulation, report its findings and analysis to the Minister.

2017, c. 4, s. 20.

**31.4.** The Minister may, at any time, request the proponent of the project to furnish any information, to study certain matters more thoroughly or to undertake certain research which he considers necessary to fully evaluate the impact of the proposed project on the environment.

1978, c. 64, s. 10.



**31.5.** If the Minister considers an application, including the impact assessment statement, to be complete, the Minister shall send his recommendation to the Government.

Where the impact assessment statement concerns work related to petroleum production or storage, the Government, before rendering its decision, must take cognizance of the decision of the Régie de l'énergie submitted by the Minister of Natural Resources and Wildlife under section 45 of the Petroleum Resources Act (chapter H-4.2).

The Government may issue an authorization for a project, with or without amendment and subject to the conditions, restrictions or prohibitions it determines, or it may refuse to issue an authorization. The decision may be made by any committee of ministers to which the Minister belongs and which has been delegated that power by the Government.

The Government or the committee of ministers may, if it considers it necessary to ensure adequate protection of the environment, human health or other living species and on the recommendation of the Minister, prescribe any standard, condition, restriction or prohibition in the authorization that differs from those prescribed by a regulation made under this Act.

The decision must be communicated to the project proponent as soon as possible.

1978, c. 64, s. 10; 2005, c. 33, s. 1; 2017, c. 4, s. 21; I.N. 2018-12-31.

**31.6.** The Government may, in its authorization and on the conditions it determines, exempt all or part of a project from section 22.

It may also allow all or part of a project to be eligible for a declaration of compliance under subdivision 2. In such a case, the declaration must attest that the activities concerned will comply with the conditions, restrictions and prohibitions set out in the government authorization and with any applicable standards prescribed by regulation.

1978, c. 64, s. 10; 1979, c. 25, s. 104; 1999, c. 40, s. 239; 2005, c. 33, s. 2; 2017, c. 4, s. 21.

**31.7.** The holder of a government authorization must, before making a change in the work, structures, works or any other activities authorized by the Government that are not subject to a regulation under section 31.1, obtain an amendment of the authorization if the change is likely to result in a new release of contaminants into the environment or alter the quality of the environment, or is incompatible with the authorization issued or, in particular, with any of the conditions, restrictions or prohibitions set out in it.

Section 31.4 applies to an application filed with the Minister to amend an authorization.

The Government may, in its authorization and for certain activities it determines, delegate to the Minister its power to amend an authorization, to the extent that the amendments do not substantially change the project. In such a case, subdivision 1 applies, with the necessary modifications, to the amendment application.

1978, c. 64, s. 10; 1979, c. 49, s. 33; 1988, c. 49, s. 38; 1991, c. 80, s. 2; 1999, c. 75, s. 4; 2002, c. 35, s. 3; 2017, c. 4, s. 21.

**31.7.1.** The Government or a committee of ministers referred to in section 31.5 may, on the conditions it determines, exempt all or part of a project from the environmental impact assessment and review procedure, provided the project is necessary to repair damage caused by a disaster within the meaning of the Civil Protection Act (chapter S-2.3) or to prevent damage that could be caused by an apprehended disaster.

In such a case, the Government or committee determines which provisions, if any, of subdivisions 1 and 2 apply to the project.

2017, c. 4, s. 21.

**31.7.2.** The Government or a committee of ministers referred to in section 31.5 may also exempt, from all or part of the environmental impact assessment and review procedure, a project to establish or enlarge a landfill site used in whole or in part as a final disposal site for household garbage collected by or for a municipality if, in the Government's or committee's opinion, the situation requires that the project be carried out within a shorter time frame than that required for the application of the procedure.

In such a case, the Government or the committee must issue an authorization for the project and include the conditions, restrictions and prohibitions it considers necessary to protect the environment. The situation that warranted the exemption must also be described in the decision.

The operation period of a landfill site for which such a decision is made may not exceed one year. A decision made under this section may be renewed only once for the same project.

2017, c. 4, s. 21.

**31.7.3.** Any decision made by the Government under section 31.5, 31.7.1 or 31.7.2 is binding on the Minister where the latter subsequently exercises the powers provided for in subdivisions 1 and 2.

2017, c. 4, s. 21.

**31.7.4.** Sections 31.7.1 and 31.7.2 do not apply to the territory referred to in the second paragraph of section 31.9. The Government may, however, by way of exception and for reasons of national defense or state security, or for any other reason of public interest, exempt all or part of a project from the environmental impact assessment and review procedure applicable in that territory.

2017, c. 4, s. 21.

**31.7.5.** An authorization issued under this subdivision is transferable in accordance with section 31.0.2.

2017, c. 4, s. 22.

**31.8.** The Minister may withdraw from a public consultation any information or data concerning industrial processes, state security or the location of threatened or vulnerable species.

1978, c. 64, s. 10; 2017, c. 4, s. 23.

**31.8.1.** If a project referred to in section 31.1 or 31.1.1 is also subject to an environmental assessment procedure prescribed under an Act of a legislative authority other than the Parliament of Québec, the Minister may make an agreement with any competent authority to coordinate the environmental assessment procedures, including by establishing a unified procedure.

Such an agreement must, in keeping with the objectives of this division,

- (1) set out the conditions applicable to carrying out the study on the project's environmental impact;
- (2) provide that a public information period as well as targeted consultations or public hearings, as applicable, must be held.

The agreement may also provide for the establishment and operation of a body responsible for the implementation of all or part of the environmental assessment procedure.

The provisions of the agreement pertaining to the matters mentioned in the second and third paragraphs are substituted for the corresponding provisions of this Act and its statutory instruments.

The agreement shall be tabled in the National Assembly within 10 days of its making or, if the National Assembly is not sitting, within 10 days of resumption.

1999, c. 76, s. 1; 2017, c. 4, s. 24.

**31.9.** The Government may make regulations to:

(a) determine the classes of construction, works, plans, programs, operations, works or activities to which section 31.1 applies;

(a.1) determine the minimum content of a notice referred to in section 31.2;

(b) determine the parameters of an environmental impact assessment statement with regard, namely, to the impact of a project on nature, on the biophysical milieu, the underwater milieu, human communities, the balance of ecosystems, archaeological sites, heritage property and any other property;

(b.1) determine the parameters of an environmental impact assessment statement on the greenhouse gas emissions attributable to a project and any expected climate change risks to and impacts on the project and the milieu in which it will be carried out;

(c) prescribe the terms governing the information and public consultation relating to any authorization application for some or all classes of projects referred to in section 22, 31.1 or 31.1.1, including the publication by the project proponent of notices in newspapers, the form and content of such notices and the time within which persons, groups and municipalities may submit observations and apply for a public consultation under section 31.3.5, or mediation, as well as the time limit for the Bureau to hold a public hearing, targeted consultation or mediation and make a report;

(c.1) prescribe, in addition to the time limits mentioned in subparagraph *c*, any other time limit applicable to the environmental impact assessment and review procedure for one or more classes of projects subject to that procedure, in particular, the time limits within which the decisions of the Minister or the Government made under this subdivision must be rendered;

(d) prescribe how public hearings, targeted consultations and mediation held by the Bureau are to be announced and specify the persons to whom hearing, consultation or mediation reports and impact assessment statements are to be sent;

(e) define types of impact assessment statements and the terms and conditions of the presentation of impact assessment statements.

The Government may also make regulations respecting the matters contemplated in the first paragraph, which will apply only to the territory bounded on the west by the 69th meridian, on the north by the 55th parallel, on the south by the 53rd parallel and on the east by the eastern boundary contemplated in the Québec boundaries extension acts of 1912 (II George V, chapter 7) and Statutes of Canada (II Georges V, chapter 45).

After adoption, a regulation enacted pursuant to subparagraph *a* of the first paragraph and applicable only to the territory contemplated in the second paragraph, may be amended following consultation with the Naskapi Village of Kawawachikamach.

The Government may, if it is of the opinion that it is warranted by the circumstances, extend in respect of a project any time limit prescribed pursuant to subparagraph *c* or *c.1* of the first paragraph. Similarly, the Minister may extend the time limit prescribed by regulation for the Bureau to hold a public hearing, targeted consultation or mediation and make a report.

The Minister shall, every five years, propose to the Government a review of the regulatory provisions made under subparagraph *a* of the first paragraph. In addition, a regulation made under that subparagraph may

prescribe any transitional measures applicable to an activity that becomes subject to the procedure and for which an authorization application made in accordance with section 22 is pending.

1978, c. 64, s. 10; 1979, c. 25, s. 105; 1995, c. 45, s. 1; 1996, c. 2, s. 829; 1999, c. 40, s. 239; 2011, c. 21, s. 239; 2017, c. 4, s. 25; 2021, c. 7, s. 84.

### **DIVISION III**

#### **INDUSTRIAL ESTABLISHMENTS**

1988, c. 49, s. 8; 2017, c. 4, s. 26.

##### **§ 1. — *General provisions***

1988, c. 49, s. 8; 2017, c. 4, s. 26.

**31.10.** The operation of an industrial establishment belonging to any of the classes determined by government regulation is subject to the Minister's authorization under subparagraph 1 of the first paragraph of section 22.

This division applies, in addition to subdivision 1 of Division II, to an authorization to operate such an industrial establishment, and is aimed at providing a framework for the operation of such establishments with a view to, among other things, reducing their releases of contaminants into the environment.

1988, c. 49, s. 8; 2017, c. 4, s. 26.

**31.11.** If regulatory standards for monitoring and control measures, including methods for collecting, analyzing and calculating releases of contaminants and methods for collecting, preserving and analyzing samples, as well as standards for installing and operating any apparatus or equipment designed to measure the concentration, quality or quantity of any contaminant released, are insufficient to ensure adequate monitoring and control of a contaminant release resulting from the operation of an industrial establishment, the Minister may prescribe, in the authorization, any additional requirement the Minister considers necessary.

The Minister may also prescribe, in the authorization, any procedure for sending statements of the results obtained.

1988, c. 49, s. 8; 1991, c. 30, s. 2; 2017, c. 4, s. 26.

**31.12.** In addition to what the Minister may prescribe in an authorization under section 25, the Minister may prescribe the obligation for the holder to conduct studies on the origin of contaminants, the abatement of their release and their impacts on the quality of the environment, ecosystems, living species and property, and on human life, health, safety, welfare or comfort, as well as risk assessment studies and studies on preventive and emergency environmental measures.

1988, c. 49, s. 8; 1991, c. 30, s. 3; 1999, c. 75, s. 5; 2017, c. 4, s. 26.

**31.13.** If, after analyzing an application for authorization to operate an industrial establishment, the Minister intends to issue the authorization, he shall send the applicant the authorization he proposes.

Within 15 days after the date the proposed authorization is sent, the applicant may submit written observations to the Minister and request amendments to the content of the authorization. On request, this time limit may be extended by not more than 15 days.

If the Minister intends to refuse to issue the authorization, he must notify the prior notice prescribed by section 5 of the Act respecting administrative justice (chapter J-3) to the person concerned and grant the latter 15 days to submit written observations. On request, this time limit may be extended by 15 days.

1988, c. 49, s. 8; 1991, c. 30, s. 4; 1999, c. 75, s. 6; 2002, c. 35, s. 4; 2017, c. 4, s. 26.

**31.14.** If the Minister refuses to include, in the authorization, some or all of the amendments submitted by the applicant in accordance with the second paragraph of section 31.13, the Minister shall inform the applicant in writing, on issuing the authorization, of the reasons for the decision.

1988, c. 49, s. 8; 1991, c. 30, s. 5; 2017, c. 4, s. 26.

**31.15.** In addition to the information required under section 27, an authorization to operate an industrial establishment must contain

- (1) the applicable contaminant release standards prescribed by government regulation;
- (2) the measures required to prevent the accidental occurrence of a contaminant in the environment;
- (3) any corrective program required by the Minister under section 31.28, if applicable;
- (4) any additional condition, restriction or prohibition the Minister may prescribe under this division; and
- (5) any other element determined by government regulation.

The second paragraph of section 27 applies to the information and documents referred to in the first paragraph.

1988, c. 49, s. 8; 1991, c. 30, s. 6; 2017, c. 4, s. 26; I.N. 2020-02-01.

**31.15.1.** *(Replaced).*

1991, c. 30, s. 7; 1997, c. 43, s. 510; 2017, c. 4, s. 26.

**31.15.2.** *(Replaced).*

1991, c. 30, s. 7; 1997, c. 43, s. 511; 1999, c. 75, s. 7; 2017, c. 4, s. 26.

**31.15.3.** *(Replaced).*

1991, c. 30, s. 7; 2017, c. 4, s. 26.

**31.15.4.** *(Replaced).*

1991, c. 30, s. 7; 2017, c. 4, s. 26.

**31.16.** The holder of an authorization to operate an industrial establishment must, within the time and in the manner and form prescribed by government regulation, inform the Minister of any event or incident resulting in a contravention of the authorization's provisions and of the measures being taken to minimize or eliminate the effects of the event or incident and to eliminate and prevent its causes.

1988, c. 49, s. 8; 1991, c. 30, s. 8; 1997, c. 43, s. 512; 2017, c. 4, s. 26.

**31.17.** The Minister may, on the Minister's own initiative, amend an authorization to operate an industrial establishment if

(1) the additional requirements prescribed by the Minister under section 31.11 with regard to the control and monitoring of releases of contaminants, including the procedure for sending statements of the results obtained, must be adjusted to allow better control of the sources of contamination; or

(2) a modification to the conditions, restrictions or prohibitions governing the operation of the industrial establishment must be made following the authorization of a new activity referred to in section 22 or the modification of an authorized activity.

If the Government adopts a regulation applicable to the operator of an industrial establishment under this Act and the operator holds an authorization to operate the establishment, the Minister must adjust the content of the authorization to take into account the new regulatory standards applicable to the operator.

Before making a decision under this section, the Minister must notify the prior notice prescribed by section 5 of the Act respecting administrative justice (chapter J-3) to the person concerned and grant the latter at least 15 days to submit observations.

1988, c. 49, s. 8; 2017, c. 4, s. 26.

**31.18.** An authorization to operate an industrial establishment is issued for a period of five years.

Within the time and in the manner and form prescribed by government regulation, the authorization holder must submit an application to the Minister to renew the authorization for the same period.

Despite the expiry of the period prescribed under the first paragraph, an authorization remains valid until the Minister makes a decision with regard to its renewal.

Sections 23 to 27 apply, with the necessary modifications, to the renewal.

1988, c. 49, s. 8; 2017, c. 4, s. 26.

**31.19.** Sections 31.11 to 31.14 apply, with the necessary modifications, to an application to renew an authorization to operate an industrial establishment. Likewise, sections 31.13 and 31.14 apply to an application to amend the authorization made under section 30.

If the Minister does not intend to include, in the authorization, some or all of the amendments submitted by the applicant in accordance with the second paragraph of section 31.13, the Minister must inform the applicant in writing of the reasons behind that intention before publication of the notice concerning a public consultation to be held under section 31.20 or 31.22, as applicable.

1988, c. 49, s. 8; 1991, c. 30, s. 9; 1997, c. 43, s. 513; 2017, c. 4, s. 26.

**31.20.** If an authorization to operate an industrial establishment is being renewed for the first time, the Minister must, in the manner and form prescribed by government regulation, publish a notice announcing a public consultation on the renewal application and make the application record available for a period of at least 30 days.

The notice must state that any group, person or municipality may, within the time and in the manner and form prescribed by government regulation, submit comments to the Minister.

The Minister shall send a copy of the notice to the secretary-treasurer or clerk of the local municipality in whose territory the industrial establishment is located.

The application record must include the authorization proposed by the Minister and any other documents prescribed by government regulation.

1988, c. 49, s. 8; 1991, c. 30, s. 10; 1995, c. 53, s. 1; 2017, c. 4, s. 26.

**31.21.** If the Minister intends to amend the content of a proposed authorization following the public consultation period required under section 31.20, the Minister shall send the applicant a new authorization proposal, as amended, along with the reasons for the amendments.

The applicant may, within 15 days after the date the new proposal is sent, submit observations to the Minister and request amendments to its content. On request, this time limit may be extended for a period of not more than 15 days.

However, if the Minister intends to refuse to renew the authorization, the Minister shall notify the prior notice prescribed by section 5 of the Act respecting administrative justice (chapter J-3) to the applicant and grant the latter at least 15 days to submit observations. The notice must also be sent if the Minister does not intend to include in the renewed authorization some or all of the amendments submitted by the applicant.

1988, c. 49, s. 8; 1991, c. 30, s. 11; 2017, c. 4, s. 26.

**31.21.1.** *(Replaced).*

1991, c. 30, s. 12; 1997, c. 43, s. 514; 2017, c. 4, s. 26.

**31.22.** In the cases prescribed by government regulation, sections 31.20 and 31.21, which concern the first renewal of an authorization, apply, with the necessary modifications, to any application to amend an authorization submitted by the holder under section 30 and to any subsequent renewal application.

1988, c. 49, s. 8; 1991, c. 30, s. 13; 1995, c. 53, s. 3; 2017, c. 4, s. 26.

**31.23.** In addition to the reasons set out in other provisions of this Act, the Minister may suspend or revoke all or part of an authorization to operate an industrial establishment if the holder fails to take all necessary measures to minimize the effects of the accidental occurrence of a contaminant in the environment attributable to the operation of the establishment or eliminate and prevent its causes.

Before making a decision under this section, the Minister must notify the prior notice prescribed by section 5 of the Act respecting administrative justice (chapter J-3) to the person concerned and grant the latter at least 15 days to submit observations.

1988, c. 49, s. 8; 1991, c. 30, s. 14; 2011, c. 20, s. 3; 2017, c. 4, s. 26.

**31.24.** A holder of an authorization to operate an industrial establishment who plans to partially or totally cease the operations of the establishment must inform the Minister within the time prescribed by government regulation. In addition to any cessation-of-activity measures prescribed by government regulation, the holder must comply with any measures required by the Minister to prevent the release of contaminants into the environment and ensure, among other things, site cleaning and decontamination, equipment and facility dismantling and environmental monitoring.

The cessation of the operations of an industrial establishment for two consecutive years entails the cancellation, by operation of law, of the authorization to operate the industrial establishment, with the exception of any measure set out in the authorization that concerns site restoration on cessation of activities, or post-closure management. However, at the holder's request, the Minister may maintain the authorization in force for the period and on the conditions the Minister determines.

In addition, the Minister may suspend, revoke or refuse to amend or renew an authorization to operate an industrial establishment if the holder partially ceases activities.

1988, c. 49, s. 8; 1991, c. 30, s. 15; 2017, c. 4, s. 26.

§ 2. — *Special provisions applicable to existing industrial establishments*

2017, c. 4, s. 26.

**31.25.** This subdivision contains special provisions governing the issue of a first authorization to operate an existing industrial establishment required under this division.

For the purposes of this subdivision, “existing industrial establishment” means an industrial establishment that is operating on the date of coming into force of a regulation made under section 31.10 that makes the class of industrial establishments to which the establishment belongs subject to this division.

1988, c. 49, s. 8; 1991, c. 30, s. 15; 1995, c. 53, s. 4; 2017, c. 4, s. 26.

**31.26.** An operator of an existing industrial establishment must submit an authorization application to the Minister within the time and in the manner and form prescribed by government regulation to operate that establishment.

If the operator of an existing industrial establishment fails to submit an authorization application to the Minister in accordance with the first paragraph, the Minister may order the operator to cease releasing into the environment, for as long as the failure continues, a contaminant resulting from the operation of the industrial establishment.

Despite section 115.4, the order takes effect on the 30th day following the date of its notification to the operator of the industrial establishment or on any later date specified in the order, unless the operator submits an authorization application in accordance with the first paragraph prior to the effective date of the order.

Sections 31.11 to 31.15, 31.18, 31.20 and 31.21 apply, with the necessary modifications, to the issue of an authorization to operate an existing industrial establishment. Sections 31.20 and 31.21 also apply to the first renewal of such an authorization, in the cases prescribed by government regulation.

1988, c. 49, s. 8; 1991, c. 30, s. 16; 1997, c. 43, s. 515; 2002, c. 35, s. 5; 2017, c. 4, s. 26.

**31.27.** The Minister may require the applicant to submit, within the time specified in the notice required for that purpose, a residual materials management plan for the residual materials produced by the industrial establishment or present on its site.

1988, c. 49, s. 8; 1991, c. 30, s. 17; 2017, c. 4, s. 26.

**31.28.** If, on analyzing an application under this subdivision, the Minister finds that an authorization applicant is not complying with a standard respecting the release of contaminants into the environment prescribed by government regulation, the Minister may require the applicant to submit to the Minister, within 60 days after the date of notification of a written notice or on any later date specified in the notice, a corrective program intended to bring the applicant into compliance with the standard within a maximum period of two years.

The Minister may, on issuing the authorization, impose the corrective program with or without amendment.

If the applicant fails to submit a corrective program within the specified time, the Minister may, on issuing the authorization, impose any corrective program the Minister considers necessary to bring the holder into compliance with the standard within a maximum period of two years and, to that end, prescribe the program’s conditions, requirements, time limits and terms.

1988, c. 49, s. 8; 1991, c. 30, s. 18; 1995, c. 53, s. 5; 2017, c. 4, s. 26.



§ 3. — *Regulatory powers*

2017, c. 4, s. 26.

**31.29.** The Government may make regulations

- (1) to determine the form of an authorization to operate an industrial establishment;
- (2) to set the annual duties payable by holders of authorizations to operate an industrial establishment, which may vary according to one or more of the following factors:
  - (a) the class of the industrial establishment;
  - (b) the territory in which the industrial establishment is located;
  - (c) the nature and scope of the industrial establishment's activities;
  - (d) the nature and extent of the release of contaminants resulting from the operation of the industrial establishment; and
  - (e) the period during which the operator is the holder of an authorization to operate an industrial establishment;
- (3) to determine the periods during which annual duties must be paid, and the terms of payment; and
- (4) to exempt, from the application of a part of this Act, certain classes of structures, work, works and activities on all or part of the site of an industrial establishment for which an authorization to operate an industrial establishment has been issued, as well as certain classes of industrial processes used in the operation of the establishment.

1988, c. 49, s. 8; 1991, c. 30, s. 19; 1997, c. 43, s. 516; 1999, c. 75, s. 8; 2011, c. 20, s. 4; 2017, c. 4, s. 26.

**31.30.** *(Replaced).*

1988, c. 49, s. 8; 1991, c. 30, s. 20; 2017, c. 4, s. 26.

**31.31.** *(Replaced).*

1988, c. 49, s. 8; 1991, c. 30, s. 21; 2017, c. 4, s. 26.

**DIVISION III.1**

**MUNICIPAL WATER TREATMENT OR MANAGEMENT WORKS**

1988, c. 49, s. 8; 2017, c. 4, s. 27.

§ 1. — *Scope*

2017, c. 4, s. 27.

**31.32.** This division applies to the municipal wastewater treatment works and municipal water management works determined by government regulation.

1988, c. 49, s. 8; 2017, c. 4, s. 27.

§ 2. — *Regulatory measures*

2017, c. 4, s. 27.

**31.33.** The Minister shall determine the conditions, restrictions and prohibitions applicable to the operation of the works referred to in section 31.32.

Those conditions, restrictions and prohibitions concern, in particular,

- (1) contaminant release standards;
- (2) overflow standards;
- (3) methods for collecting, analyzing and calculating contaminant releases;
- (4) methods for collecting, preserving and analyzing water, air, soil and residual material samples;
- (5) standards for installing and operating any apparatus or equipment;
- (6) the imposition of a corrective program in cases requiring one;
- (7) the imposition of a municipal water management master plan in the cases determined by government regulation; and
- (8) measures required to prevent accidental occurrences of contaminants in the environment.

The Minister shall issue a depollution attestation for that purpose.

Before issuing an attestation under this section, the Minister must notify the prior notice prescribed by section 5 of the Act respecting administrative justice (chapter J-3) to the person concerned and grant the latter at least 15 days to submit observations. The notice must be accompanied by the attestation he intends to issue.

1988, c. 49, s. 8; 2017, c. 4, s. 27.

**31.34.** The Minister may require the operator of works referred to in section 31.32 to provide any study or expert evaluation the Minister considers necessary to determine the conditions, restrictions and prohibitions applicable to the operation of such works.

1988, c. 49, s. 8; 1999, c. 75, s. 9; 2017, c. 4, s. 27.

**31.35.** (*Repealed*).

1988, c. 49, s. 8; 2017, c. 4, s. 28.

**31.36.** In determining the conditions, restrictions and prohibitions applicable to the operation of works referred to in section 31.32, the Minister shall take the following factors into consideration:

- (1) the class to which the works belong and their geographical location;
- (2) the nature, quantity, quality and concentration of every contaminant released into the environment as a result of the operation of the works concerned;
- (3) the nature, origin and quality of the water treated by the works concerned; and
- (4) the impact of the release of contaminants on environmental quality, living species, ecosystems and property, and on human life, health, safety, welfare and comfort.

1988, c. 49, s. 8; 2017, c. 4, s. 29.

**31.37.** The Minister may set out any standard, condition, restriction or prohibition in the attestation that differs from those prescribed by government regulation if the Minister is of the opinion that doing so is necessary to ensure adequate protection of the environment, human health or other living species and if the Minister considers

- (1) that the applicable standards are insufficient to respect the support capacity of the receiving environment; or
- (2) that the applicable standards are insufficient to protect human health or other living species.

The Minister may, in the attestation, prescribe an implementation date, including the implementation requirements and schedule, for each standard, condition, restriction or prohibition he may establish under the first paragraph.

However, before prescribing a standard, condition, restriction or prohibition under this section, the Minister must notify the prior notice prescribed by section 5 of the Act respecting administrative justice (chapter J-3) to the person concerned and grant the latter at least 15 days to submit observations. The notice must also specify the criteria according to which the standard, condition, restriction or prohibition may be prescribed.

1988, c. 49, s. 8; 2017, c. 4, s. 29.

**31.38.** An operator of works referred to in section 31.32 must

- (1) comply with the standards, conditions, restrictions and prohibitions applicable to the works; and
- (2) provide, at the Minister's request, all information required to assess the works' compliance with the standards prescribed by government regulation and those prescribed by the Minister under this division.

1988, c. 49, s. 8; 2017, c. 4, s. 29.

**31.39.** The Minister must amend a depollution attestation and adjust any applicable corrective program if

- (1) the standards prescribed by regulation are amended; or
- (2) the conditions, restrictions, prohibitions or special standards set out in an authorization issued under this Act affect the content of the attestation.

The Minister may also amend such an attestation if

- (1) the operator concerned submits an amendment application to the Minister;
- (2) the standards for installing and operating any apparatus or equipment utilized to abate or stop the release of contaminants must be adjusted to better control the operation of the works concerned;
- (3) the methods or standards for controlling and monitoring releases of contaminants, including the procedure for sending statements of the results obtained, must be adjusted to better control the sources of contamination; or
- (4) a water management or treatment facility is transferred to a municipality, or is connected to works operated by a municipality and affects the content of the attestation.

Before making a decision under this section, the Minister must notify the prior notice prescribed by section 5 of the Act respecting administrative justice (chapter J-3) to the person concerned and grant the latter at least 15 days to submit observations.

1988, c. 49, s. 8; 1997, c. 43, s. 517; 2017, c. 4, s. 29.

**31.40.** Depollution attestations must be reviewed by the Minister every 10 years.

If amendments are required further to such a review, the Minister must notify the prior notice prescribed by section 5 of the Act respecting administrative justice (chapter J-3) to the person concerned and grant the latter at least 15 days to submit observations.

1988, c. 49, s. 8; 2017, c. 4, s. 29.

**31.40.1.** If the Minister receives an authorization application for an activity referred to in section 22 that concerns an element of works referred to in this division or could affect such works, the Minister must take into consideration, when analyzing the application and in addition to the elements provided for in section 24, the conditions, restrictions, prohibitions and special standards applicable to the works under this division.

2017, c. 4, s. 29; I.N. 2020-04-01.

§ 3. — *Regulatory powers*

1988, c. 49, s. 8.

**31.41.** The Government may make regulations to

(1) *(paragraph repealed)*;

(2) *(paragraph repealed)*;

(3) prescribe the content and form of a depollution attestation;

(4) determine the manner and form of any application to amend a depollution attestation and the documents to be included with such an application and prescribe the information they must contain;

(5) *(paragraph repealed)*;

(6) *(paragraph repealed)*;

(6.1) set the annual duties for operators of works referred to in section 31.32, which may vary according to the nature or extent of contaminant releases resulting from the operation of the works;

(6.2) determine the periods during which the annual fees must be paid and the terms and conditions of payment;

(7) *(paragraph repealed)*;

(8) indicate the records that must be kept and preserved by every operator of works referred to in section 31.32, the conditions which apply to keeping and preserving such records and determine the form and content thereof, as well as the period for which they must be preserved;

(9) indicate the reports which must be furnished to the Minister by every operator of works referred to in section 31.32 and determine the form and content thereof, as well as the date on which and the manner in which they must be transmitted;

(9.1) *(paragraph repealed)*;

(10) *(paragraph repealed)*;

(11) *(paragraph repealed)*;

(12) *(paragraph repealed)*;

(13) *(paragraph repealed)*;

(14) *(paragraph repealed)*;

(15) *(paragraph repealed)*;

(16) exempt certain classes of municipal water treatment or management works from this division;

(17) determine the cases in which the Minister may impose a municipal water management master plan and prescribe the procedure for sending such a plan and the terms governing its effects and coming into force.

1988, c. 49, s. 8; 1991, c. 30, s. 22; 1995, c. 53, s. 6; 2002, c. 35, s. 6; 2002, c. 53, s. 4; 2017, c. 4, s. 30.

## DIVISION IV

### LAND PROTECTION AND REHABILITATION

1990, c. 26, s. 4; 2002, c. 11, s. 2; 2017, c. 4, s. 31.

**31.42.** For the purposes of this division, “land” includes the groundwater and surface water present.

1990, c. 26, s. 4; 1997, c. 43, s. 518; 2002, c. 11, s. 2.

§ 1. — *General powers of the Minister relating to land characterization and rehabilitation*

2002, c. 11, s. 2.

**31.43.** Where it appears to the Minister that contaminants are present in the land in a concentration exceeding the limit values prescribed by a regulation made under section 31.69, or that the contaminants, even though they are not determined in the regulation, are likely to adversely affect the life, health, safety, welfare or comfort of human beings, ecosystems, other living species or the environment in general, or to be detrimental to property, the Minister may order any person or municipality that,

— even before the coming into force of this section (1 March 2003), had emitted, deposited, released or discharged all or part of the contaminants or had allowed the contaminants to be emitted, deposited, released or discharged; or

— after the coming into force of this section (1 March 2003), has or has had custody of the land as owner or lessee or in any other capacity,

to submit for the Minister’s approval within the time specified a rehabilitation plan setting out the measures that will be implemented to protect human beings, the other living species and the environment in general, including property, together with an implementation schedule.

Such an order may not be made against a person or municipality that has or has had custody of the land as owner or lessee or in any other capacity, where

(1) it is established that the person or municipality was unaware of and had no reason to suspect the presence of contaminants in the land, having regard to the circumstances, practices and duty of care;

(2) it is established that, once becoming aware of the presence of contaminants in the land, the person or municipality acted in conformity with the law, as to the custody of the land, in particular as regards the duty of care and diligence; or

(3) it is established that the presence of contaminants in the land results from outside migration from a source attributable to a third person.

1990, c. 26, s. 4; 1997, c. 43, s. 519; 2002, c. 11, s. 2; 2017, c. 4, s. 32.

**31.44.** An order under section 31.43 must require a notice of contamination containing the information set out in section 31.58, with the necessary modifications, to be registered without delay in the land register.

The order must be notified to the owner of the land and to every holder of a real right registered in the land register.

1990, c. 26, s. 4; 1997, c. 43, s. 520; 2002, c. 11, s. 2.

**31.45.** The rehabilitation plan submitted under section 31.43 may provide that contaminants in a concentration exceeding the regulatory limit values are to be left in the land, on the condition, however, that a toxicological and ecotoxicological risk assessment and groundwater impact assessment be submitted with the plan.

In such case, the plan must contain a statement of the land use restrictions that will apply, in particular the resulting charges and obligations.

1990, c. 26, s. 4; 2002, c. 11, s. 2.

**31.46.** Approval of the rehabilitation plan may be subject to conditions. Subject to the provisions of the second paragraph, the Minister may amend the rehabilitation plan or implementation schedule submitted, or order that a new plan or schedule be submitted within the time specified.

The Minister shall notify all documents submitted for the Minister's approval to any land owner not subject to the order, with a notice indicating the time within which the owner may present observations. If the rehabilitation plan provides for land use restrictions, the Minister shall not approve it unless the owner has given consent in writing to the plan and the consent document accompanies the plan submitted for approval. Furthermore, an amendment made by the Minister to a rehabilitation plan may take effect only if the owner has consented in writing to the amendment.

1990, c. 26, s. 4; 1997, c. 43, s. 521; 2002, c. 11, s. 2.

**31.47.** If the rehabilitation plan approved by the Minister provides for land use restrictions, the person or municipality having submitted the plan shall, as soon as possible following the approval, apply for registration in the land register of a notice of use restriction containing, in addition to the description of the land,

- (1) the name and address of the applicant for registration ;
- (2) a description of the work or works required under the rehabilitation plan and a statement of the land use restrictions including the resulting charges and obligations ; and
- (3) an indication of the place where the rehabilitation plan may be consulted.

In addition, the applicant must immediately transmit to the Minister and to the owner of the land a duplicate of the notice bearing a registration certificate or a copy of the notice certified by the Land Registrar. On receipt of the document, the Minister shall transmit a copy to the municipality in which the land is situated ; if the land is situated in a territory referred to in section 133 or 168 that is not constituted as a municipality, the document is transmitted to the body designated by the Minister.

Registration of the notice renders the rehabilitation plan effective against third persons and any subsequent acquirer of the land is bound by the charges and obligations provided for in the rehabilitation plan as regards land use restrictions.

1990, c. 26, s. 4; 1997, c. 43, s. 522; 2000, c. 42, s. 207; 2002, c. 11, s. 2.

**31.48.** As soon as the work or works made necessary by the implementation of a rehabilitation plan approved by the Minister have been completed, the person or municipality required to carry out the work or works shall transmit to the Minister a certificate of an expert referred to in section 31.65 stating that they were carried out in accordance with the plan.

1990, c. 26, s. 4; 1997, c. 43, s. 523; 1999, c. 40, s. 239; 2000, c. 42, s. 208; 2002, c. 11, s. 2.

**31.49.** Where the Minister has reason to believe that contaminants referred to in section 31.43 may be present in land, the Minister may order any person or municipality that, in the Minister's opinion, could be subject to an order under that section, to perform a characterization study on the conditions and within the time specified.

The Minister's order must be notified to the owner of the land and to every holder of a real right registered in the land register.

1990, c. 26, s. 4; 2002, c. 11, s. 2.

**31.50.** An order under section 31.43 or 31.49 is without prejudice to civil remedies available to the person or municipality subject to the order for the total or partial recovery of the costs incurred to comply with the order or of any increase in the value of the land as a result of the rehabilitation.

1990, c. 26, s. 4; 2000, c. 42, s. 209; 2002, c. 11, s. 2.

**31.50.1.** If the Minister has reason to believe that contaminants referred to in section 31.43 may be present in land to be used for a project that requires the Minister's prior authorization under section 22 and is not subject to section 31.51 or 31.53, the Minister may require, for the purpose of analyzing the application, that a characterization study be submitted.

If the study reveals the presence of contaminants likely to have adverse effects on the life, health, safety, welfare or comfort of human beings or on ecosystems, other living species, the environment in general or property, the Minister may require the applicant to submit the measures that will be taken to prevent such effects, such as the removal or treatment of all or part of the contaminants or their containment.

The Minister may prescribe, in the authorization for the project, any condition, restriction or prohibition with regard to the measures referred to in the second paragraph.

2017, c. 4, s. 33.

§ 2. — *Special provisions relating to certain industrial or commercial activities*

2002, c. 11, s. 2.

**31.51.** A person who permanently ceases an industrial or commercial activity of a category designated by regulation of the Government is required to perform a characterization study of the land on which the activity was carried on within six months of the cessation or within such additional time, not exceeding 18 months, as the Minister may grant, subject to the conditions fixed by the Minister, with a view to the resumption of activity. Upon completion, the study must be transmitted to the Minister and to the owner of the land. A notice of cessation of the activity must be sent to the Minister within the time prescribed by government regulation.

If the characterization study reveals the presence of contaminants in a concentration exceeding the regulatory limit values, the person who carried on the activity concerned is required to transmit for the Minister's approval, as soon as possible after being informed of the presence of the contaminants, a rehabilitation plan setting out the measures that will be implemented to protect the quality of the environment and prevent adverse effects on the life, health, safety, welfare or comfort of human beings or on ecosystems, living species or property, together with an implementation schedule and, where applicable, a plan for the dismantling of the installations on the land.

The provisions of sections 31.45 to 31.48 apply in such a case, with the necessary modifications.

1990, c. 26, s. 4; 2002, c. 11, s. 2; 2011, c. 20, s. 5; 2017, c. 4, s. 34.

**31.51.0.1.** If a person or municipality intends to change the use of land that has undergone a characterization study in accordance with the first paragraph of section 31.51 and the study reveals the presence of contaminants in concentrations exceeding the regulatory limit values, the person or municipality may, in the stead and place of whoever ceased activities on that land, submit, for the Minister's approval, the rehabilitation plan required under the second paragraph of that section. In such a case, subdivision 3 of this division applies to the person or municipality.

If the person or municipality referred to in the first paragraph fails to implement all or some of the measures of a rehabilitation plan within the time specified in the implementation schedule, whoever ceased activities on the land is required to remedy the failure on the basis of the regulatory limit values applicable under section 31.51. If those values differ from the ones applicable to the rehabilitation plan approved by the Minister, whoever ceased activities is required to submit, for the Minister's approval, a plan that has been amended accordingly. Section 31.60 applies, with the necessary modifications, to such an amendment.

2017, c. 4, s. 35.

**31.51.0.2.** Approval of a rehabilitation plan under the first paragraph of section 31.51.0.1 is subject to the deposit of liability insurance or a financial guarantee that meets the requirements prescribed by government regulation; the insurance or other financial guarantee is intended to cover the costs related to carrying out a rehabilitation plan on the basis of the regulatory limit values applicable under section 31.51.

2017, c. 4, s. 35.

**31.51.1.** The owner or operator of a tank that is part of a petroleum equipment installation within the meaning of the Building Act (chapter B-1.1) must, in the cases, under the conditions and within the time limits prescribed by regulation, notify the Minister and perform or commission a characterization study of all or part of the land where the tank is located. If the characterization study reveals the presence of contaminants in a concentration exceeding the regulatory limit values, the owner or operator must present to the Minister, for approval, a rehabilitation plan setting out the measures that will be implemented to protect the quality of the environment and prevent adverse effects on the life, health, safety, welfare or comfort of human beings or on ecosystems, living species or property, together with an implementation schedule.

Sections 31.46 to 31.48 apply in such a case, with the necessary modifications.

2005, c. 10, s. 70; 2017, c. 4, s. 36.

**31.52.** A person who, as owner or lessee or in any other capacity, has the custody of land in which contaminants resulting from an industrial or commercial activity of a category designated by regulation of the Government are found in a concentration exceeding the regulatory limit values is required, on being informed of the presence of the contaminants at the limits of the land or of a serious risk of off-site contamination which could compromise a use of water, to give immediate notice thereof in writing to the owner of the neighbouring land concerned. A copy of the notice must also be transmitted to the Minister.



The person who has the custody of land referred to in the first paragraph is also required to notify the Minister on being informed of any serious risk of off-site contamination.

1990, c. 26, s. 4; 1999, c. 75, s. 10; 2002, c. 11, s. 2.

§ 3. — *Change in land use*

2002, c. 11, s. 2.

**31.53.** Any person intending to change the use of land where an industrial or commercial activity of a category designated by regulation of the Government has been carried on is required to first perform a site characterization study unless such a study is already available and a certificate of an expert referred to in section 31.65 states that the study meets the requirements of the guide prepared by the Minister under section 31.66 and is still current.

The characterization study, once completed, and the certificate, if any, must be transmitted to the Minister and to the owner of the land unless the documents have previously been so transmitted.

The carrying on of an activity different from the activity previously carried on, whether it is a new industrial or commercial activity of a category designated by regulation of the Government or any other activity, in particular an industrial, commercial, institutional, agricultural or residential activity, constitutes a change in the use of the land within the meaning of this section.

2002, c. 11, s. 2; 2004, c. 24, s. 6.

**31.54.** Any change in the use of land referred to in section 31.53 is subject to the Minister's approval of a rehabilitation plan if contaminants are present in the land in a concentration exceeding the regulatory limit values.

The rehabilitation plan must be sent to the Minister and must set out the measures that will be implemented to protect the quality of the environment and prevent adverse effects on the life, health, safety, welfare or comfort of human beings or on ecosystems, living species or property. The plan must also set out any measures intended to render the projected land use consistent with the condition of the land. Lastly, the plan must be accompanied by an implementation schedule and, if applicable, a plan for dismantling the facilities present on the land.

2002, c. 11, s. 2; 2017, c. 4, s. 37.

**31.54.1.** If a project requiring the Minister's prior authorization under section 22 also entails a change in the use of land under this subdivision, the Minister may not issue the authorization before receiving the characterization study required under section 31.53 from the applicant.

If contaminants are present in the land in concentrations exceeding the regulatory limit values, authorization for the project is subject to the Minister's approval of the rehabilitation plan required under section 31.54 and forming an integral part of the authorization.

2017, c. 4, s. 38.

**31.55.** The rehabilitation plan referred to in section 31.54 may provide that contaminants in a concentration exceeding the regulatory limit values are to be left in the land, on the condition, however, that a toxicological and ecotoxicological risk assessment and groundwater impact assessment be submitted with the plan.

In such a case, the person submitting the plan must inform the public by means of a notice published in a newspaper circulated in the municipality in which the land is situated and containing

- (1) a description of the land and the name (and address) of the owner ;

(2) a summary of the land use change proposal, the characterization study, the toxicological and ecotoxicological risk assessment and groundwater impact assessment and the proposed rehabilitation plan ;

(3) the date, time and place in the municipality where a public information meeting is to be held, which may not take place until ten days have elapsed after publication of the notice ; and

(4) a statement that the full text of each document referred to in subparagraph 2 may be examined at the office of the municipality.

A report of the observations made at the public meeting and a copy of the public notice published in the newspaper must accompany the rehabilitation plan submitted for approval. The report may also be examined at the office of the municipality.

2002, c. 11, s. 2.

**31.56.** The provisions of sections 31.45 to 31.48 apply, with the necessary modifications, to the rehabilitation plan.

2002, c. 11, s. 2.

§ 4. — *Voluntary land rehabilitation*

2002, c. 11, s. 2.

**31.57.** Any person intending to rehabilitate all or any part of contaminated land on a voluntary basis without being required to do so under a provision of this division and to leave contaminants in the land in a concentration exceeding the regulatory limit values shall, before any work is undertaken, submit for the Minister's approval a rehabilitation plan setting out the measures that will be implemented to protect the quality of the environment and prevent adverse effects on the life, health, safety, welfare or comfort of human beings or on ecosystems, living species or property, together with an implementation schedule and a toxicological and ecotoxicological risk assessment and groundwater impact assessment. A characterization study must also be submitted with the rehabilitation plan.

The provisions of sections 31.45 to 31.48 apply in such a case, with the necessary modifications.

2002, c. 11, s. 2; 2017, c. 4, s. 39.

§ 5. — *Contamination and decontamination notices*

2002, c. 11, s. 2.

**31.58.** Where a characterization study performed pursuant to this Act reveals the presence in land of contaminants in a concentration exceeding the regulatory limit values, the person or municipality who had the study performed shall apply for registration in the land register of a notice of contamination on being informed of the presence of such contaminants.

The notice of contamination must contain, in addition to a description of the land,

(1) the name and address of the applicant for registration of the notice and of the owner of the land ;

(2) the name of the municipality in which the land is situated and the land use authorized by the zoning by-laws ; and

(3) a summary of the characterization study, certified by an expert referred to in section 31.65, stating among other things the nature of the contaminants present in the land.

In addition, the person or municipality must transmit to the Minister and to the owner of the land a duplicate of the notice bearing a registration certificate or a copy of the notice certified by the Land Registrar. On receipt of the document, the Minister shall transmit a copy to the municipality in which the land is situated ; if the land is situated in a territory referred to in section 133 or 168 that is not constituted as a municipality, the document is transmitted to the body designated by the Minister.

2002, c. 11, s. 2.

**31.59.** A person or municipality having registered a notice of contamination under section 31.58 or the owner of the land concerned may apply for registration in the land register of a notice of decontamination if decontamination work has been carried out and a subsequent characterization study has shown that no contaminants are present, or that contaminants are present in a concentration not exceeding the regulatory limit values.

The provisions of the second and third paragraphs of section 31.58 apply, with the necessary modifications, to the notice of decontamination. The notice must also mention any land use restrictions registered in the land register that have been rendered unnecessary as a result of the decontamination.

The characterization study mentioned in the first paragraph shall be made available to the Minister.

2002, c. 11, s. 2.

§ 6. — *General provisions*

2002, c. 11, s. 2.

**31.60.** The Minister may amend any rehabilitation plan approved pursuant to the provisions of this division on the request of the person or municipality required to implement the plan.

The request to amend the plan must be notified to any land owner not required to implement the plan, with a notice indicating the time within which the owner may present observations to the Minister. If the rehabilitation plan to be amended provides for land use restrictions, it may not be amended unless the owner has given consent in writing to the amendments and the consent document has been transmitted to the Minister with the request for amendment.

In addition, if an amendment to a rehabilitation plan is such that it modifies land use restrictions, the person or municipality requesting the amendment must immediately apply for registration of the amendment in the land register by means of a notice setting out the modifications. As of the registration of the notice, the amended rehabilitation plan is effective against third persons and any subsequent acquirer of the land is bound by the charges and obligations provided for in the rehabilitation plan as regards land use restrictions.

The provisions of the last paragraph of section 31.58 apply, with the necessary modifications, to the notice.

2002, c. 11, s. 2.

**31.61.** The Minister may require any person or municipality required to transmit a characterization study, a toxicological and ecotoxicological risk assessment and groundwater impact assessment or a land rehabilitation plan to the Minister, or any person or municipality requesting an amendment to an approved rehabilitation plan, to furnish any additional information, document, study or expert evaluation the Minister considers necessary to determine the nature and extent of the contamination involved, the risk and impacts for the quality of the environment or for the life, health, safety, welfare or comfort of human beings, ecosystems, living species or property, and the effectiveness of the rehabilitation or protection measures.

2002, c. 11, s. 2; 2017, c. 4, s. 40.

**31.62.** If a person or municipality fails to perform a characterization study or furnish any additional information, document, study or expert evaluation required under this division, or fails to apply for registration in the land register, the Minister may take any measure necessary to remedy the default.

The same applies if a person or municipality fails to transmit or amend a land rehabilitation plan required under this division, or fails to carry out a land rehabilitation or decontamination plan as approved and according to the implementation schedule, or to comply with the conditions of the plan once it has been carried out. In such a case, the Minister may take any measure the Minister considers appropriate to decontaminate the land or to ensure the plan is implemented.

The Minister may recover from the person or municipality in default the direct and indirect costs incurred by reason of measures taken pursuant to this section.

2002, c. 11, s. 2; 2011, c. 20, s. 6.

**31.63.** The person who, as owner or lessee or in any other capacity, has the custody of the land shall give free access to the land at any reasonable time to any person required under this division to perform a characterization study or a toxicological and ecotoxicological risk assessment and groundwater impact assessment or to implement a rehabilitation plan, subject, however, to that person restoring the premises to their former state and compensating the owner or custodian of the land, as the case may be, for any damage.

2002, c. 11, s. 2.

**31.64.** Work or works that are necessary to implement a land rehabilitation plan approved by the Minister under this division are exempt from the application of section 22.

2002, c. 11, s. 2.

**31.65.** The Minister shall draw up and maintain a list of experts authorized to furnish the certificates required under this division, section 113 of the Petroleum Resources Act (chapter H-4.2) and sections 120 and 121 of the Act respecting land use planning and development (chapter A-19.1). The list shall be made available to the public in the manner determined by the Minister.

The conditions to be met for entry on the list, including the fees payable, as well as the reasons that could lead to the temporary or permanent removal of an expert from the list, shall be determined by the Minister after consultation with groups or organizations which in the Minister's opinion are comprised of persons having qualifications susceptible of satisfying those conditions. Once determined, the conditions must be published in the *Gazette officielle du Québec*.

2002, c. 11, s. 2; 2017, c. 4, s. 41; 2016, c. 35, s. 23.



*As of 1 January 2021, the fees payable under this section are as follows:*

— *application for registration: \$1,170;*

— *examination fees: \$234;*

— *annual fees: \$878.*

*See notice of indexation; (2020) 152 G.O. 1, 914.*

**31.66.** The Minister shall prepare a guide setting out the objectives and elements to consider in performing a site characterization study, in particular as regards the assessment of soil quality and the impacts that contaminants present in the land may have on the groundwater and surface water.

For that purpose, the Minister may consult any government department, group, body or person interested in the matter.

The guide shall be made available to the public in the manner determined by the Minister.

2002, c. 11, s. 2.

**31.67.** Every site characterization study performed under this division must be certified by an expert referred to in section 31.65.

In certifying a study, the expert shall attest that the study was performed in accordance with the guide prepared by the Minister and the requirements, if any, fixed by the Minister pursuant to section 31.49.

2002, c. 11, s. 2.

**31.68.** Every municipality shall, on the basis of the notices registered in the land register pursuant to sections 31.44, 31.47, 31.58 and 31.59, prepare and maintain a list of contaminated lands situated in its territory ; that obligation shall also apply, with the necessary modifications, to every body which, under the second paragraph of section 31.47 or the third paragraph of section 31.58, receives from the Minister a copy of a document referred to in those provisions. The information contained in the list is public information.

The issue of building and subdivision permits by the municipality that concern land entered on the list is subject to the conditions set out in sections 120 and 121 of the Act respecting land use planning and development (chapter A-19.1).

2002, c. 11, s. 2.

**31.68.1.** The Government may, by regulation, designate the contaminated land rehabilitation measures that, subject to the conditions, restrictions and prohibitions specified in the regulation, are eligible for a declaration of compliance. The provisions of such a regulation may vary according to, among other things, the types of contaminants present in the land, the characteristics of the milieu and the methods used.

The declaration of compliance must be filed with the Minister at least 30 days before the rehabilitation measures are implemented and be signed by an expert referred to in section 31.65, who must attest that the rehabilitation will be carried out in accordance with the conditions, restrictions and prohibitions prescribed by government regulation.

The declaration must also include the information and documents prescribed by government regulation, in the manner and form specified in the regulation.

In addition, as soon as the work is completed, the declarant must send the Minister the certificate of an expert referred to in section 31.65 stating that the rehabilitation has been carried out in accordance with the conditions, restrictions and prohibitions determined under the first paragraph.

2017, c. 4, s. 42.

**31.68.2.** Whoever carries out measures required for land rehabilitation in accordance with section 31.68.1 is not required to submit a rehabilitation plan to the Minister under this division with regard to the land.

2017, c. 4, s. 42.

**31.68.3.** Sections 31.68.1 and 31.68.2 do not have the effect of restricting any power the Minister may exercise where land rehabilitation measures referred to in a declaration of compliance made under those sections are carried out in contravention of this Act or the regulations.

In addition, a person or municipality that carries out land rehabilitation in contravention of the conditions, restrictions or prohibitions prescribed by a regulation made under the first paragraph of section 31.68.1 is deemed to carry out the rehabilitation without having obtained the Minister's approval for a rehabilitation

plan as required under subdivision 1 and is liable to the remedies, penalties, fines and other measures applicable in such a case.

2017, c. 4, s. 42.

§ 7. — *Regulatory powers*

2002, c. 11, s. 2.

**31.69.** The Government may make regulations to

(1) prescribe the concentration limit values for the contaminants it determines, in excess of which those contaminants, when present in land, may give rise to implementation of the characterization, rehabilitation or publicity measures provided for in this division. The limit values may vary in particular on the basis of land use;

(2) determine the categories of the industrial or commercial activities referred to in sections 31.51, 31.52 and 31.53;

(2.1) determine, for the purposes of section 31.51, the cases in which and conditions under which there is a permanent cessation of an industrial or commercial activity belonging to a category determined under paragraph 2, and to specify the cases where a cessation notice must be sent to the Minister;

(2.2) prescribe the cases, conditions and time limits applicable to the notice and the characterization study required under section 31.51.1;

(3) prescribe the cases where, the conditions on which and the time limits within which a person carrying on an industrial or commercial activity in a specified category will be required to monitor groundwater quality at the hydraulic downstream of the land and to transmit the results of the monitoring to the Minister;

(4) *(paragraph repealed)*;

(5) regulate, in all or part of the territory of Québec, the treatment, recovery, reclamation and elimination of contaminated soils not subject to the provisions of Division VII of this chapter and of any materials containing such soils. The regulations may, in particular,

(a) classify contaminated soils and materials containing contaminated soils into categories, in particular according to the origin, nature and concentration of the contaminants, and the facilities that treat, recover, reclaim or eliminate such soils and materials;

(b) prescribe or prohibit, in respect of one or more categories of contaminated soils or materials containing contaminated soils, any mode of treatment, recovery, reclamation or elimination;

(c) determine the conditions or prohibitions applicable to the establishment, operation and closure of any facility that treats, recovers, reclaims or eliminates contaminated soils or materials containing contaminated soils;

(d) authorize the Minister to determine, for the classes of elimination facilities specified in the regulation, the parameters to be measured and the substances to be analysed according to the composition of the contaminated soils or materials containing contaminated soils received for elimination, and prescribe the limit values to be respected for such parameters or substances. The values may be in addition to the values prescribed by regulation;

(e) prescribe the conditions or prohibitions applicable to facilities that eliminate contaminated soils or materials containing contaminated soils after they are closed, including the conditions or prohibitions relating to maintenance and supervision, prescribe the period of time during which the conditions or prohibitions are to apply, and determine who will be required to ensure that they are complied with; and

(f) require, as a condition for the operation of any facility that eliminates contaminated soils or materials containing contaminated soils, determined by the regulation, that financial guarantees be set up as provided in section 56 for residual materials elimination facilities, and that section shall then apply with the necessary modifications.

2002, c. 11, s. 2; 2005, c. 10, s. 71; 2002, c. 53, s. 5; 2017, c. 4, s. 43.



*The following section is section 31.74.*

## DIVISION V

### WATER RESOURCE PROTECTION AND MANAGEMENT

2009, c. 21, s. 18.

**31.74.** In this division, “water withdrawal” or “withdrawal” means the taking of surface water or groundwater by any means. Water withdrawals by means of the following works are excluded from that definition except for the purposes of subdivisions 2 and 3:

- (1) works used for the impounding of water;
- (2) works used for the diversion of water to produce hydroelectric power; and
- (3) other works used for the production of hydroelectric power.

2009, c. 21, s. 19; 2017, c. 4, s. 44.

#### § 1. — *Withdrawal of surface water or groundwater*

2009, c. 21, s. 19.

**31.74.1.** Subdivisions 1 to 3 of this division apply, in addition to subdivisions 1 to 4 of Division II, to any water withdrawal.

2017, c. 4, s. 45; 2017, c. 14, s. 30.

**31.75.** The following water withdrawals are not subject to the Minister’s prior authorization under section 22:

- (1) a withdrawal with a maximum flow rate of less than 75,000 litres per day, unless
  - (a) it is intended to supply water to the number of persons the Government determines by regulation;
  - (b) the water is to be sold or distributed as spring water or mineral water or used as such in the manufacture, preservation or processing of products within the meaning of the Food Products Act (chapter P-29); or
  - (c) the water is withdrawn from the St. Lawrence River Basin to be transferred out of the Basin in accordance with subdivision 2; and
- (2) a temporary, non-recurring withdrawal for emergency-response, humanitarian or civil protection purposes;
- (3) *(paragraph repealed)*.

2009, c. 21, s. 19; 2017, c. 4, s. 46.

**31.76.** Any power of authorization under this Act with regard to a water withdrawal must be exercised so as to ensure the protection of water resources, particularly by fostering sustainable, equitable and efficient management of the resources in light of the precautionary principle and the effects of climate change.

In addition, every decision made in the exercise of the power of authorization must give priority to satisfying public health, sanitation, civil protection and drinking water supply needs. Every such decision must also aim to reconcile

(1) the protection needs of aquatic ecosystems; and

(2) the needs of agriculture, aquaculture, industry, energy production and other human activities, including recreation and tourism.

In addition to the elements set out in section 24, such a decision must take into account the elements contained in a water master plan or an integrated management plan for the St. Lawrence prepared under the Act to affirm the collective nature of water resources and to promote better governance of water and associated environments (chapter C-6.2), the observations communicated by the public with regard to the water withdrawal, and the consequences of the withdrawal for

(1) the short-, medium- and long-term water use rights of other persons or municipalities;

(2) the availability and distribution of water resources, with a view to satisfying or reconciling current and future needs of the various water users;

(3) the foreseeable development of rural and urban areas, particularly as regards the objectives of the land use planning and development plan, or the development plan, of any regional county municipality or metropolitan community affected by the withdrawal, and for the balance that must be maintained between the various water uses; and

(4) the economic development of a region or municipality.

2009, c. 21, s. 19; 2017, c. 4, s. 47.

**31.77.** *(Repealed).*

2009, c. 21, s. 19; 2017, c. 4, s. 48.

**31.78.** *(Repealed).*

2009, c. 21, s. 19; 2017, c. 4, s. 48.

**31.79.** Sections 23 to 27 apply to the renewal of a water withdrawal authorization under this Act.

2009, c. 21, s. 19; 2017, c. 4, s. 49.

**31.79.1.** The Government or the Minister, as applicable, may refuse to issue, amend or renew a water withdrawal authorization if of the opinion that the refusal is in the public interest.

They may also, on their own initiative and for the same reason, amend a water withdrawal authorization.

Before making a decision under this section, the Government must grant the applicant and the holder of the authorization at least 15 days to submit written observations.



In addition, before making a decision under this section, the Minister must notify the prior notice prescribed by section 5 of the Act respecting administrative justice (chapter J-3) to the person concerned and grant the latter at least 15 days to submit observations.

2017, c. 4, s. 49.

**31.80.** On deciding to issue, amend or renew a water withdrawal authorization, the Government or the Minister, as applicable, may prescribe, in addition to the conditions, restrictions and prohibitions prescribed under section 25, any condition, restriction or prohibition concerning

(1) the withdrawal site and the quantity of water that may be withdrawn as well as the quantity and quality of the water that must be returned to the environment after use;

(2) the facilities, works or work related to the withdrawal;

(3) the use of the water withdrawn;

(4) measures to prevent, limit or remedy environmental damage;

(5) the control and monitoring of the effects of the withdrawal on the environment;

(6) measures to ensure the conservation and efficient use of the water withdrawn and to reduce the quantity of water consumed, lost or not returned to the environment after use, taking into account, among other things, the best economically feasible practices or economically available technologies and the particularities of the equipment, facilities and processes involved;

(7) measures to prevent, limit or remedy interference with the water use rights of other persons or municipalities; and

(8) the reports that must be made to the Minister setting out, among other things, the actual or potential impacts of the withdrawal or consumptive use of the water, and the results produced by the measures prescribed under paragraphs 6 and 7.

2009, c. 21, s. 19; 2017, c. 4, s. 50.

**31.81.** The term of a water withdrawal authorization issued by the Minister is 10 years.

However, the Minister may issue or renew an authorization for a shorter or longer term to serve the public interest or in the cases prescribed by regulation of the Government. If the Minister decides on a term shorter than 10 years, the person concerned must be given prior notice of the Minister's intended decision, including reasons, and an opportunity to present observations.

This section does not apply to a water withdrawal authorization for the supply of drinking water to a waterworks system operated by a municipality.

2009, c. 21, s. 19.

**31.82.** *(Repealed).*

2009, c. 21, s. 19; 2017, c. 4, s. 51.

**31.83.** The holder of a water withdrawal authorization must, within the time prescribed by regulation, inform the Minister of any permanent cessation of water withdrawal.

The Minister may impose on the holder any measure

(1) to prevent infringement of the rights of other users;

- (2) to prevent the release of contaminants into the environment;
- (3) to ensure equipment and facility dismantling; and
- (4) to ensure environmental monitoring.

Permanent cessation of water withdrawal entails cancellation of the authorization concerned by operation of law, except any measures set out in the authorization that concern the cessation. However, the Minister may, at the holder's request, maintain the authorization in force for the period and on the conditions the Minister determines.

2009, c. 21, s. 19; 2017, c. 4, s. 52.

**31.84.** *(Repealed).*

2009, c. 21, s. 19; 2017, c. 4, s. 53.

**31.85.** *(Repealed).*

2009, c. 21, s. 19; 2017, c. 4, s. 53.

**31.86.** *(Repealed).*

2009, c. 21, s. 19; 2017, c. 4, s. 53.

**31.87.** *(Repealed).*

2009, c. 21, s. 19; 2017, c. 4, s. 53.

§ 2. — *Special provisions applicable to water withdrawals from the St. Lawrence River Basin*

2009, c. 21, s. 19.

**31.88.** The purpose of this subdivision is to ensure the implementation in Québec of the Great Lakes-St. Lawrence River Basin Sustainable Water Resources Agreement (the “Agreement” ) entered into on 13 December 2005 by Québec and Ontario and the U.S. states of Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania and Wisconsin.

This subdivision and the regulations under it are to be construed in a manner consistent with the Agreement.

The text of the Agreement is to be published in the *Gazette officielle du Québec*.

2009, c. 21, s. 19.

**31.89.** For the purposes of this subdivision,

“**consumptive use**” means that portion of water withdrawn or impounded from the St. Lawrence River Basin that is lost or otherwise not returned to the Basin due to evaporation, incorporation into a product, or other processes;

“**St. Lawrence River Basin**” or “**Basin**” means the part of Québec in which all waters flow towards the St. Lawrence River upstream from Trois-Rivières, excluding the Saint-Maurice river watershed and the Bécancour river, and which is described on the map shown in Schedule 0.A and any other paper or electronic map the Minister may prepare to determine its boundaries more precisely.

Paper maps showing the boundaries of the Basin prepared by the Minister under this subdivision are to be published in the *Gazette officielle du Québec*. Electronic ones are to be made available to the public in the manner determined by the Minister.

2009, c. 21, s. 19.

**31.90.** No water withdrawn from the St. Lawrence River Basin may be transferred out of the Basin, except as set out below and in section 31.91.

This prohibition does not apply to water withdrawals, from the outset made for purposes of transfer out of the Basin, that were authorized before 1 September 2011 or, if not authorized, were lawfully commenced before that date. Unless it is increased under the conditions defined by sections 31.91 to 31.93, the quantity of water derived from such a withdrawal must not, however, exceed the quantity authorized at that date or, if there is no authorization or the authorization does not determine a maximum quantity, the capacity of the withdrawal system at that date.

Nor does this prohibition apply to water withdrawn

- (1) to be marketed for human consumption, if packaged within the Basin in containers of 20 litres or less;
- (2) to be used within the Basin in the manufacture, preservation or processing of products;
- (3) to supply vehicles, including vessels and aircraft, whether for the needs of persons or animals being transported or for ballast or other needs related to the operation of the vehicles; or
- (4) for humanitarian, civil protection or emergency-response purposes provided the withdrawal is temporary and non-recurrent.

2009, c. 21, s. 19.

**31.91.** In addition to the conditions prescribed by sections 31.92 and 31.93 and those the Government or the Minister may prescribe under other provisions of this Act, a transfer out of the St. Lawrence River Basin resulting from a new withdrawal from the Basin, or an increased transfer out of the Basin resulting from such a withdrawal or a withdrawal existing on 1 September 2011, may be authorized under the following conditions:

(1) all water transferred out of the Basin is intended to supply a waterworks system serving all or part of the population of a local municipality whose territory is either

- (a) partly within the Basin; or
- (b) both wholly outside the Basin and wholly within a regional county municipality whose territory is partly within the Basin; and

(2) all water transferred out of the Basin is to be returned to the Basin, with preference to the direct St. Lawrence River tributary stream watershed from which it was withdrawn, if applicable, less an allowance for consumptive use. No water from outside the Basin may be added to complete the quantity of water returned to the Basin unless

(a) it is part of a water supply or waste water treatment system that combines water from inside and outside the Basin;

(b) it is treated to meet applicable water quality or discharge standards and to prevent the introduction of invasive species into the Basin; and

(c) it maximizes the portion of water from within the Basin and minimizes the portion from outside the Basin.

For the purposes of this section, “new withdrawal” means any water withdrawal authorized after 1 September 2011.

The Minister shall publish in the *Gazette officielle du Québec* a list of the local municipalities and regional county municipalities whose territory is partly within the Basin for the purposes of subparagraphs *a* and *b* of subparagraph 1 of the first paragraph.

2009, c. 21, s. 19.

**31.92.** If it involves an average of 379,000 litres or more per day, or a lesser quantity determined by regulation of the Government, that is intended to supply a waterworks system serving a municipality described in subparagraph *a* of subparagraph 1 of the first paragraph of section 31.91, a transfer out of the St. Lawrence River Basin resulting from a new or increased water withdrawal described in that section may be authorized only if it meets the following conditions:

- (1) the transfer cannot be reasonably avoided or diminished through the conservation and efficient use of existing water supplies;
- (2) the quantity of water to be transferred is reasonable having regard to the water’s intended use;
- (3) the transfer would result in no significant individual or cumulative adverse impacts on the quantity or quality of the waters and water-dependent natural resources of the Basin; and
- (4) the transfer is subject to water conservation measures determined by regulation of the Government, or by the Minister under other provisions of this Act.

If a transfer out of the Basin under the first paragraph would result in a consumptive use of an average of 19 million litres or more per day, it is also subject to review by the Great Lakes-St. Lawrence River Water Resources Regional Body established by the Agreement.

2009, c. 21, s. 19.

**31.93.** A transfer out of the St. Lawrence River Basin resulting from a new or increased water withdrawal described in section 31.91 that is intended to supply a waterworks system serving a municipality described in subparagraph *b* of subparagraph 1 of the first paragraph of that section may be authorized only if it meets the conditions set out below and the conditions prescribed in subparagraphs 1 to 4 of the first paragraph of section 31.92:

- (1) there is no water supply alternative within the watershed in which the local municipality concerned is situated that is reasonably accessible and able to satisfy its drinking water needs;
- (2) the quantity of water transferred will not endanger the integrity of the Basin ecosystem; and
- (3) the transfer was reviewed by the Great Lakes-St. Lawrence River Water Resources Regional Body.

2009, c. 21, s. 19.

**31.94.** If, under section 31.92 or 31.93, an application for authorization is subject to review by the Great Lakes-St. Lawrence River Water Resources Regional Body, the Minister must, after so informing the applicant,

- (1) notify the Regional Body and each of the parties to the Agreement;
- (2) send the Regional Body the application record containing all the documents or information provided by the applicant as well as the Minister’s opinion on the compliance of the application with the conditions prescribed by sections 31.91 to 31.93 and those set out in the Agreement; and

(3) at the request of the Regional Body or one of the parties to the Agreement, provide any additional document or information the Regional Board or the party may consider necessary for review of the application for authorization.

The Minister must also inform the public that the application for authorization is subject to review by the Regional Body.

After reviewing the application for authorization as set out in the Agreement and its own rules of procedure, the Regional Body shall issue a declaration on the compliance of the application with the conditions set out in the Agreement. The declaration is sent to the Minister and made available to the public in the manner the Regional Body determines.

In making a decision with respect to the application for authorization, the Minister or the Government, as the case may be, shall take into account the Regional Body's declaration.

2009, c. 21, s. 19.

**31.95.** If it involves an average quantity or consumptive use of 379,000 litres or more per day or a quantity or consumptive use determined by regulation of the Government and is not for transfer out of the St. Lawrence River Basin, a new withdrawal from the Basin, an increase in a new withdrawal or an increase in a withdrawal existing on 14 August 2014 may be authorized only if it meets the conditions set out below and the conditions prescribed by the Government or the Minister under other provisions of this Act:

(1) all water withdrawn is to be returned to the Basin, with preference to the direct St. Lawrence River tributary stream watershed from which it was derived, if applicable, less an allowance for consumptive use;

(2) the quantity of water withdrawn or consumed would result in no significant individual or cumulative adverse impacts on the quantity or quality of the waters of the Basin or on water-dependent natural resources in the Basin;

(3) the withdrawal or consumptive use is subject to water conservation measures determined by regulation of the Government, or by the Minister under other provisions of this Act; and

(4) the quantity of water withdrawn or consumed is reasonable having regard, among other things, to

(a) the water's intended use;

(b) the measures implemented for the conservation and efficient use of water, including water from existing water supplies;

(c) the balance between economic, social and environmental development;

(d) the foreseeable impacts on the environment and on other uses, and the measures for avoidance or mitigation of such impacts; and

(e) the supply potential of the water source and other interconnected water sources.

For the purposes of this section, "new withdrawal" means any water withdrawal authorized after 14 August 2014.

This section does not apply to water withdrawn for the purposes mentioned in subparagraphs 3 and 4 of the third paragraph of section 31.90.

2009, c. 21, s. 19.

**31.96.** In order to determine whether an application for authorization for an increased water withdrawal from the St. Lawrence River Basin is subject to the requirements of section 31.92 or 31.95 in light of the

quantity of water withdrawn or consumed that it involves, any quantity of water withdrawn or consumed under an authorization granted for the same withdrawal during the 10 years preceding the application must be included.

2009, c. 21, s. 19.

**31.97.** If an application for authorization pertains to a water withdrawal described in section 31.95 that involves an average consumptive use of 19 million litres or more per day, the Minister must, after informing the applicant, give each party to the Agreement a notice of the application and an opportunity to present observations.

The Minister shall provide a response to each party to the Agreement that has presented observations.

2009, c. 21, s. 19.

**31.98.** Even if an application for authorization that pertains to a water transfer out of the St. Lawrence River Basin described in section 31.91 or 31.92 or to a water withdrawal described in section 31.95 or 31.97 is not, under those sections, subject to review by the Great Lakes-St. Lawrence River Water Resources Regional Body, simple notice of the application may be given to the Regional Body by the Minister, or the application may be reviewed by the Regional Body if

(1) the Minister considers it appropriate and so requests; or

(2) a majority of the members of the Regional Body are of the opinion that such a review is warranted owing to the application's significance for the parties to the Agreement or to its potentially precedent-setting nature.

Section 31.94 applies to such a review, which, however, is to be undertaken only after consulting the applicant.

2009, c. 21, s. 19.

**31.99.** The Minister must notify to the Great Lakes-St. Lawrence River Water Resources Regional Body and to each of the parties to the Agreement, by registered mail, every decision of the Minister or the Government with respect to an application for authorization that has been reviewed by the Regional Body.

The Minister must also notify to each of the parties to the Agreement every decision with respect to an application for authorization concerning a water transfer out of the Basin described in section 31.92 or a new or increased water withdrawal described in section 31.95.

2009, c. 21, s. 19; I.N. 2016-01-01 (NCCP).

**31.100.** A party to the Agreement may, in accordance with subparagraph 1 of the first paragraph of article 529 of the Code of Civil Procedure (chapter C-25.01), contest a decision of the Government referred to in section 31.99 before the Superior Court for non-compliance with the Agreement, subject to the following provisions:

(1) the application for judicial review under the Code of Civil Procedure must be brought before the court of the place where the person concerned is domiciled or the main offices of the municipality concerned are located, as the case may be, within 30 days of notification of the decision; and

(2) the party bringing the application is dispensed from giving security as required by article 492 of that Code.

A party to the Agreement may contest a decision of the Minister referred to in section 31.99 before the Administrative Tribunal of Québec for non-compliance with the Agreement, within 30 days after notification of the decision. Sections 98.1 to 100 apply, with the necessary modifications.

2009, c. 21, s. 19; I.N. 2016-01-01 (NCCP).

**31.101.** The Minister may implement water conservation and efficiency programs that are based on the objectives set by the Great Lakes-St. Lawrence River Water Resources Regional Body in order to

- (1) improve the waters and water-dependent natural resources of the Great Lakes-St. Lawrence River Basin;
- (2) protect and restore the hydrologic and ecosystem integrity of that basin;
- (3) retain the quantity of surface water and groundwater;
- (4) ensure sustainable use of the waters; and
- (5) promote the efficient use of water.

The objects of these programs are to include

- (1) promoting the sustainable management of all withdrawals from the Basin, particularly new or increased withdrawals described in section 31.95 that involve an average quantity or consumptive use of 379,000 litres or more per day or a quantity or consumptive use determined by regulation of the Government;
- (2) ensuring the enforcement of sections 31.91 to 31.95, which set conditions applicable to water transfers out of the Basin and new or increased withdrawals from the Basin; and
- (3) making sure that measures prescribed or recommended for all Basin water users to ensure water conservation and efficiency are regularly reviewed and updated to adjust to the actual and potential impacts of the cumulative effects of past, present and reasonably foreseeable future withdrawals and consumptive uses and of climate change on the Basin ecosystem.

The Minister shall annually assess the results achieved under the programs implemented under this section. On 1 September 2012 and every five years after that, the Minister shall send the Regional Body a report describing the programs and their results.

2009, c. 21, s. 19.

**31.102.** The Minister must conduct an assessment of the cumulative impacts of water withdrawals and consumptive uses in the St. Lawrence River Basin on the Basin ecosystem, particularly on the waters and water-dependent natural resources of the Basin, in accordance with the requirements of the Agreement. The assessment must be conducted in coordination with the assessments that the other parties to the Agreement are required to conduct within the Great Lakes-St. Lawrence River Basin.

The assessment must evaluate the application of the prevention principle and the precautionary principle as well as the effects of past and reasonably foreseeable future withdrawals and consumptive uses, the effects of climate change and any other factor that may significantly damage the Basin's aquatic ecosystems.

The assessment prescribed by this section must be done every five years. It must also be done each time the incremental losses to the Great Lakes-St. Lawrence River Basin reach an average of 190 million litres per day in excess of the quantity at the time of the last assessment, or each time one or more of the parties to the Agreement so request.

2009, c. 21, s. 19.

**31.103.** The Minister shall make public each of the assessments conducted under sections 31.101 and 31.102 and invite members of the public to present observations in writing on what actions should be taken to maintain or reinforce water resource protection, management or restoration within the St. Lawrence River Basin, including observations on whether to review legislative, regulatory or other measures and the water conservation and efficiency programs established to implement the Agreement in Québec.

After considering observations received from members of the public, the Minister shall make public the actions that the Minister or the Government intends to take in response to the assessment.

2009, c. 21, s. 19.

**31.104.** *(Section renumbered).*

2009, c. 21, s. 19; 2017, c. 4, s. 54.



*See section 45.5.1.*

§ 3. — *Prohibition against water transfers out of Québec*

2009, c. 21, s. 19.

**31.105.** As of 21 October 1999, no water withdrawn in Québec may be transferred out of Québec.

However, subject to subdivision 2, this prohibition does not apply to water withdrawn

- (1) to serve in the production of hydroelectric power;
- (2) to be marketed for human consumption, if packaged in Québec in containers of 20 litres or less;
- (3) to supply drinking water to establishments, institutions or dwellings situated in a boundary area; or

(4) to supply vehicles, including vessels and aircraft, whether for the needs of persons or animals being transported or for ballast or other needs related to the operation of the vehicles.

2009, c. 21, s. 19.

**31.106.** The Government may, for emergency-response or humanitarian reasons or any other reason considered to be in the public interest, lift the prohibition set out in section 31.105 and allow the transfer of water out of Québec, subject to section 31.107 and to subdivision 2 and the other provisions of this Act that set out conditions for the authorization of water withdrawals.

The prohibition may be lifted in relation to one specific case or several cases.

The Government's decision must state why the prohibition is being lifted.

2009, c. 21, s. 19.

**31.107.** The lifting of the prohibition set out in section 31.106 for any reason in the public interest is subject to public consultation, of which notice must be given by the Minister, particularly in the region concerned and in any appropriate manner, at least 30 days in advance.

The notice must contain a brief description of the planned water transfer out of Québec, the reason for it, the places where the public may consult or obtain information on the planned transfer, including its impact on the environment and on other users, and the particulars of the consultation as determined by the Minister.

2009, c. 21, s. 19.



**31.108.** Not later than 31 December 2011 and every five years after that, the Minister must submit to the Government a report on the carrying out of this subdivision and the advisability of maintaining it in force or amending it.

The report is tabled in the National Assembly within 15 days after the report is submitted or, if the Assembly is not sitting, within 15 days of resumption.

2009, c. 21, s. 19.

§ 4. — *Water management and treatment*

2009, c. 21, s. 19; 2017, c. 4, s. 55.

1. — SCOPE

**32.** For the purposes of subparagraph 3 of the first paragraph of section 22 and this subdivision, a water management or treatment facility is

- (1) a waterworks system;
- (2) a sewer system; or
- (3) a rainwater management system.

The Government may, by regulation, define the terms mentioned in the first paragraph.

1972, c. 49, s. 32; 1978, c. 64, s. 11; 1979, c. 49, s. 33; 1984, c. 29, s. 3; 1988, c. 49, s. 9; 2009, c. 21, s. 20; 2017, c. 4, s. 56.

**32.1.** *(Repealed).*

1978, c. 64, s. 11; 1979, c. 49, s. 33; 1988, c. 49, s. 38; 1999, c. 40, s. 239; 2017, c. 4, s. 57.

**32.2.** *(Repealed).*

1978, c. 64, s. 11; 2017, c. 4, s. 57.

2. — SPECIAL MEASURES APPLICABLE TO AUTHORIZATIONS FOR ACTIVITIES DESCRIBED IN SUBPARAGRAPH 3 OF THE FIRST PARAGRAPH OF SECTION 22

**32.3.** In addition to any requirements prescribed by any government regulation, an applicant for an authorization with regard to a water management or treatment facility not operated by a municipality, or operated by a municipality outside its territorial limits, must submit, in support of the application, a certificate from the clerk or secretary-treasurer of the municipality in whose territory the facility is located attesting that the municipality does not object to the authorization being issued for the sector served by the facility.

If the municipality objects to the issuing of the authorization, the Minister must make an investigation and allow interested persons to present observations before making his decision.

1978, c. 64, s. 11; 1979, c. 49, s. 33; 1996, c. 2, s. 841; 1997, c. 43, s. 524; 2017, c. 4, s. 59.

**32.4.** *(Repealed).*

1978, c. 64, s. 11; 1979, c. 49, s. 33; 1988, c. 49, s. 38; 2017, c. 4, s. 60.

**32.5.** *(Repealed).*

1978, c. 64, s. 11; 1984, c. 29, s. 4; 2017, c. 4, s. 61.

**32.6.** In addition to the conditions, restrictions and prohibitions the Minister may prescribe under section 25 when authorizing a municipality to carry out work for a water management or treatment facility in a sector also served by a facility not operated by a municipality, or operated by a municipality outside its territorial limits, the Minister may impose the acquisition by agreement or expropriation of the existing facilities.

1978, c. 64, s. 11; 1979, c. 49, s. 33; 1988, c. 49, s. 38; 2017, c. 4, s. 62.

### 3. — OTHER MEASURES

**32.7.** Despite any contrary provision, an operator or owner of a waterworks or sewer system may not cease to operate it without first submitting, for the Minister's approval, the alternative measures that will be implemented to maintain the water supply and water treatment for the persons served, together with the implementation schedule for those measures.

The operator or owner must keep the waterworks or sewer system operating until the approved alternative measures take effect.

When exercising the power of approval under the first paragraph, the Minister may prescribe any condition, restriction or prohibition the Minister considers necessary and modify the measures submitted or their implementation schedule.

Before making a decision under the third paragraph, the Minister must notify the prior notice prescribed by section 5 of the Act respecting administrative justice (chapter J-3) to the person concerned and grant the latter at least 15 days to submit observations.

1978, c. 64, s. 11; 1979, c. 49, s. 33; 1988, c. 49, s. 38; 2017, c. 4, s. 62.

**32.8.** *(Repealed).*

1978, c. 64, s. 11; 1979, c. 49, s. 33; 1988, c. 49, s. 38; 2017, c. 4, s. 63.

**32.9.** *(Repealed).*

1978, c. 64, s. 11; 1979, c. 49, s. 33; 1984, c. 29, s. 5; 1988, c. 49, s. 38; 2002, c. 53, s. 6; 2017, c. 4, s. 64.

**33.** No person may set up or operate, as applicable, any amusement grounds, holiday camp, public beach, mobile home park or camping ground or any other grounds used for similar purposes and intended for lease or co-ownership unless they are equipped with a waterworks or sewer system authorized under this Act or, if no authorization is required, unless they are equipped with a system that complies with the standards prescribed by government regulation.

1972, c. 49, s. 33; 1978, c. 64, s. 12; 1979, c. 49, s. 33; 1988, c. 49, s. 38; 2017, c. 4, s. 65.

**33.1.** Anyone who wishes to carry out a housing or vacation development defined by government regulation, but whose development fails to meet the criteria determined by government regulation, may not obtain a subdivision permit from a municipality without first

(1) submitting to the Minister the plan that will be implemented to ensure the development's water supply and waste water and rainwater management and treatment; and

(2) obtaining the Minister's approval of the plan referred to in subparagraph 1, which the Minister may grant with or without amendment and subject to the conditions, restrictions or prohibitions the Minister determines.

Before making amendments or prescribing conditions, restrictions or prohibitions under this section, the Minister must notify the prior notice prescribed by section 5 of the Act respecting administrative justice (chapter J-3) to the interested person and grant the latter at least 15 days to submit observations.

2017, c. 4, s. 65.

### **34.** *(Repealed).*

1972, c. 49, s. 34; 1977, c. 5, s. 14; 1978, c. 64, s. 13; 1979, c. 83, s. 12; 1979, c. 49, s. 33; 1980, c. 11, s. 71; 1985, c. 30, s. 75; 1988, c. 49, s. 38; 1996, c. 2, s. 830; 2000, c. 56, s. 190; 2017, c. 4, s. 66.

### **35.** *(Section renumbered).*

1972, c. 49, s. 35; 1974, c. 51, s. 5; 1979, c. 49, s. 27; 1996, c. 2, s. 831; 2017, c. 4, s. 67.



*See section 45.3.3.*

### **36.** *(Repealed).*

1972, c. 49, s. 36; 1978, c. 64, s. 14; 1979, c. 83, s. 13; 1988, c. 49, s. 10.

### **37.** *(Section renumbered).*

1972, c. 49, s. 37; 1979, c. 49, s. 33; 1988, c. 49, s. 38; 2017, c. 4, s. 68.



*See section 45.3.4.*

### **38.** *(Repealed).*

1972, c. 49, s. 38; 1978, c. 64, s. 15.

**39.** An operator or owner of a waterworks or sewer system may collect a tax, duty or dues from the persons served by it, in the cases and manner prescribed by government regulation. To that end, the operator or owner shall set the applicable rate for using the system, in accordance with the terms and conditions prescribed by government regulation.

A person served may refuse the imposed rate, in accordance with the terms and conditions prescribed by government regulation.

If the operator or owner and the person served cannot agree on the applicable rate, the person may apply to the Minister for an inquiry into the matter.

The Minister may, after making such an inquiry, impose the applicable rate and the moment it takes effect, in accordance with the criteria prescribed by government regulation.

1972, c. 49, s. 39; 1978, c. 64, s. 16; 2017, c. 4, s. 69.

**39.1.** If water supply or water treatment or management are provided to a municipality by another municipality or by another operator or owner of a water management or treatment facility, the Commission municipale shall set the rates for the sale of water or for water management or treatment services between the parties concerned if the latter are unable to reach an agreement on the rates.

On an application by anyone interested, the Commission municipale may cancel or amend a contract or by-law regarding a water management or treatment facility if the applicant establishes that its conditions are abusive.

When exercising a power conferred on it by this section with regard to an agreement between two municipalities, the Commission municipale must comply with the cost apportionment rules enacted by articles 573 to 575 of the Municipal Code of Québec (chapter C-27.1) and sections 468.4 to 468.6 of the Cities and Towns Act (chapter C-19).

2017, c. 4, s. 69.

**40.** *(Repealed).*

1972, c. 49, s. 40; 1977, c. 5, s. 14; 1978, c. 64, s. 17; 1984, c. 38, s. 159; 1987, c. 25, s. 4; 1988, c. 84, s. 705; 1990, c. 26, s. 5.

**41.** Every municipality may, with the Minister's authorization, acquire by agreement or expropriation immovables or real rights located outside its territory that are required to set up a water management or treatment facility or to develop or protect a water withdrawal site.

1972, c. 49, s. 41; 1978, c. 64, s. 17; 2017, c. 4, s. 70.

**42.** If an operator of a waterworks or sewer system, other than a municipality, is unable to acquire by agreement an immovable or any other real right required to operate the waterworks or sewer system, the operator may, with the Minister's authorization, expropriate the immovable or real rights concerned.

1972, c. 49, s. 42; 1978, c. 64, s. 17; 2017, c. 4, s. 71.

**43.** Every municipality, with the authorization of the Minister and on the conditions he determines, may grant to a person an exclusive privilege the term of which shall not exceed 25 years to establish and operate a water treatment plant.

It may also acquire by agreement or expropriation within its territory or, with the authorization of the Minister, outside of it, the immovables necessary for the construction or operation of such plant by the grantee and sell or lease him such immovables and servitudes.

The by-law granting the exclusive privilege and the contract between the municipality and the grantee shall require the approval of the Minister entrusted with the application of this Act and that of the Minister of Municipal Affairs, Regions and Land Occupancy.

1972, c. 49, s. 43; 1999, c. 43, s. 13; 2003, c. 19, s. 250; 2005, c. 28, s. 196; 2009, c. 26, s. 109.

**44.** *(Repealed).*

1972, c. 49, s. 44; 1979, c. 49, s. 33; 1988, c. 49, s. 38; 2011, c. 20, s. 7.

**45.** The operator of a waterworks system, and the operator of a public, commercial or industrial establishment supplied with water by a supply source independent of a waterworks system, shall, in making water available to the public or to his employees for human consumption, supply drinking water only, to the extent and in accordance with the standards provided by regulation of the Government.

The public, commercial and industrial establishments contemplated in the first paragraph are those defined by regulation of the Government.

1972, c. 49, s. 45; 1979, c. 49, s. 33; 1977, c. 55, s. 1.

**45.1.** Every operator referred to in section 45 must take samples of the water he supplies to the public or to his employees and forward the samples so collected to any laboratory accredited by the Minister for the purposes of analysis.

1977, c. 55, s. 2.

**45.2.** (Section renumbered).

1977, c. 55, s. 2; 2017, c. 4, s. 72.



See section 45.5.2.

**45.3.** Every laboratory accredited by the Minister must require from the operator contemplated in section 45.1 payment for analyses requested by the Minister, in accordance with the tariff of rates fixed by the Government. This tariff of rates shall come into force on the date of its publication in the *Gazette officielle du Québec*, but not, however, before 1 April 1979.

The Minister may make an agreement with a laboratory contemplated in the first paragraph, so as to be himself entitled to collect, directly from the operators contemplated in section 45.1, the cost of analyses and incidental expenses ordered by the Government.

1977, c. 55, s. 2; 1978, c. 64, s. 18.

4. — ORDERS

**45.3.1.** The Minister may, on the conditions the Minister determines, order a municipality to temporarily operate an operator's or owner's water management or treatment facility, provided the facility is not operated by a municipality, and to carry out work there if the Minister considers it necessary in order to ensure adequate service for the persons served. The order may also determine the apportionment of the costs related to the operation or work among the persons served or among those persons and the operator or owner, as the case may be.

The Minister may also, if of the opinion that it is necessary for the protection of public health, order a municipality to acquire such a facility by agreement or expropriation, or to set up a new facility and acquire by agreement or expropriation the immovables and real rights required to do so.

The Minister may make any other order with regard to a municipality that the Minister considers necessary regarding water supply and water management or treatment.

2017, c. 4, s. 73.

**45.3.2.** With regard to a person operating a water management or treatment facility or to the owner of such a facility, the Minister may make any order the Minister considers appropriate concerning the quality of service, the extension of the system, the reports to be made, the mode of operation, the rates and any other matter under the Minister's power of supervision and control.

2017, c. 4, s. 73.

**45.3.3.** When the Minister, after inquiry made on his own initiative or upon the application of anyone interested, considers that necessity or advantage requires that two or more municipalities have water management or treatment services in common, he may prescribe the necessary measures.

He may in particular order:

- (1) that the execution, maintenance and operation of the works be done jointly by all the municipalities concerned or in whole or in part by a single municipality, or
- (2) that the works in the territory of one or more of such municipalities be used, or
- (3) that the service be furnished in whole or in part by one municipality to the other or others.

In all such cases, the Minister may establish the cost and apportionment of the cost of the works and the maintenance and operating costs and the mode of payment or fix the indemnity, periodic or otherwise, payable for the use of the works or for the service provided by a municipality.

1972, c. 49, s. 35; 1974, c. 51, s. 5; 1979, c. 49, s. 27; 1996, c. 2, s. 831; 2017, c. 4, s. 67.

**45.3.4.** The Minister may, after inquiry, oblige, to the extent that he considers necessary, any person to build, enlarge or renovate a water management or treatment facility or to connect such a facility with a municipal network.

1972, c. 49, s. 37; 1979, c. 49, s. 33; 1988, c. 49, s. 38; 2017, c. 4, s. 68.

**45.4.** *(Repealed).*

2002, c. 53, s. 7.

**45.5.** *(Repealed).*

2002, c. 53, s. 7.

§ 5. — *Regulatory powers*

2009, c. 21, s. 21.

**45.5.1.** The Government may, by regulation, prescribe any measure it considers necessary for the carrying out of subdivision 2 and the Agreement referred to in section 31.88.

In particular, the Government may make regulations

(1) defining terms contained in sections 31.88 to 31.103 that are not defined;

(2) prescribing the average quantities or consumptive uses per day in excess of which the conditions prescribed in sections 31.92 and 31.95 are applicable to water transfers out of the Basin or to new or increased withdrawals or consumptive uses within the Basin; and

(3) specifying the manner in which quantities of water are to be determined for the purposes of sections 31.92 to 31.97, particularly the manner of calculating average quantities of water transferred out of the Basin, withdrawn or consumed per day in a given period.

2009, c. 21, s. 19; 2017, c. 4, s. 54.

**45.5.2.** The Government may by regulation:

(a) prescribe the frequency and other requirements regarding the taking and forwarding of the samples contemplated in section 45.1, taking into account the size of the waterworks system or the type of public, commercial or industrial establishment;

(b) limit the territory of application of any regulation made under paragraph a.

1977, c. 55, s. 2; 2017, c. 4, s. 72.

**46.** The Government may, by regulation,

(1) classify waters;

(2) define physical, chemical and biological water quality standards according to different water uses for all or part of the territory of Québec;

(3) determine quality standards for any source of water supply and the operating standards for any water management or treatment facility;

(4) prohibit or limit the dumping into any sewer system or rainwater management system of any matter that it considers harmful;

(5) determine the mode of discharging and treating waste water and rainwater;

(6) regulate the production, sale, distribution and use of any water purification device and any product or material for establishing or operating a water management or treatment facility;

(7) prescribe, as regards any motor boat, standards for oil and gasoline leakage, residual materials elimination and toilets;

(8) prohibit or limit the use of rivers or lakes for pleasure boating by motor boats so as to protect the quality of the environment;

(9) determine construction standards for water management or treatment facilities;

(10) prohibit or regulate the distribution by volume of water intended for human consumption;

(11) define the meaning of the expression “housing or vacation development” appearing in section 33.1;

(12) establish the duties, rights and obligations of the persons served, the owner and the operators as to the running and operation of a water management or treatment facility that is not operated by a municipality, or is operated by a municipality outside its territorial limits, and prohibit any act detrimental to its running and operation;

(13) establish the duties, rights and obligations of the persons served and the operators of a water management or treatment facility operated by a municipality, if required for the protection of public health;

(14) establish classes of persons served and operators;

(15) establish standards for sinking and sealing off wells;

(16) regulate withdrawals of surface water or groundwater, in particular on the basis of its different uses, including the collection of groundwater whose use or distribution is governed by the Food Products Act (chapter P-29), in order to, among other purposes,

(a) determine, for withdrawals of water to supply persons, the minimum number of persons at which such a withdrawal becomes subject to the Minister’s authorization despite the withdrawal’s daily maximum flow rate of less than 75,000 litres per day;

(b) in the cases and under the conditions specified, exempt water withdrawals from this Act or the regulations;

(c) in the cases and under the conditions specified, make water withdrawals that are exempted from the Minister’s authorization subject to the issue of a permit by the municipality in which the withdrawal site is located;

(d) prohibit, in all or part of the territory of Québec, water withdrawals intended to satisfy the water needs of one or more classes of uses specified in the regulations, and provide that such a prohibition has effect even with regard to authorization applications made prior to the date of coming into force of the prohibition and for which no decision has been made by that date by the Minister or the Government, as applicable;

(e) determine the cases in and conditions under which two or more existing or planned water withdrawals are deemed to constitute a single withdrawal owing to, among other things, the hydrologic interconnection of the waters concerned, the distance between the withdrawal sites or the intended use of the water withdrawn;

(f) prescribe standards for the quality or quantity of surface water or groundwater that may be withdrawn or that must be returned to the environment after use, and for the conditions of that return, the use of the water withdrawn and the preservation of the aquatic ecosystems or wetlands;

(g) prescribe standards for the installation and maintenance of equipment or devices for determining the quality or quantity of water withdrawn from or returned to the environment;

(h) determine the measures or plans that a water withdrawal authorization holder must implement to ensure conservation and efficient use of the water withdrawn, and prescribe the conditions under which the holder must report to the Minister on the results obtained;

(i) prescribe water allocation rules reconciling the needs or interests of the various classes of users;

(j) prescribe standards for water withdrawal facilities and their supply and protection areas;

(k) require, where a standard requires boundaries to be established for a water withdrawal facility's supply or protection area, the owner or any other custodian of land on which such boundaries may be established to allow free access to the land for that purpose, at any reasonable time, provided the owner or custodian is given at least 24 hours prior notification of the intention to enter on the land and, if applicable, provided the premises are restored to their former state and any damage suffered by the owner or custodian is compensated for;

(l) prescribe the documents and information whoever makes or plans to make a water withdrawal is required to send the Minister and the conditions governing their sending, including risk assessment studies of protection areas and studies or reports on the actual or potential individual or cumulative impacts of the withdrawal or planned withdrawal on the environment, on other users and on public health, and determine which of those documents and that information is public and must be made available to the public; or

(m) establish public consultation procedures; and

(17) determine the qualifications of natural persons assigned to the operation of municipal water treatment equipment.

1972, c. 49, s. 46; 1978, c. 64, s. 19; 1982, c. 25, s. 5; 1984, c. 29, s. 6; 1988, c. 49, s. 11; 1996, c. 50, s. 16; 1999, c. 75, s. 11; 2000, c. 26, s. 68; 2002, c. 53, s. 8; 2009, c. 21, s. 22; 2017, c. 4, s. 74.

## DIVISION V.1

### WETLANDS AND BODIES OF WATER

2017, c. 14, s. 31.

#### § 1. — *General provisions*

2021, c. 7, s. 85.

**46.0.1.** The purpose of this division is to foster integrated management of wetlands and bodies of water in keeping with the principle of sustainable development and considering the support capacity of the wetlands and bodies of water concerned and their watersheds, as well as climate change issues.

One objective of this division is to prevent the loss of wetlands and bodies of water, foster development of projects with minimal impacts on the receiving environment and reduce the vulnerability of persons and property exposed to flooding.



In addition, this division requires compensation measures in cases where it is not possible, for the purposes of a project, to avoid adverse effects on the ecological functions and biodiversity of wetlands and bodies of water.

2017, c. 14, s. 31; 2021, c. 7, s. 86.

**46.0.2.** For the purposes of this division, “wetlands and bodies of water” refers to natural or man-made sites characterized by the permanent or temporary presence of water, which may be diffused, occupy a bed or saturate the ground and whose state is stagnant or flowing. If the water is flowing, its flow may be constant or intermittent.

A wetland is also characterized by hydromorphic soils or vegetation dominated by hygrophilous plants.

Wetlands and bodies of water include

(1) lakes and watercourses, including the St. Lawrence Estuary, the Gulf of St. Lawrence and the seas surrounding Québec;

(2) the shores, banks, littoral zones and floodplains of the bodies of water referred to in subparagraph 1, as defined by government regulation; and

(3) marshes, swamps, ponds and peatlands.

Ditches along public or private roads, common ditches and drainage ditches, as defined in subparagraphs 2 to 4 of the first paragraph of section 103 of the Municipal Powers Act (chapter C-47.1), do not constitute wetlands or bodies of water.

2017, c. 14, s. 31.

§ 2. — *Boundaries of flood zones of lakes or other watercourses and mobility zones of watercourses*

2021, c. 7, s. 88.

**46.0.2.1.** The Minister shall establish the boundaries of the flood zones of lakes or watercourses and those of the mobility zones of watercourses.

For that purpose, the Minister shall prepare, keep up to date and make public the rules applicable for establishing such boundaries, which must provide, in particular, that the Minister considers the impact of a flood protection works on a flood zone only if the works is covered by an order made under section 46.0.13.

The Minister may, when establishing the boundaries of the zones referred to in the first paragraph, require a municipality to send him all information concerning the determination of the flood zones of lakes and watercourses that it used for land use planning in its territory.

The Minister shall publish a notice in the *Gazette officielle du Québec*, after consulting with the Minister of Natural Resources and Wildlife, specifying that the boundaries of the flood zones of lakes and watercourses and mobility zones of watercourses have been established and are disseminated by a technological means specified in the notice. The boundaries take effect on the date the notice is published.

2021, c. 7, s. 88.

**46.0.2.2.** The Minister may, by agreement, delegate responsibility to a municipality for establishing the boundaries of the flood zones of lakes and watercourses and mobility zones of watercourses in its territory. In such a case, the municipality is required to comply with the rules prepared by the Minister under the second paragraph of section 46.0.2.1.

The municipality must submit the boundaries it proposes to the Minister for approval. To evaluate the municipality's proposal, the Minister shall analyze the methodology used and may request any document he considers necessary to do so.

The Minister may require the municipality to make the modifications the Minister considers appropriate to comply with the rules prepared under the second paragraph of section 46.0.2.1 within the time he specifies or make the modifications himself.

The fourth paragraph of section 46.0.2.1 applies to any establishment of boundaries by a municipality.

2021, c. 7, s. 88.

**46.0.2.3.** The boundaries of the zones referred to in this subdivision shall be evaluated at least every 10 years, particularly in light of the evolution of the knowledge, methods and tools available, the natural and human-caused changes and climate change issues.

Sections 46.0.2.1 and 46.0.2.2 apply, with the necessary modifications, to any modification of the boundaries of the zones.

2021, c. 7, s. 88.

§ 3. — *Authorization regime*

2021, c. 7, s. 88.

**46.0.3.** In addition to the information and documents required under section 23, every authorization application under subparagraph 4 of the first paragraph of section 22 for a project in wetlands and bodies of water must be accompanied by the following information and documents:

(1) a characterization study of the wetlands and bodies of water concerned signed by a professional within the meaning of section 1 of the Professional Code (chapter C-26) or the holder of a university degree in biology, environmental science or landscape ecology who, where applicable, has the qualifications determined by government regulation, which must include

(a) the boundaries of all of the wetlands and bodies of water affected and their location in the hydrologic system of the watershed;

(b) the boundaries of the portion of those wetlands and bodies of water in which the activity concerned will be carried out, including any additional portion likely to be affected by the activity;

(c) a description of the ecological characteristics of the wetlands and bodies of water, in particular the soil and living species and their location, including threatened or vulnerable species or those likely to be designated as such under the Act respecting threatened or vulnerable species (chapter E-12.01);

(d) a description of the wetlands' and bodies of water's ecological functions that will be affected by the project, based on the various functions listed in the second paragraph of section 13.1 of the Act to affirm the collective nature of water resources and to promote better governance of water and associated environments (chapter C-6.2), including the wetlands' and bodies of water's connection to other wetlands and bodies of water or other natural environments;

(e) a description of the land use guidelines and designations applicable to the wetlands and bodies of water concerned as well as the existing uses nearby; and

(f) any other element prescribed by government regulation;

(2) a demonstration that there is no space available, for the purposes of the project, elsewhere in the territory included in the regional county municipality concerned or that the nature of the project makes it necessary to carry it out in wetlands and bodies of water; and

(3) the project's impacts on the wetlands and bodies of water concerned and the measures proposed to minimize them.

2017, c. 14, s. 31.

**46.0.4.** In addition to the elements set out in section 24 for analyzing the impacts of a project on the quality of the environment, the Minister shall also take into consideration

(1) the ecological characteristics and functions of the wetlands and bodies of water concerned and of the watershed to which they belong as well as the human disturbances or pressures being or already experienced by them;

(2) the possibility of avoiding adverse effects on wetlands and bodies of water in carrying out the project and, where applicable, the spaces available for the project's purposes elsewhere in the territory of the regional county municipality concerned;

(3) the capacity of the wetlands and bodies of water concerned to recover or the possibility of restoring them in whole or in part once the project is completed; and

(4) the elements contained in a water master plan, integrated management plan for the St. Lawrence or regional wetlands and bodies of water plan prepared under the Act to affirm the collective nature of water resources and to promote better governance of water and associated environments (chapter C-6.2), and the conservation objectives set out in a metropolitan development plan, in a land use planning and development plan, in any interim control measure or in a by-law adopted by a regional county municipality under the Act respecting land use planning and development (chapter A-19.1).

2017, c. 14, s. 31; 2021, c. 7, s. 89.

**46.0.5.** The issue of the authorization is subject to the payment of a financial contribution, the amount of which is established in accordance with a government regulation, to compensate for adverse effects on the wetlands and bodies of water concerned in the case of the following activities:

(1) drainage and pipe work;

(2) clearing and filling activities;

(3) ground preparation work, in particular if it requires stripping, excavation, earthwork or destruction of vegetation cover; or

(4) any other activity determined by government regulation.

If a financial contribution is payable, the Minister may allow applicants, at their request and in cases provided for by government regulation, to replace all or part of the payment of the contribution by work carried out to restore or create wetlands and bodies of water, subject to the conditions, restrictions and prohibitions set out in the authorization. In such cases, the Minister shall give priority to work within the watershed where the adversely affected settings are situated.

In all cases, before issuing the authorization, the Minister shall inform applicants of the amount of the financial contribution they will be required to pay.

A financial contribution referred to in this section is paid into the Fund for the Protection of the Environment and the Waters in the Domain of the State established under section 15.4.38 of the Act respecting the Ministère du Développement durable, de l'Environnement et des Parcs (chapter M-30.001) and

is used to finance a program developed under section 15.8 of the Act to affirm the collective nature of water resources and to promote better governance of water and associated environments (chapter C-6.2).

2017, c. 14, s. 31.

**46.0.6.** In addition to the reasons for refusal provided for by other provisions of this Act, the Minister may refuse to issue an authorization for a project in wetlands and bodies of water if

(1) the applicant has not demonstrated to the Minister's satisfaction that the applicant would, for the purposes of the project, avoid adversely affecting the wetlands and bodies of water;

(2) the Minister is of the opinion that the mitigation measures proposed by the applicant would not reduce the project's impacts on the wetlands and bodies of water or the watershed to which they belong to a minimum;

(3) the Minister is of the opinion that the project would have adverse effects on the ecological functions and biodiversity of the wetlands and bodies of water or the watershed to which they belong; or

(4) the applicant refuses to pay the financial contribution required under the first paragraph of section 46.0.5.

2017, c. 14, s. 31.

**46.0.7.** In addition to the information required under section 27, an authorization for a project in wetlands and bodies of water must, if applicable, specify the amount of the financial contribution required to compensate for adverse effects on the wetlands and bodies of water or a description of the work that must be carried out to replace the payment of the contribution as well as the conditions, restrictions or prohibitions applicable to such work.

The second paragraph of section 27 applies to the information required under the first paragraph.

2017, c. 14, s. 31.

**46.0.8.** The requirements under this division, including the requirement to pay a financial contribution, if applicable, apply to any application under section 30 to amend an authorization.

2017, c. 14, s. 31.

**46.0.9.** The holder of an authorization for a project in wetlands and bodies of water must begin the activity concerned within two years after the authorization is issued or, as applicable, within any other time limit specified in the authorization. Failing that, the authorization is cancelled by operation of law and any financial contribution the holder paid under the first paragraph of section 46.0.5 is reimbursed, without interest, at the expiry of that time.

However, the Minister may, at the holder's request, maintain the authorization in force for the period and subject to the conditions, restrictions and prohibitions the Minister determines.

2017, c. 14, s. 31.

**46.0.10.** Despite the second paragraph of section 31.0.5, in the case of a permanent cessation of an activity in wetlands and bodies of water, the authorization holder is still required to carry out any work required under the second paragraph of section 46.0.5 to compensate for adverse effects on wetlands and bodies of water, in accordance with the conditions, restrictions and prohibitions set out in the authorization.

2017, c. 14, s. 31.

**46.0.11.** Sections 46.0.4 and 46.0.6 apply, with the necessary modifications, to the Government when it renders a decision regarding a project in wetlands and bodies of water in the course of the environmental impact assessment and review procedure provided for in subdivision 4 of Division II.

Where applicable, the government authorization determines whether a financial contribution is required under the first paragraph of section 46.0.5 or whether the payment may be replaced, in whole or in part, by work referred to in the second paragraph of that section.

2017, c. 14, s. 31.

**46.0.12.** *(Section renumbered).*

2017, c. 14, s. 31; 2021, c. 7, s. 90.



*See section 46.0.22.*

§ 4. — *Flood protection works*

2021, c. 7, s. 91.

***Not in force***

**46.0.13.** The Government may, by order, on the conditions it determines, declare that a municipality that so requests is responsible for flood protection works that the Government identifies.

The municipality's responsibility takes effect on the date set in the order.

2021, c. 7, s. 91.

***Not in force***

**46.0.14.** If the Government terminates the declaration made under section 46.0.13, in particular at the request of the municipality or to ensure the safety of persons or property, the municipality's responsibility ends on the date set by the Government. Before that date, the Minister must update the boundaries of the zones referred to in subdivision 2 and publish the notice provided for in section 46.0.2.1.

The municipality must, at least 30 days before requesting the Government to terminate the declaration in accordance with the first paragraph, pass a resolution stating its intention to do so. A copy of the resolution must be published in accordance with the Act governing the municipality in that matter.

2021, c. 7, s. 91.

***Not in force***

**46.0.15.** A municipality in whose territory all or part of a flood protection works entered in the register provided for in section 46.0.21 is located or a person designated by the municipality may, in particular, in the performance of its obligations,

- (1) enter and circulate on private land or the waters in the domain of the State, including with machinery; and
- (2) temporarily occupy private land or the waters in the domain of the State.

Those powers must be exercised reasonably and are subject to restoring the premises to their former state and compensating the owner or custodian of the premises, as the case may be, for any damage. However, if

the damage sustained by the owner or custodian concerns an activity, structure or intervention that is prohibited under a regulation made in accordance with section 46.0.22, it need not be compensated for.

2021, c. 7, s. 91.

*Not in force*

**46.0.16.** Any works covered by an order made under section 46.0.13 that is present, in whole or in part, on the waters in the domain of the State is considered as having obtained the rights to occupy the waters in the domain of the State required under the Watercourses Act (chapter R-13).

2021, c. 7, s. 91.

*Not in force*

**46.0.17.** At least 15 days before undertaking work relating to flood protection works or accessing the works, the municipality must notify, in writing, any land owners concerned by the work to be carried out and inform them of the rights the municipality has with respect to the flood protection works. The municipality must also inform the land owners of the nature and expected duration of the work, where applicable.

Despite the first paragraph, the municipality may undertake work relating to flood protection works without first notifying the land owners concerned by the work to be carried out in urgent circumstances or in order to prevent serious or irreparable harm or damage to human beings, ecosystems, other living species, the environment or property.

2021, c. 7, s. 91.

*Not in force*

**46.0.18.** A municipality that is responsible for a flood protection works under the order provided for in section 46.0.13 must apply for the registration in the land register of a notice indicating the location of a flood protection works with respect to the immovables located in its territory. The application shall be made by means of a notice whose content is determined by government regulation.

A municipality must apply for the cancellation of the registration made under the first paragraph if it is no longer responsible for a flood protection works following an order made under section 46.0.13.

2021, c. 7, s. 91.

*Not in force*

**46.0.19.** Except in the case of an intentional or gross fault, a municipality and its officers and employees may not be prosecuted for the failure of a flood protection works when the municipality exercises, in accordance with the regulation made under paragraph 15 of section 46.0.22, the responsibility entrusted to it under section 46.0.13.

However, the first paragraph does not apply if the cause of the failure of the works is not related to that responsibility.

2021, c. 7, s. 91.

**46.0.20.** With regard to the owner or custodian of a flood protection works, or to the municipality in whose territory all or part of the works is located, the Minister may make any order the Minister considers necessary to ensure the safety of persons and property. The Minister may also make such an order with regard to any person or municipality that acts in such a way as to compromise the safety of a flood protection works.

***Not in force***

If the Minister considers it necessary, the Minister may order the municipality responsible for a flood protection works covered by an order made under section 46.0.13

- (1) to carry out the work specified by the Minister to ensure the safety of persons and property;
- (2) to carry out any test, survey, expert evaluation or verification the Minister specifies;
- (3) to install, within the time the Minister sets, any device or apparatus he determines; or

(4) to provide the Minister, in the form and within the time the Minister determines, with a report on any aspect of the design or operation of the works, accompanied by, where applicable, the relevant information and documents.

2021, c. 7, s. 91.

***Not in force***

**46.0.21.** The Minister keeps a register of flood protection works.

A government regulation must prescribe the information to be entered in the register, the person who must provide the information and the time limit for doing so.

Section 118.5.3 applies to the register.

2021, c. 7, s. 91.

**§ 5. — *Regulatory power***

2021, c. 7, s. 91.

**46.0.22.** The Government may, by regulation,

(1) determine the applicable elements, scales and methods for assessing damage that a project could cause to wetlands and bodies of water and for determining the amount of the financial contribution required as compensation for the damage;

(2) determine the terms of payment for a financial contribution required under this division and any applicable interest and penalties;

(3) in addition to the cases provided for in this division, determine which situations give rise to reimbursement of a financial contribution paid and the conditions applicable to any reimbursement;

(4) determine the proportion of the financial contribution that can be reduced in cases where a contribution or another type of compensation is required by the Minister under the Act respecting threatened or vulnerable species (chapter E-12.01) in respect of a threatened or vulnerable plant species or by the minister responsible for wildlife, in particular if an activity is carried out in a wildlife habitat governed by the Act respecting the conservation and development of wildlife (chapter C-61.1);

(5) provide for the cases in which a financial contribution required under this division may be replaced by work carried out to restore or create wetlands and bodies of water and specify the standards applicable to such work;

(6) define any term or expression used in this division;

(7) exempt, subject to the conditions, restrictions or prohibitions the Government determines, certain activities referred to in the first paragraph of section 46.0.5 from the requirement to pay a financial contribution to compensate for adverse effects on wetlands and bodies of water;

(8) classify the flood zones of lakes and watercourses as well as the mobility zones of watercourses;

(9) determine the information and documents that a person must send to the Minister to allow the preparation, verification or modification of the boundaries of a flood zone of a lake or watercourse and a mobility zone of a watercourse;

(10) prohibit or limit the carrying out of any work, the erecting of any structures or the carrying out of any other interventions in wetlands and bodies of water or on flood protection works;

(11) in the cases and under the conditions specified, make the carrying out of any work, the erecting of any structures or the carrying out of any other interventions in wetlands and bodies of water subject to the issue of a permit by the municipality concerned;

(12) establish the standards applicable to the work, structures or other interventions carried out or erected in wetlands and bodies of water in order to ensure adequate protection of the safety, welfare or comfort of human beings or to prevent adverse effects on property;

(13) provide that regional county municipalities may prepare a flood risk management plan supported by an expert evaluation and prescribe the criteria and terms applicable to such a plan and such an evaluation;

(14) prescribe the criteria that a regulation made under section 79.1 of the Act respecting land use planning and development (chapter A-19.1) must meet to be approved by the Minister of Municipal Affairs, Regions and Land Occupancy under section 79.17 of that Act;

(15) establish the standards applicable to flood protection works, in particular with regard to design, maintenance and monitoring;

(16) prescribe the reports, studies and other documents, in the cases and under the conditions specified, that must be produced by a municipality with respect to flood protection works located in whole or in part in its territory;

(17) determine the information and documents to be sent to the Minister or to a municipality to ensure monitoring of the authorizations issued within a flood zone of a lake or watercourse or a mobility zone of a watercourse; and

(18) determine which information and documents produced under a government regulation made under this division are public and must be made available to the public.

2017, c. 14, s. 31; 2021, c. 7, s. 90; 2021, c. 24, s. 117.

## **DIVISION VI**

### **DEPOLLUTION OF THE ATMOSPHERE**

#### **§ 1. — *Climate change framework policy and cap-and-trade system***

2009, c. 33, s. 1; 2020, c. 19, s. 17.

**46.1.** This subdivision applies to a person or municipality (the “emitter”) who carries on or operates a business, facility or establishment that emits greenhouse gases, who distributes a product whose production or use entails the emission of greenhouse gases or who is considered to be such an emitter by regulation of the Government or, for the purposes of section 46.2, by regulation of the Minister.



The term “greenhouse gas” means carbon dioxide (CO<sub>2</sub>), methane (CH<sub>4</sub>), nitrous oxide (N<sub>2</sub>O), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), sulphur hexafluoride (SF<sub>6</sub>) or any other gas determined by regulation of the Government or, for the purposes of section 46.2, by regulation of the Minister.

2009, c. 33, s. 1.

**46.2.** So that an inventory of greenhouse gas emissions may be taken and updated or so that measures aimed at reducing those emissions may be implemented, every emitter determined by regulation of the Minister must, subject to the conditions, within the time and at the intervals determined by regulation of the Minister,

(1) report greenhouse gas emissions to the Minister, whether they are attributable to the carrying on or operation of the emitter’s business, facility or establishment or to the production or use of a product distributed by the emitter;

(2) provide the Minister with any information or documents required by regulation of the Minister to determine the emissions referred to in subparagraph 1, which information and documents may vary according to the class of business, facility or establishment, the processes used and the type of greenhouse gas emitted; and

(3) pay the fee determined by regulation of the Minister for registration in the register maintained under the third paragraph.

The Minister may also, by regulation, prescribe procedures and criteria allowing the Minister to determine the default greenhouse gas emissions of emitters who have not reported them or whose emissions report cannot be satisfactorily verified.

The Minister maintains a public register of greenhouse gas emissions containing such information as the nature and reported quantity of each emitter’s emissions.

2009, c. 33, s. 1; 2017, c. 4, s. 75.

**46.3.** The Minister shall prepare a climate change framework policy and submit it to the Government.

During preparation of the policy, the Minister shall consult the population. The Minister shall also ensure, where circumstances so require, that specific consultation procedures are defined for Aboriginal communities in a spirit of cooperation with those communities.

The Minister is responsible for ensuring the implementation of the framework policy and coordinating its application.

2009, c. 33, s. 1; 2020, c. 19, s. 18.

**46.4.** To fight global warming and climate change, the Government sets, by order, an overall greenhouse gas reduction target for Québec, which may not be inferior to 37.5%, for each period it determines, using 1990 emissions as the baseline.

The Government may break that target down into specific reduction or limitation targets for the sectors of activity it determines. Before such targets are set, the Minister must seek the advice of the advisory committee on climate change regarding the targets to be set.

When setting targets, the Government considers such factors as

(1) the characteristics of greenhouse gases;

(2) advances in climate change science and technology as well as scientific consensus regarding climate change;

(3) the economic, social and environmental consequences of climate change, and the likely impact of the emission reductions or limitations needed to achieve the targets; and

(4) emission reduction goals under any program, policy or strategy to fight global warming and climate change or under any international commitment made or Canadian intergovernmental agreement entered into in accordance with the applicable legislative provisions for that purpose.

The setting of the target referred to in the first paragraph is subject to special consultations by the competent parliamentary committee of the National Assembly. No such consultations may be held until the advisory committee on climate change has made public its advice regarding the target to be set.

An order under this section comes into force on the date of its publication in the *Gazette officielle du Québec* or on any later date specified in the order.

The target referred to in the first paragraph must be reviewed at least every five years according to the same rules as those used to set it.

2009, c. 33, s. 1; 2020, c. 19, s. 19.

**46.5.** A cap-and-trade system is established by this subdivision to contribute to the achievement of the targets set under section 46.4 and mitigate the cost of reducing or limiting greenhouse gas emissions.

2009, c. 33, s. 1.

**46.6.** Every emitter determined by regulation of the Government must, subject to the conditions and for each period determined by regulation of the Government, cover its greenhouse gas emissions with an equivalent number of emission allowances.

Emission allowances include emission units, offset credits, early reduction credits and any other emission allowance determined by regulation of the Government, each being equal to one metric ton of greenhouse gas expressed in CO<sub>2</sub> equivalents.

2009, c. 33, s. 1.

**46.7.** In light of the targets set under section 46.4, the Government, by order, sets a cap on the emission units that may be granted by the Minister for each period referred to in the first paragraph of section 46.6.

The Government may break the cap down into specific caps for the sectors of activity or classes of businesses, facilities or establishments it determines.

The Government publishes in the *Gazette officielle du Québec* a notice of the caps it intends to set, stating that the order may not be made before 60 days have elapsed after publication of the notice and that interested persons may, during that 60-day period, send comments to the person specified in the notice.

An order under this section comes into force on the date of its publication in the *Gazette officielle du Québec* or on any later date specified in the order.

2009, c. 33, s. 1.

**46.8.** Subject to the conditions determined by regulation of the Government, the Minister may grant

(1) the available emission units, either by allocating them without charge to emitters required to cover their greenhouse gas emissions, or by selling them at auction or by agreement to persons or municipalities determined by regulation of the Government;

(2) offset credits to any person or municipality having carried out, in whole or in part, in accordance with the regulation made under section 46.8.2, a project eligible for such credits that has resulted in a reduction of greenhouse gas emissions or in the removal of such gases from the atmosphere, which removal may result from their sequestration,

(3) early reduction credits to emitters who are required to cover their greenhouse gas emissions and have voluntarily, during a period determined by regulation of the Government, reduced their emissions before the date on which they were legally required to cover them; and

(4) any other type of emission allowance determined by regulation of the Government.

After each allocation of emission units without charge, the Minister publishes on the Minister's department's website a list of the emitters that have received an allocation and the total number of emission units allocated without charge to all emitters. The Government may, by regulation, prescribe any other information the Minister must publish concerning emission units allocated without charge and those sold at auction under section 46.8.1.

2009, c. 33, s. 1; 2013, c. 16, s. 172; 2017, c. 4, s. 76; 2020, c. 19, s. 20.

**46.8.1.** The Government may, by regulation and on the conditions it determines, prescribe that part of the emission units allocated to an emitter without charge under subparagraph 1 of the first paragraph of section 46.8 is intended for sale at auction.

The sums collected at an auction shall be paid to the emitter by the Minister, after an agreement for that purpose has been entered into between them.

The emitter may use those sums only to carry out projects aimed at reducing greenhouse gas emissions or at research and development in this area, on the terms and conditions prescribed in the regulation concerning the payment and use of the sums as well as the carrying out of the projects.

The sums paid to the emitter must be used during the period determined by regulation of the Government. At the end of that period, the emitter is required to surrender to the Minister the sums not used or those used for purposes other than those provided for in the third paragraph. The same applies where, before the end of the period, the emitter ceases to carry on or operate the emitter's business, facility or establishment.

Despite the fifth paragraph of section 115.48, the Government may prescribe, by regulation, from among the sums to be surrendered to the Minister under the fourth paragraph, those that bear interest, the interest rate applicable, and the date as of which interest is payable.

2020, c. 19, s. 21.

**46.8.2.** The Minister may, by regulation,

(1) determine the projects that are eligible for offset credits;

(2) determine the conditions and methods applicable to those projects; and

(3) determine the information or documents relating to a project referred to in paragraph 1 or to a project whose eligibility for such credits must be determined

(a) that must be kept or provided to the Minister by the person or municipality responsible for carrying out the project; and

(b) that may be published by the Minister on his department's website or by any other means he considers appropriate.

2020, c. 19, s. 21.

**46.9.** Emission allowances may be traded between the persons or municipalities determined by regulation of the Government subject to the conditions determined by regulation of the Government.

Emission allowances not used to cover greenhouse gas emissions by the end of a prescribed period may, subject to the conditions determined by regulation of the Government, be kept for use or trade during a later period.

2009, c. 33, s. 1; 2017, c. 4, s. 77.

**46.10.** Any emitter who ceases to carry on or operate a business, facility or establishment must, subject to the conditions determined by regulation of the Government, surrender to the Minister the emission units allocated without charge to the emitter that are not needed to cover the emitter's emissions.

2009, c. 33, s. 1.

**46.11.** In accordance with the conditions prescribed by regulation of the Government, the Minister may periodically publish summaries of emission allowance transactions or sales by auction or agreement and provide any other information respecting the cap-and-trade system, including a list of the emitters and other persons or municipalities registered in the system.

2009, c. 33, s. 1; 2013, c. 16, s. 173.

**46.12.** The Minister may suspend, withdraw or cancel any emission allowance

- (1) if the emission allowance was granted, traded or used to cover emissions on the basis of false or inaccurate information;
- (2) if this subdivision or a regulation of the Government under this subdivision has been contravened; or
- (3) for any other reason determined by regulation of the Government.

However, the emitter concerned must be given prior notice of the Minister's decision, including reasons, and at least 10 days to submit observations.

Despite the second paragraph, the Minister may suspend any emission allowance without giving prior notice to the person concerned if

- (1) there are reasonable grounds to believe that the integrity of the cap-and-trade system is threatened, in particular where the Minister ascertains that emission allowance transactions are irregular;
- (2) the emitter does not meet its obligations as to the coverage of greenhouse gas emissions for a period prescribed by a regulation made under the first paragraph of section 46.6; or
- (3) an entity with which an agreement has been entered into under section 46.14 notifies the Minister of a case referred to in subparagraph 1.

In the cases provided for in the third paragraph, the person to whom such a decision is notified may, within the time specified in the decision, submit observations to the Minister in order to obtain a review of the decision.

2009, c. 33, s. 1; 2013, c. 16, s. 174; 2017, c. 4, s. 78.

**46.13.** The Minister may, by agreement, delegate the administration of all or part of a regulation made under section 46.2 or the management of the register of greenhouse gas emissions established under that section to a person or a body.

The Government may, by agreement, delegate all or part of the cap-and-trade system established by this subdivision or the administration of all or part of a regulation of the Government concerning that system to a person or a body.

For any delegation made under this section, a notice stating, among other things, the name of the delegatee and the functions assigned to the delegatee must be published in the *Gazette officielle du Québec* and, if appropriate, in any other newspaper or publication.

2009, c. 33, s. 1; 2013, c. 16, s. 175.

**46.14.** The Minister may, in accordance with the Act respecting the Ministère des Relations internationales (chapter M-25.1.1) or the Act respecting the Ministère du Conseil exécutif (chapter M-30), enter into an agreement with a government other than that of Québec, with a department of such a government, with an international organization or with an agency of such a government or organization for the harmonization and integration of cap-and-trade systems.

Such an agreement may provide for

- (1) the reciprocal recognition of the emission allowances granted under the different cap-and-trade systems and how they correspond to each other;
- (2) the consolidation of registers; and
- (3) the mutual recognition of decisions made by the competent authorities regarding the suspension, withdrawal or cancellation of emission allowances.

The Government may, by regulation, take the necessary measures to give effect to an agreement entered into under this section.

2009, c. 33, s. 1.

**46.15.** The Government may, by regulation,

(1) determine the information or documents a person or municipality who files an application for registration in the cap-and-trade system, acquires an emission allowance or carries out any other transaction or operation in the system must provide to the Minister;

(1.1) determine the persons or municipalities that may apply to be registered in the system, the qualifications required and the reasons for which the Minister may refuse such registration;

(2) prescribe administrative, monetary or other penalties for acts or omissions in contravention of this subdivision or of a regulation of the Government under this subdivision;

(3) determine the fees payable by an emitter or another person or municipality for an entry in the cap-and-trade system and on being granted offset credits or early reduction credits, and the interest and penalties payable if a fee is not paid; and

(4) define any term or expression used in this subdivision.

2009, c. 33, s. 1; 2013, c. 16, s. 176; 2017, c. 4, s. 79.

**46.16.** *(Repealed).*

2009, c. 33, s. 1; 2011, c. 18, s. 270; 2017, c. 4, s. 80.

**46.17.** The Minister submits a report to the Government on the achievement of the greenhouse gas reduction targets set under section 46.4 not later than two years after the end of the period for which the targets were set.

The Government must make the report public within 30 days after receiving it.

2009, c. 33, s. 1; 2011, c. 18, s. 271; 2017, c. 4, s. 81.

**46.18.** Every year, the Minister publishes

(1) the greenhouse gas emissions inventory for the year that occurs two years before the year of publication; and

(2) an exhaustive and, if applicable, quantitative report on the measures implemented to reduce greenhouse gas emissions and to fight climate change.

2009, c. 33, s. 1.

§ 2. — *Other depollution measures*

2009, c. 33, s. 1.

**47.** The Minister shall coordinate the establishment, throughout the territory of Québec, of air pollution monitoring stations. He shall also see to the establishment and operation of an alert system and an air pollution monitoring system; he may acquire, make and install any apparatus to measure the quality of the atmosphere and acquire by agreement or expropriation any immovable necessary for that purpose.

Every municipality wishing to establish on its territory air pollution monitoring stations or an alert system for air pollution must previously obtain the authorization of the Minister.

1972, c. 49, s. 47.

**48.** *(Repealed).*

1972, c. 49, s. 48; 1979, c. 49, s. 33; 1988, c. 49, s. 12; 2017, c. 4, s. 82.

**49.** The Minister shall formulate an emergency plan containing comprehensive measures applicable to those responsible for sources of contamination in case of air pollution. Total or partial putting into force of such plan may be ordered in the whole or part of the territory of a municipality by the Government when it considers that the degree of air pollution warrants it. Any person and municipality contemplated must then, notwithstanding any inconsistent general law or special Act, take all the measures prescribed by the Minister in accordance with that plan.

1972, c. 49, s. 49; 1979, c. 49, s. 33; 1988, c. 49, s. 38; 1996, c. 2, s. 832.

**49.1.** In cases where the Minister is of opinion, on the basis of a study or of a recommendation of an international or governmental agency, that a source of contamination of the atmosphere situated in Québec is likely to adversely affect the health or welfare of the citizens of a foreign country or of another province, he may order the persons who are responsible for the source of contamination to cease, permanently or temporarily, or limit, on such conditions as he may impose, the emission of a contaminant into the atmosphere.

The order must be preceded by the prior notice and other formalities provided for in section 115.4.1.

Notice of the intended order shall also be transmitted to the government of the foreign country or of the province concerned, which may intervene at any public hearing ordered in respect of the order.

The Minister may also, where he issues an order under this section, invoke grounds which permit him to issue an order under section 114.

1982, c. 25, s. 6; 1984, c. 29, s. 7; 2017, c. 4, s. 83.

**49.2.** Section 49.1 applies only to those countries or provinces which, in the opinion of the Minister, give to Québec favourable treatment similar to that accorded to them under the said section.

1982, c. 25, s. 6.

**50.** No one may offer for sale, exhibit for sale or sell an engine or motor vehicle

(a) the operation of which has the effect of emitting pollutants into the atmosphere; or

(b) in respect of which a regulation of the Government requires the installation of an apparatus to reduce or eliminate the emission of contaminants into the atmosphere, unless the engine or motor vehicle is provided with such apparatus.

1972, c. 49, s. 50; 1978, c. 64, s. 20.

**51.** No one may use or permit the use of either an engine or a motor vehicle

(a) the operation of which has the effect of emitting pollutants into the atmosphere; or

(b) the use of which requires, under a regulation of the Government, the installation of an apparatus to reduce or eliminate the emission of contaminants into the atmosphere, unless the engine or motor vehicle is provided with such apparatus.

1972, c. 49, s. 51; 1978, c. 64, s. 21.

**52.** Every owner of a motor vehicle which is a potential source of contamination of the atmosphere must ensure its maintenance in accordance with the standards provided by regulation of the Government.

1972, c. 49, s. 52.

**53.** The Government may make regulations applicable to the whole or to any part of the territory of Québec, to:

(a) classify motor vehicles and engines to regulate their use and withdraw certain classes from the application of this Act and the regulations;

(b) prohibit or limit the use of certain classes of motor vehicles or engines to prevent or to reduce the emission of pollutants into the air;

(c) determine the manner in which certain classes of motor vehicles or engines may be used and the manner of maintaining them, and prescribe, if need be, the installation of purification devices in accordance with the specifications which it determines and provide for the inspection of such devices;

(d) regulate the quality of fuels used for domestic heating, industrial purposes or incineration;

(e) determine the methods of incineration and their conditions of use;

(f) establish standards and specifications for any lubricant.

(g) exempt any category of monitoring station contemplated in the second paragraph of section 47, taking into consideration, among other criteria, the length of time these stations have been in operation or their purpose.

1972, c. 49, s. 53; 1978, c. 64, s. 22; 2016, c. 35, s. 19.

## DIVISION VII

### RESIDUAL MATERIALS MANAGEMENT

§ 1. — *General provisions*

#### **53.1.** *(Repealed).*

1999, c. 75, s. 13; 2011, c. 14, s. 1; 2017, c. 4, s. 84.

**53.2.** The provisions of this division do not apply to gaseous substances, except those contained in another residual material or produced by the treatment of such a material, mine tailings, or soils containing contaminants in quantities or concentrations exceeding those fixed by regulation under paragraph 1 of section 31.69.

1999, c. 75, s. 13; 2002, c. 11, s. 3; 2011, c. 14, s. 2.

**53.3.** The objects of this division are

(1) to prevent or reduce the production of residual materials, in particular having regard to the manufacturing, marketing and other types of distribution of products;

(2) to promote the recovery and reclamation of residual materials;

(3) to reduce the volume of residual materials to be eliminated, and to ensure safe management of elimination facilities; and

(4) to ensure that product manufacturers and importers are conscious of the effects their products have on the environment and of the costs involved in recovering, reclaiming and eliminating the residual materials generated by their products.

1999, c. 75, s. 13; 2021, c. 5, s. 1.

**53.4.** To further the achievement of the objects mentioned in section 53.3, the Minister shall propose a residual materials management policy to the Government. In addition to stating the principles upon which it is based, the policy may establish short, medium and long-term objectives for recovery and reclamation and for reduced levels of residual materials elimination, and establish strategies and measures to facilitate the attainment of the objectives within the stated times.

Before proposing a policy to the Government pursuant to this section, the Minister shall publish the policy in the *Gazette officielle du Québec*, together with a notice inviting all interested persons to make their point of view known within the stated time.

Every policy adopted by the Government pursuant to this section shall be published in the *Gazette officielle du Québec*. The Minister is responsible for the application of the policy.

The Société québécoise de récupération et de recyclage shall prepare any plans and programs pursuant to the policy; such plans and programs require the Minister's prior approval.

1999, c. 75, s. 13; 2017, c. 4, s. 85.



**53.4.1.** The policy described in section 53.4 and any plan or program prepared by the Société québécoise de récupération et de recyclage in the area of residual materials management must give priority to reduction at source and respect the following order of precedence in the treatment of the materials:

- (1) re-use;
- (2) recycling, including through biological treatment or land farming;
- (3) any other reclamation operation through which residual materials are processed for use as raw material substitutes;
- (4) energy conversion; and
- (5) elimination.

However, that order of precedence may be waived if justified by an analysis of the life cycle of the products and services that takes into account the global effects of their production and consumption and the resulting residual materials management.

The thermal destruction of residual materials constitutes energy conversion insofar as the processing of the materials respects the regulatory standards prescribed by the Government, including a positive energy assessment and the minimum energy efficiency required, and contributes to the reduction of greenhouse gas emissions.

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2011, c. 14, s. 3; 2017, c. 4, s. 86.

**53.5.** Regional municipalities, local municipalities and all other municipal entities authorized to act in matters concerning residual materials management shall, when acting in connection with that management, perform the duties assigned to them by law in a manner that is conducive to the implementation of the government policy adopted pursuant to section 53.4.

For the purposes of this division, the Communauté métropolitaine de Montréal, the Communauté métropolitaine de Québec, Ville de Lévis, Ville de Gatineau and the regional county municipalities except those whose territory is situated entirely within the territory of the Communauté métropolitaine de Montréal or the territory of the Communauté métropolitaine de Québec are regional municipalities.

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1999, c. 75, s. 13; 2000, c. 34, s. 239; 2000, c. 56, s. 191.

**53.5.1.** The Minister may give the Société québécoise de récupération et de recyclage various mandates to assist the Minister in carrying out his responsibilities.

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2002, c. 59, s. 1; 2017, c. 4, s. 87.

## § 2. — *Regional planning*

**53.6.** The provisions of this subdivision do not apply to hazardous materials, except those of domestic origin.

The provisions of this subdivision do not apply to biomedical waste governed by a regulation made under section 70.

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1999, c. 75, s. 13.

**53.7.** Every regional municipality must establish and maintain in force a residual materials management plan.

Two or more regional municipalities may agree to establish a joint residual materials management plan. In such a case, the procedure for adopting a management plan prescribed by this subdivision shall continue to apply, with the necessary modifications, to each regional municipality concerned, except that the public consultation established under section 53.13 may be a joint public consultation.

A local municipality may, with the consent of the regional municipality of which it is a part, be excluded from the management plan of the regional municipality and may, with its consent, be included in the management plan of another regional municipality.

1999, c. 75, s. 13; 2000, c. 34, s. 240; 2002, c. 59, s. 2; 2017, c. 4, s. 88.

**53.8.** A regional municipality is authorized to delegate to an intermunicipal board or to any other group formed by local municipalities the responsibility of preparing the draft management plan it is required to adopt under section 53.11.

1999, c. 75, s. 13; 2000, c. 34, s. 241; 2006, c. 3, s. 35; 2017, c. 4, s. 89.

**53.9.** Each management plan must

- (1) describe the territory to which it applies;
- (2) identify the local municipalities covered by the plan and the intermunicipal residual materials management agreements that apply in all or part of the territory;
- (3) list the organizations and enterprises in the territory that engage in residual materials recovery, reclamation or elimination;
- (4) contain an inventory of residual materials produced in the territory, whether they are of domestic, industrial, commercial, institutional or other origin, and list them by type;
- (5) contain a statement of policies and of objectives to be attained, which must be compatible with the government policy enacted pursuant to section 53.4, that concern the recovery, reclamation and elimination of residual materials, and describe the services to be offered to attain the objectives;
- (6) list any recovery, reclamation or elimination facilities existing in the territory and any new facilities required in order to attain the above objectives, and mention any possibility of using facilities located outside the territory;
- (7) formulate a proposal for the implementation of the plan that encourages public participation and the cooperation of organizations and enterprises engaging in residual materials management;
- (8) establish a budgetary forecast and a timetable for the implementation of the plan;
- (9) establish a system to supervise and monitor the plan for the purpose of periodically verifying its application, in particular the degree to which the objectives fixed have been attained and the effectiveness of the implementation measures taken by the regional municipality or local municipalities, as the case may be, covered by the plan.

Where a regional municipality intends to restrict or prohibit the dumping or incineration in its territory of residual materials from outside the territory, it must state that intention in the plan and where a limit is set, indicate the quantities applicable to the residual materials concerned.

For the purposes of subparagraph 1 of the first paragraph,

- (1) in the case of a regional county municipality whose territory is situated partly within the territory of the Communauté métropolitaine de Montréal or the Communauté métropolitaine de Québec, the territory to

which the plan applies does not include the part of the territory of the regional county municipality situated within the territory of the Community ;

(2) the territory to which the plan of the Communauté métropolitaine de Québec applies does not include the territory of Ville de Lévis.

However, a regional county municipality and a metropolitan community referred to in subparagraph 1 of the third paragraph may agree

(1) that the territory to which the regional county municipality's plan applies includes the territory of one or more local municipalities that is part of the territory of the regional county municipality and of the territory of the metropolitan community ;

(2) that the territory to which the metropolitan community's plan applies includes the territory of all or part of the local municipalities and unorganized territories that is part of the territory of the regional county municipality.

A regional county municipality referred to in subparagraph 1 of the third paragraph is exempt from the requirement to establish a residual materials management plan where, as a result of an agreement entered into pursuant to the second paragraph of section 53.7 or subparagraph 2 of the fourth paragraph of this section, all its territory is covered by the management plan of another regional county municipality or that of a metropolitan community.

1999, c. 75, s. 13; 2000, c. 34, s. 242; 2001, c. 68, s. 79; 2000, c. 56, s. 192; 2017, c. 4, s. 90.

**53.10.** In preparing a management plan, a regional municipality must take into account the residual materials elimination capacity needs of any neighbouring regional municipality or of any regional municipality served by an elimination facility located in the territory covered by the plan.

1999, c. 75, s. 13; 2000, c. 34, s. 243.

**53.11.** A draft residual materials management plan must be adopted by resolution of the council of the regional municipality. The resolution must state the time limit for submitting the draft plan to public consultation.

Copies of the resolution and draft plan must be sent to any neighbouring regional municipality, or regional municipality served by an elimination facility located in the territory covered by the plan.

1999, c. 75, s. 13; 2000, c. 34, s. 244; 2017, c. 4, s. 91.

**53.12.** *(Repealed).*

1999, c. 75, s. 13; 2000, c. 34, s. 245; 2017, c. 4, s. 92.

**53.13.** For any draft management plan, the regional municipality must develop a public consultation procedure that provides for at least one public meeting to be held in the territory covered by the plan.

1999, c. 75, s. 13; 2000, c. 34, s. 246; 2000, c. 56, s. 193; 2017, c. 4, s. 93.

**53.14.** At least 45 days before the public meetings are to be held, the regional municipality shall publish on its website, or by any other means it considers appropriate, a summary of the draft plan and a notice stating the date, time and place of the public meetings and that the draft plan may be examined at the offices of each local municipality covered by the plan.

1999, c. 75, s. 13; 2000, c. 34, s. 247; 2017, c. 4, s. 94.

**53.15.** At the public meetings, the regional municipality shall ensure that the explanations necessary for a proper understanding of the draft plan are provided; it shall hear the persons, groups and bodies wishing to be heard.

After the public meetings, the regional municipality shall draw up a report on the observations received from the public and the procedure for the public consultation. The report shall be made available to the public as soon as it is sent to the council of the regional municipality.

1999, c. 75, s. 13; 2000, c. 34, s. 248; 2017, c. 4, s. 95.

**53.16.** Following the public consultation, the draft plan, amended as the case may be to take into account the comments received, shall be sent to the Société québécoise de récupération et de recyclage and to each neighbouring regional municipality or to each regional municipality served by an elimination facility located in the territory covered by the draft plan, together with the regional municipality's report.

1999, c. 75, s. 13; 2000, c. 34, s. 249; 2017, c. 4, s. 96.

**53.17.** The Société québécoise de récupération et de recyclage may, within 120 days after receiving the draft plan, send the regional municipality a notice of the plan's compliance with the government policy adopted pursuant to section 53.4.

The Société's opinion must also be sent to each neighbouring regional municipality or to each regional municipality served by an elimination facility located in the territory covered by the draft plan.

If the Société fails to give an opinion within the time provided in the first paragraph, the draft plan is deemed to comply with government policy.

After receiving a notice of compliance from the Société or if the draft plan is deemed to be compliant under the third paragraph, the municipality may, by by-law, adopt the draft plan, as is, as its residual materials management plan.

1999, c. 75, s. 13; 2000, c. 34, s. 250; 2017, c. 4, s. 97.

**53.18.** *(Repealed).*

1999, c. 75, s. 13; 2000, c. 34, s. 251; 2017, c. 4, s. 98.

**53.19.** *(Repealed).*

1999, c. 75, s. 13; 2017, c. 4, s. 98.

**53.20.** If the Société québécoise de récupération et de recyclage considers that the draft management plan does not comply with government policy, or that the provisions of the plan restricting or prohibiting the dumping or incineration in the territory of the regional municipality of residual materials from outside the territory are likely to compromise public health or safety, a notice of non-compliance must be notified by the Société to the regional municipality concerned within 120 days after the draft management plan is received. The notice must also be sent to each neighbouring regional municipality or to each regional municipality served by an elimination facility located in the territory covered by the plan.

The notice must state the grounds for the decision as well as the amendments to be made and sent to the Société within the time specified.

1999, c. 75, s. 13; 2000, c. 34, s. 252; 2017, c. 4, s. 99..

**53.20.1.** Within the time specified in the notice of non-compliance of the Société québécoise de récupération et de recyclage or within any additional time the Société may grant, the council of the regional municipality must replace the draft plan by a new one that complies with the requested amendments.

2017, c. 4, s. 100.

**53.20.2.** The Société québécoise de récupération et de recyclage may, within 60 days after receiving the new draft plan, send the regional municipality a notice of compliance regarding the requested amendments.

If the Société has not made a decision regarding the amendments within 60 days after receiving them, the amended draft plan is deemed to comply with government policy.

After receiving a notice of compliance from the Société or if the amended draft plan is deemed to comply under the second paragraph, the municipality may, by by-law, adopt the draft plan, as is, as its residual materials management plan.

2017, c. 4, s. 100.

**53.20.3.** A management plan comes into force on the date the council of the regional municipality adopts the by-law referred to in the fourth paragraph of section 53.17 or the third paragraph of section 53.20.2, or on any later date specified in the by-law.

The regional municipality shall publish, on its website or by any other means it considers appropriate, the residual materials management plan, a summary of it and a notice of its coming into force.

2017, c. 4, s. 100.

**53.21.** On the recommendation of the Société québécoise de récupération et de recyclage, the Minister may, in the stead and place of the regional municipality and with a view to ensuring the compliance of the management plan with government policy or preventing any adverse effects on public health and safety, exercise the municipality's regulatory powers

(1) if the municipality failed to amend its draft management plan within the time specified in the notice of non-compliance sent under section 53.20 or within any additional time granted by the Société; or

(2) if the amendments the regional municipality made to the draft plan were also the subject of a notice of non-compliance from the Société.

A regulation made by the Minister pursuant to the first paragraph is not subject to any preliminary formalities.

The regulation comes into force on the day of its publication in the *Gazette officielle du Québec* and has the same effect as a by-law passed by the regional municipality. Notice of the coming into force of the regulation must be sent to the regional municipality concerned and to any neighbouring municipality or to any regional municipality served by an elimination facility located in the territory covered by the plan.

1999, c. 75, s. 13; 2000, c. 34, s. 253; 2017, c. 4, s. 101.

**53.22.** *(Repealed).*

1999, c. 75, s. 13; 2000, c. 34, s. 254; 2017, c. 4, s. 102.

**53.23.** The management plan may be amended at any time by the council of the regional municipality.

The management plan must be revised by the council every seven years. To that end, the council must adopt, by resolution and not later than the date of the fifth anniversary of the coming into force of the management plan, a revised draft plan.

Sections 53.7 to 53.21 apply, with the necessary modifications, to the amendment and revision of the management plan.

1999, c. 75, s. 13; 2000, c. 34, s. 255; 2017, c. 4, s. 103.

**53.24.** A management plan in force is binding on the local municipalities whose territory is situated within the territory covered by the plan, unless a regulation made under this division requires a person to assume a responsibility provided for in the plan, in which case the local municipalities are not bound by the plan as regards that responsibility.

Every local municipality bound by the management plan shall take the necessary measures to implement the plan in its territory.

The local municipality is also required to bring its regulation into compliance with the provisions of the plan within 12 months of the date on which the plan comes into force.

1999, c. 75, s. 13; 2000, c. 34, s. 256; 2000, c. 56, s. 194; 2021, c. 5, s. 2.

**53.25.** From the date of coming into force of a management plan or of an amendment to a plan that contains a restriction or prohibition referred to in the second paragraph of section 53.9, the council of the regional municipality may pass a by-law to restrict or prohibit, to the extent specified in the plan, the dumping or incineration in its territory of residual materials from outside its territory.

A by-law passed under the first paragraph may not, however, apply to an elimination facility established before the date of coming into force of the plan or amendment, up to the authorized elimination capacity on that date. In addition, the by-law does not apply to an elimination facility that belongs to a business and is used exclusively to eliminate the residual materials produced by the business.

A by-law passed under the first paragraph may not apply to residual materials produced by pulp and paper mills.

1999, c. 75, s. 13; 2000, c. 34, s. 257.

**53.26.** A regional municipality may, in order to obtain the information it considers necessary to establish or revise its management plan, require every local municipality covered by the plan and every person whose domicile, enterprise or establishment is situated in its territory, to provide information on the origin, nature, quantity, destination and mode of recovery, reclamation or elimination of the residual materials that are generated, delivered to a third person or taken in charge by the local municipality or person.

1999, c. 75, s. 13; 2000, c. 34, s. 258.

**53.27.** The powers of authorization granted by this Act to the Government or to the Minister of Sustainable Development, Environment and Parks must, where they concern the establishment, extension or alteration of a recovery, reclamation or elimination facility for residual materials, take into consideration any management plan in force in the territory of the regional municipality concerned.

1999, c. 75, s. 13; 2000, c. 34, s. 259; 2006, c. 3, s. 35; 2017, c. 4, s. 104.

### § 3. — *Reduction in the production of residual materials*

**53.28.** The Government may, by regulation, determine the conditions or prohibitions applicable to the manufacture of the containers, packaging, packaging materials, printed matter or other products it designates

with a view to reducing the quantity of residual materials to be eliminated or to facilitate reclamation of residual materials. The regulations may, in particular,

- (1) fix the minimum proportion of recovered materials or elements to be used in the manufacture of the designated containers, packaging, packaging materials, printed matter or other products;
- (2) prohibit certain materials or certain mixtures or associations with other materials or elements in the manufacture of the designated containers, packaging, packaging materials, printed matter or other products;
- (3) regulate the composition, form, volume, size and weight of the designated containers or packaging, among other things for the purposes of standardization;
- (4) regulate the labelling or the marking of the designated containers, packaging, printed matter or other products, among other things to prescribe or prohibit the use on them of terms, logos, symbols or other representations intended to inform users of the advantages or disadvantages that the container, packaging, printed matter or other product entails for the environment.

1999, c. 75, s. 13.

**53.29.** No one may, as part of a commercial operation, offer for sale, sell, distribute or otherwise place at the disposal of users

- (1) any containers, packaging, packaging materials, printed matter or other products that do not satisfy the regulatory standards prescribed under section 53.28;
- (2) any products that are in containers or packaging not in conformity with the above-mentioned standards.

1999, c. 75, s. 13.

§ 4. — *Recovery and reclamation of residual materials*

**53.30.** The Government may, by regulation, regulate the recovery and reclamation of residual materials in all or part of the territory of Québec. The regulations may, in particular,

- (1) classify recoverable and reclaimable residual materials;
  - (1.1) determine the operations involved in the processing of residual materials that constitute reclamation within the meaning of this division, and particularly under which conditions thermal destruction of residual materials constitutes energy conversion;
- (2) prescribe or prohibit, in respect of one or more classes of residual materials, any mode of recovery or reclamation;
- (3) require any municipality or any person to recover and reclaim or to see to the recovery and reclamation of the designated classes of residual materials in accordance with the terms and conditions fixed by regulation;
- (4) determine the conditions or prohibitions applicable to the establishment, operation and closure of any recovery or reclamation facility, in particular biological treatment and storage facilities, including facilities where sorting and transfer operations are carried out and determine the conditions or prohibitions to apply after the closure;
- (5) determine the conditions or prohibitions applicable to the use, sale, storage and processing of materials intended for or resulting from reclamation. For that purpose, the regulations may make the standards fixed by a certifying or standards body mandatory, and provide that in such a case, the references to the standards will include such amendments as may be made to the standards from time to time;

(6) require any person, in particular any person operating an industrial or commercial establishment, who manufactures, markets or otherwise distributes containers, packaging or packaging materials, printed matter or other products, who markets products in containers or packaging acquired for that purpose or, more generally, whose activities generate residual materials,

(a) to carry out studies, on the conditions fixed, on the quantity and composition of the containers, packaging, packaging materials, printed matter or other products, on their environmental impacts or on measures capable of mitigating or eliminating those impacts;

(b) to develop, implement and contribute financially to, on the terms and conditions fixed, programs or measures to reduce, recover or reclaim residual materials generated by the containers, packaging, packaging materials, printed matter or other products, or generated by their activities, with the goal of extended responsibility of these persons, all while taking into account basic principles of the circular economy and taking into account the social economy within the meaning of the Social Economy Act (chapter E-1.1.1);

(b.1) *(subparagraph repealed)*;

(c) to keep registers and furnish to the Minister or the Société, on the terms and conditions fixed, reports on the quantity and composition of the containers, packaging, packaging materials, printed matter or other products, on the residual materials generated by their activities, and on the results obtained in terms of reduction, recovery or reclamation;

(7) exempt from all or any of the requirements prescribed pursuant to paragraph 6 any person that is a member of an organization, except the requirements prescribed under both subparagraph *b* of that paragraph and, as the case may be, section 53.30.1 or 53.30.2,

(a) the purpose or one of the purposes of which is to develop and implement, as a measure, a system to recover or reclaim residual materials, or to contribute financially to the development and implementation of such a system, in both cases in accordance with the provisions of the regulation and, for matters not provided for by the regulation in accordance with the terms and conditions fixed, under the last paragraph, by an agreement, which must be transmitted to the Minister, between the organization and the Société québécoise de récupération et de recyclage;

(b) the name of which appears on a list drawn up by the Société and published in the *Gazette officielle du Québec*;

(8) prescribe the information or documents that a person, a municipality, a group of municipalities or an Aboriginal community, represented by its band council, must transmit to a person who must, under a regulation made under subparagraph *b* of subparagraph 6, meet the obligations referred to in the regulation as well as the other terms and conditions applicable to the transmission and the time limit for doing so; the regulation may also prescribe the penalties applicable if the obligations are not met;

(9) *(paragraph replaced)*;

(10) *(paragraph replaced)*;

(11) *(paragraph replaced)*;

(12) *(paragraph replaced)*;

(13) *(paragraph replaced)*.

The Minister may, by regulation, delegate to the Société québécoise de récupération et de recyclage various responsibilities relating to the administration of any regulatory provision made under subparagraph 6 of the first paragraph.



The provisions of any agreement entered into under subparagraph 7 of the first paragraph must allow recovery and reclamation levels to meet or exceed the levels that would be achieved through the application of the regulatory standards. The Minister may prescribe conditions on which such agreements may be approved and determine the minimum content thereof. The provisions of the agreements are public information.

1999, c. 75, s. 13; 2002, c. 59, s. 3; 2011, c. 14, s. 4; 2017, c. 4, s. 105; 2021, c. 5, s. 3.

**53.30.1.** A regulation made under subparagraph *b* of subparagraph 6 of the first paragraph of section 53.30 that requires, as a measure, certain persons to develop, implement and contribute financially to a system of selective collection of certain residual materials, including the collection, transportation, sorting and conditioning of those materials, whenever those materials are stored, to ensure their recovery and reclamation may, in particular,

- (1) determine the products concerned by the system;
- (2) prescribe the time limits and the terms and conditions applicable to the entering into of contracts, if applicable, between the persons, the municipalities, the groups of municipalities and any Aboriginal community, represented by its band council, determined in the regulation and the minimum content of such contracts;
- (3) determine the terms and conditions applicable to the collection, transportation, sorting and conditioning of the products referred to in paragraph 1, including their storage, where they are considered to be residual materials within the meaning of this Act;
- (4) determine, in addition to the persons who are required to develop, implement and contribute financially to the system, the other persons, municipalities, groups of municipalities and Aboriginal communities, represented by their band councils, that are concerned by the system;
- (5) determine the obligations, rights and responsibilities of the persons, municipalities, groups of municipalities and Aboriginal communities, represented by their band councils, that are concerned by the system; and
- (6) prescribe a mechanism for resolving disputes that may arise following the entering into or performance of contracts referred to in paragraph 2 or the obligation to prescribe such a mechanism in such contracts.

2021, c. 5, s. 4.

**53.30.2.** A regulation made under subparagraph *b* of subparagraph 6 of the first paragraph of section 53.30 that requires, as a measure, certain persons to develop, implement and contribute financially to a deposit system may, in particular,

- (1) determine the products concerned by the system;
- (2) prescribe the time limits and the terms and conditions applicable to the entering into of contracts, if applicable, between the persons, the municipalities, the groups of municipalities and any Aboriginal community, represented by its band council, determined in the regulation and the minimum content of such contracts;
- (3) determine the terms and conditions applicable to the return, transportation, sorting and conditioning of returnable products, including their storage, to recover and reclaim such products;
- (4) determine, in addition to the persons who are required to develop, implement and contribute financially to the system, the other persons, municipalities, groups of municipalities and Aboriginal communities, represented by their band councils, that are concerned by the system;

(5) determine the obligations, rights and responsibilities of the persons, municipalities, groups of municipalities and Aboriginal communities, represented by their band councils, that are concerned by the system;

(6) determine, in particular with respect to the obligations referred to in paragraph 5, the obligations that certain persons concerned by the system must meet as regards their participation in the organization of the return of returnable products;

(7) fix a deposit payable on the purchase of any of the products referred to in paragraph 1 that, upon return, is refundable in whole or, as determined under paragraph 8, in part only, or prescribe the parameters to be used by a body designated under a regulation made under section 53.30.3 to fix such a deposit, which is not payable until it has been approved by the Minister;

(8) determine the non-refundable proportion of the deposit paid under paragraph 7 that constitutes the charge payable for the management, promotion and development of reclamation;

(9) determine the persons who are required to collect and refund, in the cases and on the conditions it prescribes, the deposit fixed under paragraph 7;

(10) fix the indemnity payable for management costs, or the parameters to be used to fix it by a body designated under a regulation made under section 53.30.3, in particular for the handling and storage of products referred to in paragraph 1 following their return, and determine the persons who are entitled to receive such an indemnity, the persons who are required to pay such an indemnity and the terms and conditions applicable to the payment of such an indemnity; and

(11) prescribe a mechanism for resolving disputes that may arise following the entering into or performance of contracts referred to in paragraph 2 or the obligation to prescribe such a mechanism in such contracts.

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2021, c. 5, s. 4.

**53.30.3.** The Government may, by a regulation made under subparagraph *b* of subparagraph 6 of the first paragraph of section 53.30 and, as the case may be, section 53.30.1 or 53.30.2, in particular,

(1) prescribe that the responsibility for developing, implementing and contributing financially to a measure imposed by the regulation on certain persons the regulation determines be conferred, for the period it fixes, on a non-profit body designated by the Minister or the Société québécoise de récupération et de recyclage;

(2) exempt, in whole or in part, persons who are required, under the regulation, to meet obligations that are the responsibility of a body under paragraph 1 from meeting such obligations;

(3) prescribe the rules applicable to the designation of the body referred to in paragraph 1;

(4) prescribe the minimum obligations that the body must meet and the minimum rules that must be provided for in its general by-laws for it to be designated;

(5) prescribe the obligations, rights and responsibilities of the designated body and its method of financing;

(6) prescribe the obligations to the designated body that the persons referred to in paragraph 1 have, in particular the obligations to become a member of the body and to provide the body with the documents and information it requests to enable it to meet the responsibilities and obligations conferred on it by the regulation, prescribe the conditions for preserving and transmitting such documents and information, and determine which such documents and information are public; and

(7) prescribe the documents and information that the designated body must provide to the Minister or the Société québécoise de récupération et de recyclage, determine their form and content and the conditions for preserving and transmitting them, and determine which such documents and information are public.

2021, c. 5, s. 4.

**53.30.4.** The Government is authorized to enter into, with any Aboriginal community referred to in a regulation made under this subdivision, an agreement on any matter concerned by the provisions of the regulation to take into account the community's reality.

The agreement must pursue the same objectives as those pursued by the provisions of the regulation.

The provisions of the agreement prevail over those of the regulation. However, an Aboriginal community that is party to such an agreement is exempt from the incompatible provisions of the regulation only to the extent that that community complies with the agreement.

The agreement must be tabled in the National Assembly within 15 days of its being entered into or, if the Assembly is not sitting, within 15 days of resumption. It must also be published in the *Gazette officielle du Québec*.

2021, c. 5, s. 4.

**53.31.** Every person or municipality must, on the conditions fixed by the Minister, provide the Minister or, as applicable, the Société québécoise de récupération et de recyclage, for the purposes of the responsibilities conferred on the Minister or the Société under this Act, with all information requested concerning the origin, nature, characteristics, quantities and destination

(1) of those of the products referred to in subparagraph 6 of the first paragraph of section 53.30 that the person or municipality manufactures, markets or otherwise distributes;

(2) of the residual materials generated by the products referred to in subparagraph 1;

(3) of the residual materials that are generated by the activities of the person or municipality, delivered to a third person or taken in charge by the person or municipality.

In addition to the information that may be requested under the first paragraph, information may be requested concerning the mode of recovery or reclamation of the residual materials referred to in subparagraphs 2 and 3 of the first paragraph as well as concerning the costs generated by their recovery or reclamation.

1999, c. 75, s. 13; 2017, c. 4, s. 106; 2021, c. 5, s. 5.

**53.31.0.1.** The Government may, by regulation, fix the indemnity payable to the Société québécoise de récupération et de recyclage for its management costs and other expenses related to a measure the development, implementation and financing of which are imposed on certain persons under a regulation made under subparagraph *b* of subparagraph 6 of the first paragraph of section 53.30 and, as the case may be, section 53.30.1 or 53.30.2, and the parameters to be used to fix the indemnity.

The Government may also determine the person or persons required to pay the indemnity referred to in the first paragraph and the terms and conditions applicable to its payment.

The indemnity referred to in the first paragraph may not exceed 3% of the annual costs generated by the development and implementation of such a measure.

2021, c. 5, s. 6.

**53.31.0.2.** No municipality or group of municipalities may, on its own initiative, develop or implement, in whole or in part, a system for selective collection of certain residual materials if the development, implementation and financing of such a system are conferred on persons by a regulation made under this division.

The prohibition in the first paragraph applies despite the responsibilities that are provided for with regard to selective collection of certain residual materials in a residual materials management plan that has been adopted by a regional municipality and is in force, or in an Act, a regulation or a charter establishing a municipality.

2021, c. 5, s. 6.

§ 4.1. — *Compensation for municipal services*

2002, c. 59, s. 4.

**53.31.1.** The persons referred to in subparagraph 6 of the first paragraph of section 53.30 are required, to the extent and on the conditions set out in this subdivision, to compensate the municipalities for the services provided by the municipalities to ensure that the materials designated by the Government under section 53.31.2 are recovered and reclaimed.

Those persons are also required to compensate the Native communities, represented by their band councils, for the services referred to in the first paragraph that those communities provide. This subdivision and any regulation made under it apply, with the necessary modifications, to that end.

2002, c. 59, s. 4; 2017, c. 4, s. 107.

**53.31.2.** The Government may, by regulation, designate the materials or classes of materials referred to in subparagraph 6 of the first paragraph of section 53.30 in respect of which the compensation regime established under this subdivision is to apply.

The designation shall be made taking into account, among other things, the proportion of the population receiving municipal curbside recycling services and the territories in which the services are provided, after evaluating the results achieved with regard to recycling or reclamation in other forms of the containers, packaging or packaging materials, printed matter or other products concerned.

The Government may also, by regulation, as regards one or more designated materials or classes of materials, specify which persons from among the persons referred to in subparagraph 6 of the first paragraph of section 53.30 are required to pay a compensatory contribution as compensation to the municipalities.

2002, c. 59, s. 4.

**53.31.3.** The annual compensation owed to the municipalities is based on the cost of the services they provide during a year to deal with the materials or classes of materials subject to compensation, that is, the collection, transportation, sorting and conditioning costs, including an indemnity for the management of those services.

The Société québécoise de récupération et de recyclage shall determine annually the amount of the compensation, by calculating for each municipality, in accordance with the calculation method and the performance and effectiveness criteria determined by regulation of the Government, the costs of the services provided that are eligible for compensation and the management indemnity to which the municipality is entitled, and by aggregating all the costs and fees calculated for the municipalities.

2002, c. 59, s. 4; 2004, c. 24, s. 7; 2011, c. 14, s. 5.

**53.31.4.** For the purposes of section 53.31.3, the Government shall prescribe by regulation the information and documents a municipality is required to send to the Société québécoise de récupération et de

recyclage and the conditions, including the date, under which they must be sent. The regulation must also specify the penalties applicable if those obligations are not met.

Should a municipality fail to send the required information or documents to the Société before the date prescribed by a regulation made under the first paragraph, the cost of the services provided by the municipality that is eligible for compensation is determined in accordance with the rules set by regulation. For that purpose, the Société may estimate the quantity of materials subject to compensation that was recovered or reclaimed in that municipality's territory by using the data from other municipalities in accordance with that regulation.

Such a regulation may also include specific calculation rules in the case where the Société deems that a municipality's failure to comply results from special circumstances beyond its control.

2002, c. 59, s. 4; 2011, c. 14, s. 5; 2021, c. 5, s. 15.

**53.31.5.** The Government may, by regulation and for every material or class of materials it specifies,

- (1) set the maximum amount of the annual compensation payable; and
- (2) limit the amount of the annual compensation payable to a percentage it sets.

2002, c. 59, s. 4; 2011, c. 14, s. 5; 2021, c. 5, s. 15.

**53.31.6.** *(Repealed).*

2002, c. 59, s. 4; 2011, c. 14, s. 5; 2021, c. 5, s. 7.

**53.31.7.** *(Repealed).*

2002, c. 59, s. 4; 2011, c. 14, s. 6.

**53.31.8.** *(Repealed).*

2002, c. 59, s. 4; 2011, c. 14, s. 6.

**53.31.9.** Applications for certification to represent the persons required to pay a compensatory contribution under this subdivision shall be made to the Société québécoise de récupération et de recyclage.

The Société may require any body to supply it with any information necessary to assess the merits of the application and, in particular, to ascertain the body's representativeness of the persons specified in the application.

2002, c. 59, s. 4.

**53.31.10.** Unless another grouping criterion is established by the Société québécoise de récupération et de recyclage, the Société shall issue as many certifications as there are materials or classes of materials designated by the Government under section 53.31.2.

This rule does not prevent the Société from issuing more than one certification to the same body.

The Société may also issue joint certification in relation to the same materials or class of materials if the applicant bodies submit to the Société an agreement which the Société considers satisfactory as regards the manner in which the bodies are to share their responsibilities. The agreement shall specify in particular the proportion of the compensatory contribution that will be paid by each body.

2002, c. 59, s. 4.

**53.31.11.** The Minister may specify minimum criteria to be taken into account by the Société québécoise de récupération et de recyclage in certifying a body.

The Minister may also determine the period within which applications for certification may be made to the Société. At the end of that period, the Société may designate a body on its own initiative if no application has been made or if no application satisfies the criteria fixed.

2002, c. 59, s. 4.

**53.31.12.** The certified body shall remit to the Société québécoise de récupération et de recyclage, in trust, the amount of the compensation owed to the municipalities and determined in accordance with the second paragraph of section 53.31.3.

It shall also remit to the Société, in addition to the compensation owed to the municipalities, the amount payable to the Société under section 53.31.18.

The Government may, by regulation, determine how the amounts identified in the first and second paragraphs are to be paid, including any interest or penalties due in case of non-payment. The Société and the certified body may make arrangements regarding payment, subject to the applicable regulatory prescriptions.

2002, c. 59, s. 4; 2011, c. 14, s. 7; 2021, c. 5, s. 15.

**53.31.12.1.** If, by regulation, the Government subjects newspapers to the compensation regime provided for in this division, it may determine on what conditions the amount of the annual compensation owed to the municipalities that is allotted to that class of materials may be paid in whole or in part through a contribution in goods or services, and prescribe the characteristics newspapers must possess to benefit from that mode of payment.

The contribution in goods or services must enable the Québec-wide, regional and local dissemination of information, awareness and educational messages on environmental matters and favour messages intended to promote the recovery and reclamation of residual materials.

2011, c. 14, s. 8.

**53.31.13.** A certified body may collect from its members and from persons who, without being members, carry on activities similar to those carried on by the members where the designated materials or classes of materials are concerned, the contributions necessary to remit the full amount of compensation, including any interest or other applicable penalties, and to indemnify the body for its management costs and other expenses incidental to the compensation regime.

The certified body may similarly collect the amount payable to the Société québécoise de récupération et de recyclage under section 53.31.18.

2002, c. 59, s. 4; 2011, c. 14, s. 9.

**53.31.14.** The contributions payable shall be established on the basis of a schedule of contributions that has been the subject of a special consultation of the persons concerned and, in the case in which a body is designated under a regulation made under section 53.30.3, of that body also. The schedule may cover a maximum of three years.

If there is more than one certified body, a single schedule shall be established by all of the certified bodies not later than the date fixed by a government regulation. If the bodies do not come to an agreement before that date, the schedule shall be established by the Société québécoise de récupération et de recyclage, which shall have, as of that date, a deadline set by that regulation to establish the schedule.

The criteria taken into account to determine the schedule must evolve over the years in such manner as to foster the accountability of the various classes of persons concerned as regards the environmental consequences of the products they manufacture, market, distribute or commercialize or the materials they otherwise generate, having regard in particular to the content of recycled materials, the nature of the materials used, the volume of residual materials produced and their potential for recovery, recycling or other forms of reclamation.

The schedule of contributions may also provide for exemptions or exclusions in addition to those resulting from decisions made under section 53.31.2. The schedule of contributions may also specify the terms according to which the contributions are to be paid to the certified body.

Subject to the applicable regulatory prescriptions and following consultations with the Union des municipalités du Québec, the Fédération québécoise des municipalités locales et régionales (FQM) and any other body the Société québécoise de récupération et de recyclage considers appropriate, the schedule of contributions must also state how payment may be made through contributions in goods or services.

The schedule of contributions must be submitted to the Minister, who may approve it with or without modification.

2002, c. 59, s. 4; 2011, c. 14, s. 10; 2021, c. 5, s. 15; I.N. 2021-04-01.

**53.31.15.** The proposed schedule must be sent by the certified body or, if there is more than one certified body, by all of the bodies, if they have come to an agreement on the deadline fixed under section 53.31.14, to the Société québécoise de récupération et de recyclage, together with a report on the consultation prescribed under that section by the deadline fixed by government regulation, which may not be later than 31 December of the year in which the schedule in force expires.

The Société must give the Minister an opinion on the proposed schedule.

If there is a failure by a certified body or by certified bodies to send its or their proposed schedule and the consultation report within the time prescribed, the Société must submit to the Minister, within 45 days after the deadline, a proposed schedule for the contributions payable for the current year. The proposed schedule is approved by the Minister, with or without modification.

The approved schedule of contributions must be published in the *Gazette officielle du Québec*.

2002, c. 59, s. 4; 2011, c. 14, s. 11; 2021, c. 5, s. 15.



*Approval of Éco Entreprises Québec's 2021 schedule of contributions for the "containers and packaging" and "printed matter" classes; see M.O. 2021, 2021-06-17, (2021) 153 G.O. 2, 2116.*

*Approval of Recycle Médias' 2021 schedule of contributions for the "newspapers" class; see M.O. 2021, 2021-06-17, (2021) 153 G.O. 2, 2140.*

**53.31.16.** The sum owed to a certified body as a contribution toward the compensation payable to municipalities and the indemnity payable to the Société québécoise de récupération et de recyclage under section 53.31.18 bears interest at the rate fixed under the first paragraph of section 28 of the Tax Administration Act (chapter A-6.002).

Where a certified body pursues a remedy to claim a sum it is owed under this Act, the certified body is entitled to claim, in addition to interest, an amount equal to 20% of that sum.

2002, c. 59, s. 4; 2010, c. 31, s. 175; 2011, c. 14, s. 12.

**53.31.17.** The Société québécoise de récupération et de recyclage shall distribute to the municipalities the amount of the compensation paid by a certified body, in accordance with the distribution and payment rules determined by regulation of the Government.

2002, c. 59, s. 4; 2011, c. 14, s. 13.

**53.31.18.** The Government shall determine by regulation the amount payable to the Société québécoise de récupération et de recyclage to indemnify the Société for its management costs and other expenses related to the current compensation regime, including expenses for information, awareness and educational activities and for development activities related to the reclamation of the designated materials or classes of materials.

That amount may not exceed 5% of the annual compensation owed to the municipalities.

2002, c. 59, s. 4; 2011, c. 14, s. 13.

**53.31.19.** In addition to the powers provided for in section 53.31, the Minister may determine, by regulation, the information and documents concerning the matters referred to in that section that a person or municipality is required to periodically make available to the Minister or to furnish to the Société québécoise de récupération et de recyclage or to a body certified by the Société under this subdivision, as regards designated materials or classes of materials, for the establishment or application of a schedule of contributions for the purpose of compensating the municipalities.

2002, c. 59, s. 4.

**53.31.20.** The information obtained under section 53.31.19 by a body certified by the Société québécoise de récupération et de recyclage is confidential ; it may not be disclosed or made accessible to persons not legally entitled thereto except with the written authorization of the person concerned.

Persons working with such a body may not use confidential information obtained in connection with the compensation regime established under this subdivision to obtain, directly or indirectly, a benefit for themselves or for others.

2002, c. 59, s. 4.

§ 5. — *Elimination of residual materials*

**54.** The provisions of this subdivision, other than sections 65 to 66, do not apply to hazardous materials.

1972, c. 49, s. 54; 1979, c. 49, s. 33; 1984, c. 29, s. 8; 1988, c. 49, s. 38; 1999, c. 75, s. 14; 2017, c. 4, s. 108.

**55.** *(Repealed).*

1972, c. 49, s. 55; 1979, c. 49, s. 33; 1984, c. 29, s. 9; 1988, c. 49, s. 38; 1999, c. 75, s. 14; 2017, c. 4, s. 109.

**56.** No residual materials elimination facility determined by regulation of the Government may be operated without the operator having set up financial guarantees in the form of a social trust, on the conditions prescribed by the regulation, for the purpose of covering, after the facility is closed, the costs incurred by

(1) the application of the regulatory standards, in particular the standards relating to the maintenance and supervision of the facility, and the application of any conditions to which an authorization is subject;

(2) an intervention authorized by the Minister to remedy a situation arising out of non-compliance with the standards or conditions, or in the case of a contamination of the environment, resulting from an accident or the presence of the facility.

The provisions of a regulation made by the Government may, in particular,



(1) fix the sums to be paid into the trust patrimony by the operator, or the method and parameters to be used in calculating such sums, and the conditions for their payment;

(2) authorize the Minister to verify the application of the regulatory provisions made under subparagraph 1 and to require an operator to communicate the information necessary for the verification, and to adjust the amounts paid by the operator where an assessment made by an outside expert shows that an adjustment is needed to ensure the fulfilment of the trust;

(3) determine the classes of persons qualified to act as trustee;

(4) prescribe the conditions applicable to the setting up and administration of the trust, its modification, control and termination, in particular with respect to the allocation of any sum remaining on termination of the trust;

(5) determine the conditions in which the Minister may authorize the payment of sums under the trust, without prejudice to any court decision the effect of which is to authorize such a payment.

1972, c. 49, s. 56; 1979, c. 49, s. 33; 1984, c. 29, s. 10; 1999, c. 40, s. 239; 1999, c. 75, s. 14.

**57.** The operator of a residual materials elimination facility determined by regulation of the Government is required to establish a committee to oversee and monitor the operation, closure and post-closure management of the facility.

The regulation shall determine the conditions applicable to the establishment, operation and financing of the committee, in particular the information or documents to be furnished to the committee by the operator, the conditions of access to the facility and its equipment, and the obligations of the committee members, especially as regards public information.

1972, c. 49, s. 57; 1999, c. 75, s. 14.

**58.** Where the Minister ascertains that an elimination facility has not been established or is not being operated in compliance with the provisions of this Act, the regulations or the authorization, or that the provisions applicable at the time the facility is closed or thereafter are not being complied with, the Minister may order the operator or any other person or municipality required to oversee the application of the provisions to take any remedial measures the Minister may indicate.

1972, c. 49, s. 58; 1999, c. 40, s. 239; 1999, c. 75, s. 14; 2017, c. 4, s. 110.

**59.** *(Replaced).*

1972, c. 49, s. 59; 1979, c. 49, s. 33; 1984, c. 29, s. 11; 1988, c. 49, s. 38; 1999, c. 40, s. 239; 1999, c. 75, s. 14.

**60.** The Minister may, after inquiry, require a municipality, on the conditions the Minister determines, to establish or alter a residual materials elimination facility or to close it.

1972, c. 49, s. 60; 1984, c. 29, s. 12; 1999, c. 75, s. 15.

**61.** When it is established, after inquiry, that there is an obvious advantage in it, the Minister may, failing agreement among the municipalities concerned, order that a residual materials elimination facility be operated jointly by two or more municipalities, or that a municipality provide in the whole or part of the territory of another municipality, all or part of the services necessary for the elimination of residual materials, or order any other measure he deems appropriate.

On the Minister's own initiative or at the request of a municipality concerned, the Minister may, after consultation with the parties, appoint an arbitrator to apportion the costs or set the compensation payable for the services provided. Notice of the appointment is given to each of the municipalities concerned.

The arbitrator's decision must be made based, in particular, on the criteria mentioned in section 64.8.

Articles 631 to 637 and 642 to 647 of the Code of Civil Procedure (chapter C-25.01) apply, with the necessary modifications, to the arbitration provided for in the second paragraph.

The remuneration of the arbitrator shall be determined by the Minister. The arbitration and homologation costs shall be paid in equal shares by the municipalities concerned unless the arbitrator or the court decides otherwise by a decision giving reasons.

1972, c. 49, s. 61; 1978, c. 64, s. 23; 1979, c. 49, s. 33; 1988, c. 49, s. 38; 1996, c. 2, s. 833; 1999, c. 75, s. 16; 2005, c. 33, s. 3; I.N. 2016-01-01 (NCCP).

**62.** *(Repealed).*

1972, c. 49, s. 62; 1979, c. 83, s. 14; 1988, c. 49, s. 13.

**63.** *(Repealed).*

1972, c. 49, s. 63; 1977, c. 5, s. 14; 1978, c. 64, s. 24; 1984, c. 38, s. 160; 1987, c. 25, s. 5; 1988, c. 84, s. 705; 1990, c. 26, s. 5.

**64.** *(Repealed).*

1972, c. 49, s. 64; 1977, c. 5, s. 14; 1979, c. 49, s. 33; 1988, c. 8, s. 93; 1988, c. 21, s. 66; 1988, c. 49, s. 38; 1997, c. 43, s. 525; 1999, c. 75, s. 17.

**64.1.** A regulation of the Government shall determine the residual materials elimination facilities that are subject to the provisions of sections 64.2 to 64.12.

1978, c. 64, s. 25; 1979, c. 49, s. 33; 1984, c. 29, s. 13; 1987, c. 25, s. 6; 1999, c. 75, s. 18.

**64.2.** The operator of a residual materials elimination facility may charge for his services either the prices indicated in the tariff published in accordance with section 64.3 and in force, or those fixed by the Commission municipale du Québec.

1978, c. 64, s. 25; 1979, c. 49, s. 33; 1987, c. 25, s. 6; 1999, c. 75, s. 19.

**64.3.** The operator shall publish his tariff or any change therein not later than 90 days before it comes into force, in a newspaper distributed in the territory served by him or, if none is distributed in that territory, in a newspaper distributed in the nearest locality.

At the same time, the operator shall publish a notice indicating the date fixed for the coming into force of the tariff or any change therein and mentioning the remedy available under section 64.4. No change may, however, come into force until 1 January of the year following the year during which the 90-day time period for publication expires.

In addition, as soon as the tariff or any change therein is published, the operator must send a copy of the tariff or change to the Minister, to the regional municipality in whose territory the operator's facility is situated, to every local municipality in that territory and to any person or municipality bound by contract to use the operator's services.

1978, c. 64, s. 25; 1979, c. 49, s. 33; 1987, c. 25, s. 6; 1999, c. 75, s. 20; 2000, c. 34, s. 260.

**64.4.** The Commission may, upon the application of any person or municipality, change all or some of the prices published by the operator. It may also inquire into any matter pertaining to the application.

For that purpose, the Commission has the same powers and immunity as those provided in the Act respecting the Commission municipale (chapter C-35).

1978, c. 64, s. 25; 1979, c. 49, s. 33; 1987, c. 25, s. 6.

**64.5.** The application must be made in writing within 45 days after the operator publishes his tariff or any change therein.

The application must be accompanied with proof of publication.

The applicant shall cause a copy of the application to be notified to the operator.

1987, c. 25, s. 6; 1997, c. 43, s. 526.

**64.6.** On receiving an application, the Commission, on the application of an interested person and after summary inquiry, may temporarily fix the prices exigible by the operator for the time it indicates, which shall not extend beyond the date on which its final decision takes effect.

Notwithstanding the foregoing, the prices temporarily fixed cannot come into force until two days after the decision fixing them is notified to the operator.

1987, c. 25, s. 6; 1997, c. 43, s. 527.

**64.7.** The Commission shall, in the manner it considers most appropriate, give public notice of the time, date and place of the public hearing to consider the application contemplated in section 64.5 and to render its final decision.

At the hearing, the Commission shall give every person or municipality likely to be affected by its final decision an opportunity to make representations.

1987, c. 25, s. 6; 1997, c. 43, s. 528.

**64.8.** The Commission shall render its decision on the application referred to in section 64.5 on the basis of the following criteria in particular,

(1) the investments made by the operator to equip and operate the elimination facility, to take the corrective measures required to ensure compliance with the applicable standards or to implement a new technology designed to ensure increased environmental protection;

(2) the costs connected with the gradual closure of residual materials deposit sites, the setting up of financial guarantees for the post-closure management of the facility, the supervision and environmental monitoring program and the financing of the committee established under section 57;

(3) the quantities of residual materials that will be eliminated during the reference years;

(4) the revenue generated by the sale of by-products from the operation of the elimination facility, such as biogas.

The decision of the Commission must be rendered not later than 120 days after the expiry of the time provided in the first paragraph of section 64.5.

The prices fixed by the Commission cannot come into force until two days after the decision fixing them is notified to the operator.

The prices fixed shall replace the published prices or, as the case may be, those temporarily fixed by the Commission.

1987, c. 25, s. 6; 1997, c. 43, s. 529; 1999, c. 75, s. 21.

**64.9.** The decision of the Commission contemplated in section 64.4 is final and without appeal.

1987, c. 25, s. 6.

**64.10.** The operator cannot change his prices again before the expiry of twelve months from the date of publication of his tariff or any change therein in accordance with section 64.3

1987, c. 25, s. 6.

**64.11.** The operator shall post the prices for his services in full view at the entrance to his residual materials elimination facility.

1987, c. 25, s. 6; 1999, c. 75, s. 22.

**64.12.** Any change in costs resulting from a change in the tariff published by the operator or, as the case may be, from a change made by the Commission shall be paid by or credited to

(1) a municipality which, under a by-law, provides the collection or removal of residual materials;

(2) failing such a by-law or where the by-law does not cover the collection or removal of certain residual materials, the person who produces the residual materials.

1987, c. 25, s. 6; 1999, c. 75, s. 23.

**64.13.** Every contract entered into by a municipality or a person for the removal, transportation or elimination of residual materials must indicate the prices for residual materials elimination separately.

1987, c. 25, s. 6; 1999, c. 75, s. 24.

**65.** An authorization application made under subparagraph 9 of the first paragraph of section 22 with regard to any construction project on land formerly used in whole or in part as a residual materials elimination site, or with regard to any work to change the use of such land, must be accompanied by a study conducted by a professional or any other person qualified in the field concerned, for the purpose of

(1) assessing whether residual materials are present in the land;

(2) determining the nature of such residual materials and the sites where they have been deposited or buried;

(3) determining whether gas is present in the soil and, if applicable, assessing the risk of it migrating outside the land.

If the study confirms the presence of residual materials in the land, the person or municipality that had the study conducted must, on being informed of the presence of such materials, apply for a notice to be registered in the land register. In addition to a description of the land, the notice must contain

(1) the name and address of the person or municipality applying for registration of the notice, and of the owner of the land;

(2) the name of the municipality in which the land is situated and the land use authorized by the zoning by-laws; and

(3) a summary of the study, certified by the qualified person referred to in the first paragraph, stating among other things the nature of the residual materials present in the land.

In addition, the person or municipality must send the Minister and the owner of the land a duplicate of the notice bearing a registration certificate, or a copy of the notice certified by the Land Registrar. On receiving the document, the Minister shall send a copy to the municipality in which the land is situated; if the land is

situated in a territory referred to in section 133 or 168 that is not constituted as a municipality, the document must be sent to the body designated by the Minister.

1972, c. 49, s. 65; 1979, c. 49, s. 33; 1985, c. 30, s. 76; 1988, c. 49, s. 38; 1991, c. 30, s. 23; 1991, c. 80, s. 3; 1999, c. 75, s. 25; 2017, c. 4, s. 111.

**65.1.** When analyzing an authorization application, the Minister may require that the applicant submit the measures the applicant intends to take to remove all or some of the residual materials from the land or to protect the quality of the environment and prevent adverse effects on the life, health, safety, welfare and comfort of human beings or on ecosystems, other living species or property.

In the authorization, the Minister may prescribe any condition, restriction or prohibition the Minister considers necessary with regard to the measures referred to in the first paragraph and require any financial guarantee for that purpose.

2017, c. 4, s. 111.

**65.2.** If an authorization prescribes restrictions on the use of the land, the holder must, as soon as possible after it is issued, apply for a land use restriction notice to be registered in the land register. In addition to a description of the land, the notice must contain

- (1) the applicant's name and address;
- (2) if applicable, a description of the work to be done or works to be erected to remove the residual materials from the land or to protect the quality of the environment and prevent adverse effects on the life, health, safety, welfare and comfort of human beings or on ecosystems, other living species or property; and
- (3) a statement of the land use restrictions, including the resulting charges and obligations.

In addition, the holder must, without delay, send the Minister and the owner of the land a duplicate of the notice bearing a registration certificate or a copy of the notice certified by the Land Registrar. On receiving the document, the Minister shall send a copy to the municipality in which the land is situated; if the land is situated in a territory referred to in section 133 or 168 that is not constituted as a municipality, the document must be sent to the body designated by the Minister.

Registration of the notice renders the land use restrictions effective against third persons, and any subsequent acquirer of the land is bound by any charges and obligations as regards those restrictions.

2017, c. 4, s. 111.

**65.3.** If a study required under section 65 reveals the presence of residual materials at the property line of the land, a migration of gas outside the land or a serious risk of such migration, the person or municipality that conducted the study is required to notify the owner of the neighbouring land concerned in writing without delay. A copy of the notice must also be sent to the Minister.

2017, c. 4, s. 111.

**65.4.** If work has been done or works erected on land to remove residual materials and a subsequent study sent to the Minister reveals that no such materials are present in the land, any person or municipality referred to in section 65, or the owner of the land concerned, may apply for a residual materials removal notice to be registered in the land register.

The first and second paragraphs of section 65.2 apply, with the necessary modifications, to the notice, which must also mention any land use restrictions entered in the land register that have been rendered unnecessary by the removal of the residual materials.

2017, c. 4, s. 111.

**65.5.** If a person or municipality fails to apply for registration of a notice in the land register under section 65 or 65.2, the Minister may require such registration and recover from the person or municipality the direct and indirect costs incurred by the Minister for that purpose.

2017, c. 4, s. 111.

**66.** No one may deposit or discharge residual materials or allow residual materials to be deposited or discharged at a place other than a site at which the storage, treatment or elimination of residual materials is authorized by the Minister or the Government pursuant to the provisions of this Act and the regulations.

Where residual materials have been deposited or discharged at a place other than an authorized site, the owner, the lessee or any other person in charge of the place must take the necessary measures to ensure that the residual materials are stored, treated or eliminated at an authorized site.

1972, c. 49, s. 66; 1978, c. 64, s. 26; 1979, c. 49, s. 33; 1988, c. 49, s. 38; 1999, c. 75, s. 26.

**67.** *(Repealed).*

1972, c. 49, s. 67; 1977, c. 5, s. 14; 1987, c. 25, s. 7; 1991, c. 80, s. 4.

**68.** *(Repealed).*

1972, c. 49, s. 68; 1991, c. 80, s. 4.

**68.1.** Every person or municipality must, on the conditions fixed by the Minister, provide the Minister with all information requested concerning the origin, nature, characteristics, quantities, destination and mode of elimination of the residual materials that are generated, delivered to a third person or taken in charge by the person or municipality.

1985, c. 30, s. 77; 1988, c. 49, s. 38; 1999, c. 75, s. 27.

**69.** *(Repealed).*

1972, c. 49, s. 69; 1999, c. 75, s. 28.

**69.1.** *(Repealed).*

1984, c. 29, s. 14; 1990, c. 23, s. 40.

**69.2.** *(Repealed).*

1984, c. 29, s. 14; 1990, c. 23, s. 40.

**69.3.** *(Repealed).*

1984, c. 29, s. 14; 1990, c. 23, s. 40.

**70.** The Government may make regulations to regulate the elimination of residual materials in all or part of the territory of Québec. The regulations may, in particular,

(1) classify residual materials elimination facilities and residual materials, and exempt certain classes from the application of all or certain of the provisions of this Act and the regulations;

(2) prescribe or prohibit, in respect of one or more classes of residual materials, any mode of elimination;

(3) fix the maximum number of residual materials elimination facilities that may be established in any part of the territory of Québec;

(4) prohibit the establishment, in any part of the territory of Québec, of residual materials elimination facilities or certain residual materials elimination facilities;

(5) determine the conditions or prohibitions applicable to the establishment, operation and closure of any residual materials elimination facility, in particular incinerators, landfills and treatment, storage and transfer facilities;

(6) prescribe the conditions or prohibitions applicable to residual materials elimination facilities after they are closed, including the conditions or prohibitions relating to maintenance and supervision, prescribe the period of time during which the conditions or prohibitions are to be applied and determine who will be required to ensure that they are applied;

(7) authorize the Minister to determine, for the classes of residual materials elimination facilities specified in the regulation, the parameters to be measured and the substances to be analyzed on the basis of the composition of the residual materials received for elimination, and to fix the limits to be respected for such parameters or substances. The limits may be in addition to, or substituted for, the limits fixed by regulation;

(8) determine the conditions or prohibitions applicable to the transportation of designated classes of residual materials.

1972, c. 49, s. 70; 1979, c. 49, s. 33; 1982, c. 25, s. 7; 1984, c. 29, s. 15; 1985, c. 30, s. 78; 1987, c. 25, s. 8; 1988, c. 49, s. 14; 1990, c. 23, s. 41; 1991, c. 30, s. 24; 1991, c. 80, s. 5; 1999, c. 75, s. 29.

## DIVISION VII.1

### HAZARDOUS MATERIALS

1991, c. 80, s. 6.

#### § 1. — *Powers of the Minister*

2017, c. 4, s. 112.

**70.1.** The Minister, if he is of the opinion that a hazardous material is in a situation that could lead to harmful effects on the health of humans or of other living species or damage to the environment or to property, may order the person having possession or custody of the hazardous material to take the measures he indicates, within the time he fixes, to prevent or reduce such harmful effects or such damage.

The order may, in particular, require the temporary or permanent cessation of any activity involving a hazardous material, which may be a source of contamination.

1991, c. 80, s. 6; 1997, c. 43, s. 530; 2017, c. 4, s. 113.

**70.2.** The prior notice referred to in section 115.4.1 must be accompanied by a copy of any analysis, study or other technical report that the Minister has taken into account.

The Minister shall send a copy of the prior notice and order to the Minister of Health and Social Services and to the secretary-treasurer or clerk of the local municipality in whose territory the hazardous material is located.

1991, c. 80, s. 6; 1997, c. 43, s. 531; 2017, c. 4, s. 114.

**70.3.** *(Repealed).*

1991, c. 80, s. 6; 2011, c. 20, s. 8; 2017, c. 4, s. 115.

**70.4.** *(Repealed).*

1991, c. 80, s. 6; 2017, c. 4, s. 115.

**70.5.** Every person who has possession of a hazardous material shall furnish to the Minister, within the time fixed by him, any information or document he requires in respect of the hazardous material.

1991, c. 80, s. 6.

§ 2. — *Accidental release*

2017, c. 4, s. 116.

**70.5.1.** Anyone responsible for an accidental release of hazardous materials into the environment is required to recover them without delay and remove any contaminated matter that is not cleaned or treated in situ. However, a government regulation may determine the cases where, and the conditions on which, the materials may remain in the land concerned, in particular because of technical or operational constraints.

2017, c. 4, s. 116.

**70.5.2.** In the cases determined by government regulation, anyone responsible for an accidental release of hazardous materials into the environment is required to conduct a characterization study of the land concerned. The regulation may prescribe the content of the study and how it is to be carried out.

As soon as such a study is completed, it must be sent to the Minister and to the owner of the land.

Any person who, as owner or lessee or in any other capacity, has custody of land affected by the release must give free access to the land at any reasonable time to any person required under this section to conduct a characterization study on the land, subject, however, to that person restoring the site and compensating the custodian or owner of the land, as the case may be, for any damage sustained.

2017, c. 4, s. 116.

**70.5.3.** Anyone responsible for an accidental release of hazardous materials into the environment is required, if informed of the presence of such materials at the property line of the land concerned or of a serious risk of migration of those materials outside that land that may compromise a use of water, to notify the owner of the neighbouring land in writing without delay. A copy of the notice must also be sent to the Minister.

2017, c. 4, s. 116.

**70.5.4.** In the cases determined by government regulation, anyone responsible for an accidental release of hazardous materials into the environment must apply for a contamination notice to be registered in the land register in the manner prescribed by the regulation.

In addition to a description of the land, the contamination notice must contain

- (1) the name and address of the applicant and of the owner of the land;
- (2) the name of the municipality in which the land is situated and the land use authorized by the zoning laws; and
- (3) if applicable, a summary of the characterization study stating, among other things, the nature of the hazardous materials present in the land.

In addition, whoever is responsible must send the Minister and the owner of the land a duplicate of the notice bearing a registration certificate or a copy of it certified by the Land Registrar. On receiving the



document, the Minister shall send a copy to the municipality in which the land is situated; if the land is situated in a territory referred to in section 133 or 168 that is not constituted as a municipality, the document must be sent to the body designated by the Minister.

If whoever is responsible fails to apply for registration of a notice in the land register in accordance with the first paragraph, the Minister may require such registration and recover from that person or municipality the direct and indirect costs incurred by the Minister for that purpose.

2017, c. 4, s. 116.

**70.5.5.** Registration in the land register of a decontamination notice may be applied for by anyone referred to in section 70.5.4, or by the owner of the land concerned, provided the land has undergone decontamination work and a subsequent characterization study has revealed that no hazardous materials are present.

The second and third paragraphs of section 70.5.4 apply, with the necessary modifications, to the decontamination notice. The notice must also mention any land use restrictions entered in the land register that have been rendered unnecessary as a result of the decontamination.

The characterization study mentioned in the first paragraph must be kept at the Minister's disposal.

2017, c. 4, s. 116.

§ 3. — *Register and report*

2017, c. 4, s. 116.

**70.6.** Whoever has possession of a hazardous residual material must keep a register containing the information prescribed by government regulation.

“Hazardous residual material” means

- (1) a hazardous material that was produced or used but subsequently discarded;
- (2) a hazardous material that was used but is no longer used for the same purpose or a purpose similar to its initial use;
- (3) a hazardous material that was produced or kept for eventual use but is outdated; or
- (4) a hazardous material that was produced or used and that appears on a list of hazardous residual materials established by government regulation or belongs to a class appearing on the list.

A person keeping a register must furnish to the Minister, within the time fixed by him, any information he requires which is contained in the register.

This section does not apply to a natural person who has possession of a hazardous material which he has used exclusively for personal, domestic or family purposes.

1991, c. 80, s. 6; 2017, c. 4, s. 117.

**70.7.** Every person or municipality subject to section 70.6 who or which carries on an activity determined by regulation shall, at the intervals prescribed by regulation, prepare and transmit to the Minister an annual management report, containing the information prescribed by regulation, for any hazardous material in respect of which a register must be kept.

The annual management report must contain an attestation of the accuracy of the information provided that is signed by the person carrying on the activity or, in the case of a person other than a natural person or a municipality, by a person authorized for that purpose.

1991, c. 80, s. 6; 1999, c. 40, s. 239; 2017, c. 4, s. 118.

§ 4. — *Special regulatory measures*

2017, c. 4, s. 119.

**70.7.1.** This subdivision applies, in addition to subdivision 1 of Division II, to the authorization for hazardous materials management.

2017, c. 4, s. 119.

**70.8.** Possession of a hazardous residual material for a period of more than 24 months is subject to the Minister's authorization in accordance with subparagraph 5 of the first paragraph of section 22.

In addition to the information and documents required under section 23, the authorization application must be accompanied by a hazardous materials management plan prepared in accordance with government regulation.

The management plan must contain an attestation of the accuracy of the information provided and be signed by whoever has possession of the hazardous materials or, in the case of a person other than a natural person or a municipality, by the person authorized for that purpose.

1991, c. 80, s. 6; 1999, c. 40, s. 239; 2017, c. 4, s. 120.

**70.9.** The following activities are also subject to the Minister's authorization in accordance with subparagraph 5 of the first paragraph of section 22:

- (1) the operation, for the operator's own purposes or those of another person, of a hazardous materials elimination site determined by government regulation, or the provision of a hazardous materials elimination service;
- (2) the operation, for commercial purposes, of a treatment process for hazardous residual materials;
- (3) the storage of hazardous residual materials, after taking possession of them for that purpose;
- (4) the use of hazardous residual materials for energy generation, after taking possession of them for that purpose; and
- (5) any other activity determined by government regulation.

Such an authorization is also required before carrying on an activity involving a hazardous material, other than an activity referred to in the first paragraph, that is likely to result in the release of contaminants into the environment or alter the quality of the environment.

1991, c. 80, s. 6; 2017, c. 4, s. 120.

**70.10.** *(Repealed).*

1991, c. 80, s. 6; 2017, c. 4, s. 121.

**70.11.** *(Repealed).*

1991, c. 80, s. 6; 1997, c. 43, s. 532; 2002, c. 53, s. 9; 2017, c. 4, s. 121.

**70.12.** *(Repealed).*

1991, c. 80, s. 6; 2011, c. 20, s. 9; 2017, c. 4, s. 121.

**70.13.** In addition to the information required under section 27, the authorization must contain a list of the hazardous materials or specify the classes of hazardous materials involved in the activity the holder is authorized to carry on.

1991, c. 80, s. 6; 2017, c. 4, s. 122.

**70.14.** A hazardous materials management authorization referred to in the first paragraph of section 70.9 is valid for not more than five years. It may be renewed by the Minister in accordance with the terms and conditions prescribed by government regulation.

Sections 23 to 27 apply, with the necessary modifications, to the renewal referred to in the first paragraph.

1991, c. 80, s. 6; 2002, c. 53, s. 10; 2017, c. 4, s. 122.

**70.15.** *(Repealed).*

1991, c. 80, s. 6; 1997, c. 43, s. 533; 2002, c. 53, s. 11; 2011, c. 20, s. 10; 2017, c. 4, s. 123.

**70.16.** *(Repealed).*

1991, c. 80, s. 6; 2002, c. 53, s. 12; 2017, c. 4, s. 123.

**70.17.** *(Repealed).*

1991, c. 80, s. 6; 2017, c. 4, s. 123.

**70.18.** A holder of a hazardous materials management authorization must inform the Minister within the time prescribed by government regulation of any total or partial cessation of activities. In addition to any cessation-of-activity measures prescribed by such a regulation, the holder must comply with any measures required by the Minister to prevent the release of contaminants into the environment and ensure, among other things, site cleaning and decontamination, hazardous materials management, equipment and facility dismantling and environmental monitoring.

A total cessation of activities entails the cancellation, by operation of law, of a hazardous materials management authorization, with the exception of any measures set out in the authorization that concern site restoration on cessation of activities, or post-closure management. However, at the holder's request, the Minister may maintain the authorization in force for the period and on the conditions the Minister determines.

1991, c. 80, s. 6; 1999, c. 40, s. 239; 2017, c. 4, s. 124.

**70.18.1.** The Minister may amend, suspend, revoke or refuse to amend or renew a hazardous materials management authorization if the holder partially ceases the activities mentioned in it.

Before making a decision under this section, the Minister must notify the prior notice prescribed by section 5 of the Act respecting administrative justice (chapter J-3) to the person concerned and grant the latter at least 15 days to submit observations.

2017, c. 4, s. 124.

**70.19.** The Government may, by regulation,

- (1) define the properties of the hazardous materials referred to in section 1;

(2) determine any material or object classed as a hazardous material within the meaning of section 1;

(3) establish classes of hazardous materials and activities involving hazardous materials;

(4) *(subparagraph repealed)*;

(5) determine the activities which require the persons involved to prepare a management plan for any hazardous material in respect of which a register must be kept, and fix the intervals at which the plan must be transmitted to the Minister;

(6) determine the information that must appear in a register, an annual management report and the rules relating to the contents of a management plan;

(7) define, for the purposes of paragraph 1 of section 70.9, the expressions “site for the elimination of hazardous materials” and “hazardous materials elimination service”;

(8) *(subparagraph repealed)*;

(9) *(subparagraph repealed)*;

(10) *(subparagraph repealed)*;

(11) *(subparagraph repealed)*;

(12) *(subparagraph repealed)*;

(13) *(subparagraph repealed)*;

(14) *(subparagraph repealed)*;

(15) *(subparagraph repealed)*;

(16) control, restrict or prohibit the storage, handling, use, manufacturing, sale, treatment and elimination of hazardous materials;

(16.1) require, as a condition for the operation of any hazardous materials elimination facility, that financial guarantees be set up as provided in section 56 for residual materials elimination facilities, and that section shall then apply, with the necessary modifications;

(17) determine the qualities required of natural persons who carry on an activity involving a hazardous material;

(18) control, restrict or prohibit the presence of a hazardous material in a product that is manufactured, sold, distributed or used in Québec;

(19) exempt, on the conditions that it may determine, any hazardous materials, activities or classes of persons from the application of all or some of the provisions of this Act and the regulations under this section.

The regulations under this section may vary according to the hazardous materials, the activities or their nature or extent, and according to the classes of persons.

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1991, c. 80, s. 6; 1999, c. 75, s. 30; 2002, c. 53, s. 13; 2017, c. 4, s. 125; I.N. 2018-04-01.

**DIVISION VIII**

**SANITARY CONDITION OF IMMOVABLES AND PUBLIC PLACES**

**71.** *(Repealed).*

1972, c. 49, s. 71; 2005, c. 6, s. 225.

**72.** *(Repealed).*

1972, c. 49, s. 72; 1979, c. 63, s. 303.

**73.** *(Repealed).*

1972, c. 49, s. 73; 1979, c. 49, s. 33; 1979, c. 63, s. 303.

**74.** *(Repealed).*

1972, c. 49, s. 74; 1979, c. 63, s. 303.

**75.** *(Repealed).*

1972, c. 49, s. 75; 1979, c. 49, s. 33; 1979, c. 63, s. 303.

**76.** *(Repealed).*

1972, c. 49, s. 76; 1986, c. 95, s. 274; 2005, c. 6, s. 225.

**76.1.** *(Repealed).*

1986, c. 95, s. 275; 2005, c. 6, s. 225.

**77.** *(Repealed).*

1972, c. 49, s. 77; 1996, c. 2, s. 835; 2005, c. 6, s. 225.

**78.** *(Repealed).*

1972, c. 49, s. 78; 1986, c. 95, s. 276; 2005, c. 6, s. 225.

**79.** *(Repealed).*

1972, c. 49, s. 79; 1990, c. 4, s. 730; 1992, c. 61, s. 494; 2005, c. 6, s. 225.

**80.** *(Repealed).*

1972, c. 49, s. 80; 1999, c. 40, s. 239; 2005, c. 6, s. 225.

**81.** *(Repealed).*

1972, c. 49, s. 81; 1999, c. 40, s. 239; 2005, c. 6, s. 225.

**82.** *(Repealed).*

1972, c. 49, s. 82; 1999, c. 40, s. 239; 2005, c. 6, s. 225.

**83.** When, after inquiry, a pool, beach or any other bathing place is considered to be a danger to health, the municipality must prohibit access to it until the place has been made sanitary.

1972, c. 49, s. 83.

**84.** *(Repealed).*

1972, c. 49, s. 84; 1978, c. 64, s. 27; 1979, c. 49, s. 33; 1986, c. 95, s. 277; 1988, c. 49, s. 38; 2005, c. 6, s. 225.

**85.** *(Repealed).*

1972, c. 49, s. 85; 1979, c. 49, s. 33; 1988, c. 49, s. 38; 2005, c. 6, s. 225.

**86.** *(Section renumbered).*

1972, c. 49, s. 86; 1978, c. 64, s. 28; 1979, c. 49, s. 33; 1988, c. 49, s. 15; 2017, c. 14, s. 32.



*See section 118.3.5.*

**87.** The Government may make regulations:

(a) to prescribe the sanitary and hygienic standards applicable to any class of immovables already occupied or intended to be occupied for residential, commercial, industrial, agricultural, municipal or school purposes and the use of all apparatus, equipment or vehicles intended for any of such purposes, except sanitary and hygienic standards for the protection of workers prescribed pursuant to the Act respecting occupational health and safety (chapter S-2.1);

(b) to determine the sanitary condition of houses and yards, and the standards of occupancy of dwellings and other housing;

(c) to regulate, as regards all or any part of the territory of Québec, construction, use of materials, location, relocation and maintenance in respect of septic facilities and private or public toilets, private sewers, drains and cesspools and other installations intended to receive or eliminate waste water, to prohibit the construction of certain classes of immovable if the area or other characteristics of the land do not permit compliance with the standards established or if the building is not served by certain classes of disposal and treatment of waste water systems and to prohibit equipment that does not comply;

(d) to prescribe for each class of immovables or installations contemplated in paragraphs *a* and *c*, the issuance of a permit by the Minister or by any municipality or class of municipalities;

(e) *(paragraph repealed)*;

(f) to regulate the maintenance and take any step respecting the cleanliness and cleaning of public places.

1972, c. 49, s. 87; 1978, c. 64, s. 29; 1979, c. 49, s. 33; 1979, c. 63, s. 304; 1988, c. 49, s. 38; 1996, c. 50, s. 17.

**88.** *(Repealed).*

1972, c. 49, s. 88; 1979, c. 63, s. 305.

**89.** *(Repealed).*

1972, c. 49, s. 89; 1979, c. 63, s. 305.

**DIVISION IX**

**PROTECTION AGAINST RAYS AND OTHER ENERGY VECTORS**

**90.** The Minister shall have the duty to supervise and control sources of radiation, plasmas, fields, material waves, pressure and any other energy vector.

1972, c. 49, s. 90.

**91.** Whoever owns or uses any source of radiation or other energy vector must use it in accordance with the terms, conditions and standards determined by regulation of the Government.

1972, c. 49, s. 91; 1979, c. 49, s. 33; 1979, c. 63, s. 306.

**92.** The Government, upon the recommendation of the Minister, may make regulations to:

(a) govern the possession, transport, installation and operation of any source of radiation and other energy vector and provide for the issue of a permit for such purposes;

(b) determine any safety standards considered necessary;

(c) *(paragraph repealed)*;

(d) prescribe the declarations and reports which must be made in case of incidents or accidents;

(e) determine the terms and conditions of supervision and control;

(f) compel any person owning, transporting or operating a source of radiation or plasma or any energy vector to keep registers;

(g) prohibit or put a stop to the use of any source of radiation or other energy vector.

1972, c. 49, s. 92; 1979, c. 63, s. 307.

**93.** This division does not apply to institutions contemplated by the Act respecting health services and social services (chapter S-4.2) or by the Act respecting health services and social services for Cree Native persons (chapter S-5) or to the laboratories contemplated by the Act respecting medical laboratories and organ and tissue conservation (chapter L-0.2).

1972, c. 49, s. 93; 1992, c. 21, s. 279, s. 375; 1994, c. 23, s. 23; 2001, c. 60, s. 166; 2009, c. 30, s. 58; 2016, c. 1, s. 145.

## DIVISION X

### NOISE

**94.** It shall be the duty of the Minister to supervise and control noise.

For such purpose he may construct, erect, install and operate any system or equipment necessary in the territory of any municipality. He may also acquire by agreement or expropriation any immovable required and make any agreement with any person or municipality.

1972, c. 49, s. 94; 1978, c. 64, s. 30; 1996, c. 2, s. 841.

**95.** The Government may make regulations to:

(a) prohibit or limit abusive or useless noise inside or outside a building;

(b) determine the terms and conditions of use of any vehicle, engine, piece of machinery, instrument, or equipment generating noise;

(c) prescribe standards for noise intensity.

1972, c. 49, s. 95.

## **DIVISION X.1**

### **REGULATORY POWERS AND FEES PAYABLE**

1982, c. 25, s. 8; 2017, c. 4, s. 126.

#### **95.1.** The Government may make regulations

- (1) to classify contaminants and sources of contamination;
- (2) to exempt classes of contaminants or of sources of contamination from all or any part of this Act;
- (3) to prohibit, limit and control sources of contamination and the release into the environment of any class of contaminants for all or part of the territory of Québec;
- (4) to determine, for any class of contaminants or of sources of contamination, a maximum quantity or concentration that may be released into the environment, for all or part of the territory of Québec;
- (5) to establish standards for the installation and use of any type of apparatus, device, equipment or process designed to control the release of contaminants into the environment;
- (6) to regulate or prohibit the use of any contaminant and the presence of any contaminant in products sold, distributed or utilized in Québec;
- (7) to define environmental protection and quality standards for all or part of the territory of Québec;
- (8) to establish boundaries for territories and prescribe environmental protection and quality standards specific to each one, in particular to take into account its characteristics, the cumulative effects of its development, the support capacity of its ecosystems, and the human disturbances and pressures affecting its drainage basins;
- (9) to exempt any person, municipality or class of activity it determines from all or part of this Act and prescribe, in such cases, environmental protection and quality standards applicable to the exempted persons, municipalities and activities, which may vary according to the type of activity, the territory concerned or the characteristics of the milieu;
- (10) to require a certificate of compliance with regulatory standards, before or after certain specified classes of activities it determines are carried out, signed by a professional or any other person qualified in the field concerned, and prescribe the applicable terms and conditions;
- (11) to establish measures providing for the use of economic instruments, including tradeable permits, emission, effluent and waste-disposal fees or charges, advance elimination fees or charges, and fees or charges related to the production of hazardous residual materials or the use, management or purification of water, with a view to protecting the environment and achieving environmental quality objectives for all or part of the territory of Québec;
- (12) to establish any rule that is necessary for or relevant to carrying out measures referred to in subparagraph 11 and that pertains, in particular, to the determination of persons or municipalities required to pay the fees or charges referred to in that subparagraph, the conditions applicable to their collection and the interest and penalties payable if the fees or charges are not paid;
- (13) to determine the terms and conditions governing authorization, accreditation or certification applications made under this Act, and those governing applications to amend, suspend or revoke an existing authorization, accreditation or certification, including the use of a specific form; those terms and conditions may vary according to the type of structure, works, industrial process, industry, work or other activity;



(14) to require a person or municipality to provide, for the activities or classes of activities the Government determines or on the basis of an activity's potential impacts on the environment, a financial guarantee to enable the Minister to meet any obligation imposed on the person or municipality by this Act or the regulations that the person or municipality has failed to meet and whose cost may be charged to the person or municipality, and to determine the nature and amount of the guarantee and the conditions governing its use by the Minister and its remittance; the amount of the guarantee may vary according to the class, nature and potential impacts on the environment of the activity for which the guarantee is required;

(15) to require a person or municipality to take out liability insurance to cover the activities or classes of activities the Government determines or on the basis of an activity's potential impacts on the environment, determine the scope, term and amount of the insurance, the latter of which may vary according to the class, nature and potential impacts on the environment of the activity for which the insurance is required, and prescribe any other conditions applicable to the insurance;

(16) to determine the persons or municipalities that may apply for an authorization or its amendment or renewal, or for an accreditation or certification, and the qualifications required for that purpose;

(17) to determine how section 115.8 is to be applied, in particular the conditions for filing the declaration provided for in that section, and the persons or municipalities that are exempted from the obligation to file such a declaration;

(18) to determine the persons authorized to sign any document required under this Act or the regulations;

(19) to determine the form of any authorization, accreditation or certification issued under this Act or any regulation made under it;

(20) to prescribe the records to be kept and preserved by any person or municipality carrying on an activity governed by this Act or the regulations, prescribe the conditions governing their keeping, and determine their form and content and the period for which they must be preserved;

(21) to prescribe the reports, documents and information that must be provided to the Minister by any person or municipality carrying on an activity governed by this Act or the regulations, determine their form and content and the conditions governing their preservation and sending;

(22) to prescribe, in cases where anyone responsible for a source of contamination has, under sections 124.3 to 124.5, submitted a depollution program to the Minister and received the Minister's approval, the annual duties payable or the method and factors to be used in calculating such duties, the periods during which the duties must be paid and the terms of payment. The annual duties may vary according to such factors as

- (a) the class of the source of contamination;
- (b) the territory in which the source of contamination is located;
- (c) the nature or extent of the release of contaminants into the environment; and
- (d) the duration of the depollution program;

(23) to determine the methods for collecting, analyzing, calculating and verifying any release of a contaminant into the environment;

(24) to prescribe the methods for collecting, preserving and analyzing water, air, soil or residual material samples for the purposes of any regulation made under this Act;

(25) to prescribe the collection, analyses, calculations and verifications that must be done wholly or partly by a person or municipality accredited or certified by the Minister under this Act and specify the statements of analysis results that must be prepared and sent to the Minister;

(26) to regulate or prohibit the growing, sale, use or transportation of specified invasive plant species whose establishment or propagation in the environment is likely to harm the environment or biodiversity;

(27) to require a land reclamation plan for certain specified classes of projects, activities or industries likely to harm the surface of the soil or destroy the soil, as well as the payment of any guarantee, and prescribe the applicable standards and terms and conditions;

(28) to prescribe, for specified activities or classes of activities, the measures to be implemented on their cessation, as well as monitoring and post-closure management measures; and

(29) to prescribe any measure aimed at promoting the reduction of greenhouse gas emissions and require that climate change impact mitigation and adaptation measures be put in place.

A regulation made under this section may also prescribe any transitional measure necessary for its implementation.

1982, c. 25, s. 8; 1988, c. 49, s. 38; 2017, c. 4, s. 126.

**95.2.** A regulation made under subparagraph 11 or 12 of the first paragraph of section 95.1 and prescribing waste-disposal or elimination fees or charges may provide that all or part of those fees or charges must be paid to the Société québécoise de récupération et de recyclage for the purposes of its functions in the field of residual materials recovery and reclamation.

1982, c. 25, s. 8; 2017, c. 4, s. 126.

**95.3.** The Minister may, by regulation, determine

(1) the fees payable by an applicant for the issue, renewal or amendment of an authorization, approval, accreditation or certification under this Act or the regulations; and

(2) the fees payable by anyone required to file a declaration of compliance with the Minister under section 31.0.6 or 31.68.1.

The fees referred to in the first paragraph are set on the basis of the costs incurred to process the documents referred to in the first paragraph, including to examine them.

Such fees may vary according to the nature, scope or cost of the project, the class of the source of contamination, the characteristics of the enterprise or establishment, in particular its size, or the complexity of the technical and environmental aspects of the file.

The Minister may also set the terms of payment of the fees as well as the interest payable if they are not paid.

1982, c. 25, s. 8; 2017, c. 4, s. 126; 2020, c. 19, s. 22.

**95.4.** The Minister may also, by regulation, determine the fees payable by any person or municipality the Minister specifies and that are intended to cover the costs incurred for control and monitoring measures, in particular the costs for inspecting facilities and examining information or documents provided to the Minister.

Under such a regulation, a person or municipality that has set up an environmental management system that meets a recognized Québec, Canadian or international standard may be exempted from paying all or part of the fees referred to in the first paragraph, on the conditions determined in the regulation.

The fees determined under the first paragraph are based on the nature of the activities, the characteristics of the facility, and the nature, quantity and location of the waste or the stored, buried, processed or treated materials.

The second, third and fourth paragraphs of section 95.3 apply to the fees determined under this section.

1982, c. 25, s. 8; 1988, c. 49, s. 38; 1997, c. 43, s. 534; 2011, c. 20, s. 11; 2017, c. 4, s. 126.

### **95.5.** *(Replaced).*

1982, c. 25, s. 8; 2017, c. 4, s. 126.

### **95.6.** *(Replaced).*

1982, c. 25, s. 8; 1988, c. 49, s. 38; 1997, c. 43, s. 535; 2017, c. 4, s. 126.

### **95.7.** *(Replaced).*

1982, c. 25, s. 8; 1999, c. 75, s. 31; 2017, c. 4, s. 126.

### **95.8.** *(Replaced).*

1982, c. 25, s. 8; 1988, c. 49, s. 38; 1994, c. 40, s. 457; 2017, c. 4, s. 126.

### **95.9.** *(Replaced).*

1982, c. 25, s. 8; 1988, c. 49, s. 38; 2017, c. 4, s. 126.

## CHAPTER V

### STRATEGIC ENVIRONMENTAL ASSESSMENT

2017, c. 4, s. 127.

**95.10.** The Administration's programs determined by government regulation, including the strategies, plans and other forms of guidelines the Administration develops, must be the subject of a strategic environmental assessment under this chapter. The same applies, with the necessary modifications, to draft amendments to such programs.

With regard to the Administration's programs not determined by government regulation, the Government may, exceptionally and on the conditions it determines, make some or all of them subject to such an assessment if they are likely to have significant effects on the environment.

In the development of the Administration's programs, one objective of such an assessment is to promote fuller consideration of environmental issues, including those related to climate change, human health and other living species. Another objective of such an assessment is to take cumulative impacts into consideration and ensure respect for the principles of sustainable development provided for by the Sustainable Development Act (chapter D-8.1.1) in the development of the Administration's programs. A further objective of the assessment may be, if necessary, to determine any conditions of environmental and social acceptability for projects resulting from those programs.

For the purposes of this chapter, "Administration" means the Government, the Conseil exécutif, the Conseil du trésor, a government department, or a government agency within the meaning of the Auditor General Act (chapter V-5.01).

A person appointed or designated by the Government or a minister, together with the personnel directed by the person, is considered to be a government agency in the exercise of the functions assigned to the person by law or by the Government or the Minister.

2017, c. 4, s. 127; I.N. 2017-05-01.

**95.11.** The “Strategic Environmental Assessment Advisory Committee” is established.

The Committee is composed of five members who represent the minister responsible for the administration of this Act, the minister responsible for municipal affairs, the minister responsible for natural resources, the minister responsible for health and the minister responsible for forests, wildlife and parks. Each minister shall designate a member to represent him and is responsible for that member’s remuneration.

In addition, the Committee is composed of three members from civil society appointed by the Minister on the conditions the Minister determines.

The Minister may also appoint additional members for a special mandate, on the conditions the Minister determines.

The Minister shall ensure the coordination of the Committee’s activities.

2017, c. 4, s. 127; I.N. 2017-05-01.

**95.12.** If the Administration must, under section 95.10, conduct a strategic environmental assessment when developing a program, it shall first notify the Minister, who shall then inform the Strategic Environmental Assessment Advisory Committee.

2017, c. 4, s. 127; I.N. 2017-05-01; I.N. 2018-04-01.

**95.13.** The Administration must prepare a strategic environmental assessment scoping report aimed at defining the scope, nature and extent of the public consultations to be carried out and which must include any other information prescribed by government regulation.

The report is submitted to the Strategic Environmental Assessment Advisory Committee for its opinion, and the Committee must make its comments to the Administration in writing within the time prescribed by government regulation. If, in the Committee’s opinion, the scoping report is unsatisfactory, the Administration must amend it in light of the Committee’s comments.

The Minister may, at the Committee’s request, require expert opinions from the Bureau d’audiences publiques sur l’environnement in order to assist the Committee in evaluating the scoping report.

A copy of the final scoping report is sent to the Committee and to the Minister.

2017, c. 4, s. 127; I.N. 2017-05-01.

**95.14.** If, in the opinion of the Strategic Environmental Assessment Advisory Committee, the scoping report is satisfactory, the Administration must then prepare an environmental preview report. The report must take the Committee’s comments into account, describe the expected environmental effects of the program and include any other information prescribed by government regulation.

2017, c. 4, s. 127; I.N. 2017-05-01.

**95.15.** The Administration must submit the environmental preview report to targeted or broad public consultation in the manner specified in the scoping report and, if applicable, that prescribed by government regulation.

The Minister may mandate the Bureau d’audiences publiques sur l’environnement to hold such a consultation. Sections 6.3 to 6.7 apply, with the necessary modifications, to the consultations held by the Bureau.

2017, c. 4, s. 127; I.N. 2017-05-01.

**95.16.** After the public consultation, the Administration must prepare a draft final environmental report containing

- (1) an account of the public consultation, including a summary of the observations and comments received;
- (2) a summary of and justification for the adjustments that will be made to the program to reflect the strategic environmental assessment;
- (3) if applicable, a statement of the measures to monitor the environmental effects identified, as well as the monitoring reports required while the program is being implemented; and
- (4) any other information prescribed by government regulation.

The Administration must submit its draft report to the Strategic Environmental Assessment Advisory Committee, which must send its comments to the Administration within the time prescribed by government regulation. The Administration must, if necessary, revise its report to reflect those comments.

2017, c. 4, s. 127; I.N. 2017-05-01.

**95.17.** The Administration must send a copy of its final environmental report to the Minister and adjust its program on the basis of the report's findings.

2017, c. 4, s. 127; I.N. 2017-05-01.

**95.18.** All reports and documents produced in connection with a strategic environmental assessment conducted under this chapter are made public by the Minister in a strategic environmental assessment register. This also applies to the monitoring reports required while the program concerned is being implemented.

The Minister shall publish such documents and information with dispatch on the Minister's department's website, except the final environmental report, which must be published within 15 days after being received by the Minister.

2017, c. 4, s. 127; I.N. 2017-05-01.

**95.19.** Every five years, the Minister shall propose to the Government a review of the regulations made under this chapter.

2017, c. 4, s. 127; I.N. 2017-05-01.

**96.** *(Section renumbered).*

1972, c. 49, s. 96; 1977, c. 5, s. 14; 1978, c. 64, s. 31; 1979, c. 49, s. 28; 1980, c. 11, s. 72; 1979, c. 49, s. 33; 1982, c. 25, s. 9; 1984, c. 29, s. 16; 1987, c. 25, s. 9; 1988, c. 49, s. 16; 1990, c. 26, s. 6; 1997, c. 43, s. 537; 1999, c. 75, s. 32; 2002, c. 11, s. 4; 2011, c. 20, s. 12; 2009, c. 33, s. 2; 2009, c. 21, s. 23; 2017, c. 4, s. 129.



*See section 118.12.*

**96.1.** *(Section renumbered).*

2011, c. 20, s. 13; 2017, c. 4, s. 130.



*See section 118.13.*

**97.** *(Section renumbered).*

1972, c. 49, s. 97; 1975, c. 83, s. 84; 1979, c. 49, s. 33; 1988, c. 49, s. 38; 1997, c. 43, s. 538; 2011, c. 20, s. 14; 2017, c. 4, s. 131.



*See section 118.14.*

**98.** *(Section renumbered).*

1972, c. 49, s. 98; 1977, c. 5, s. 14; 1979, c. 49, s. 33; 1988, c. 49, s. 38; 1997, c. 43, s. 539; 2011, c. 20, s. 15; 2017, c. 4, s. 132.



*See section 118.15.*

**98.1.** *(Repealed).*

1978, c. 64, s. 32; 1997, c. 43, s. 540; 2017, c. 4, s. 133.

**98.2.** *(Repealed).*

1978, c. 64, s. 32; 1979, c. 49, s. 33; 1982, c. 25, s. 10; 1988, c. 49, s. 38; 1997, c. 43, s. 541; 2017, c. 4, s. 133.

**99.** *(Section renumbered).*

1972, c. 49, s. 99; 1977, c. 5, s. 14; 1979, c. 49, s. 33; 1988, c. 49, s. 38; 1991, c. 30, s. 25; 1991, c. 80, s. 7; 1997, c. 43, s. 542; 2000, c. 60, s. 2; 2011, c. 20, s. 16; 2017, c. 4, s. 134.



*See section 118.16.*

**100.** *(Section renumbered).*

1972, c. 49, s. 100; 1977, c. 5, s. 14; 1978, c. 64, s. 33; 1986, c. 95, s. 278; 1997, c. 43, s. 543; 2017, c. 4, s. 135.



*See section 118.17.*

**101.** *(Repealed).*

1972, c. 49, s. 101; 1977, c. 5, s. 14; 1997, c. 43, s. 544.

**102.** *(Repealed).*

1972, c. 49, s. 105; 1977, c. 5, s. 14; 1979, c. 49, s. 33; 1988, c. 49, s. 38; 1997, c. 43, s. 544.

**103.** *(Repealed).*

1972, c. 49, s. 103; 1977, c. 5, s. 14; 1997, c. 43, s. 544.

**104.** *(Section renumbered).*

1972, c. 49, s. 104; 1978, c. 64, s. 34; 1999, c. 43, s. 13; 1999, c. 75, s. 33; 2003, c. 19, s. 250; 2005, c. 28, s. 196; 2009, c. 26, s. 109; 2017, c. 4, s. 137.



*See section 2.3.*

**104.1.** *(Section renumbered).*

1981, c. 11, s. 1; 2017, c. 4, s. 137.



*See section 2.4.*

**105.** *(Section renumbered).*

1972, c. 49, s. 105; 2017, c. 4, s. 137.



See section 2.5.

## CHAPTER VI

### ADMINISTRATIVE MEASURES

1992, c. 61, s. 495; 2011, c. 20, s. 17; 2017, c. 4, s. 138.

#### **106.** *(Repealed).*

1972, c. 49, s. 106; 1978, c. 64, s. 35; 1979, c. 63, s. 308; 1980, c. 11, s. 73; 1982, c. 25, s. 11; 1985, c. 30, s. 79; 1988, c. 49, s. 17; 1990, c. 4, s. 731; 1991, c. 30, s. 26; 1991, c. 80, s. 8; 1992, c. 56, s. 13; 1999, c. 40, s. 239; 2011, c. 20, s. 18.

#### **106.1.** *(Repealed).*

1988, c. 49, s. 18; 1990, c. 26, s. 7; 1990, c. 4, s. 732; 1992, c. 56, s. 14; 1991, c. 80, s. 9; 1999, c. 40, s. 239; 2002, c. 11, s. 5; 2011, c. 20, s. 18.

#### **106.2.** *(Repealed).*

1988, c. 49, s. 18; 1990, c. 4, s. 733; 1991, c. 30, s. 27; 1999, c. 40, s. 239; 2011, c. 20, s. 18.

#### **107.** *(Repealed).*

1972, c. 49, s. 107; 1978, c. 64, s. 35; 1979, c. 49, s. 33; 1988, c. 49, s. 19; 1990, c. 26, s. 8; 1990, c. 4, s. 734; 1999, c. 40, s. 239; 2002, c. 11, s. 6; 2011, c. 20, s. 18.

#### **107.1.** *(Repealed).*

1978, c. 64, s. 35; 1990, c. 4, s. 735; 2011, c. 20, s. 18.

#### **108.** *(Repealed).*

1972, c. 49, s. 108; 1978, c. 64, s. 36; 1984, c. 29, s. 17; 1988, c. 49, s. 20; 1990, c. 4, s. 736; 1999, c. 40, s. 239; 2011, c. 20, s. 18.

#### **108.1.** *(Repealed).*

1978, c. 64, s. 36; 1979, c. 49, s. 38; 1992, c. 61, s. 496.

#### **109.** *(Repealed).*

1972, c. 49, s. 109; 1982, c. 25, s. 12; 1988, c. 49, s. 21; 1990, c. 26, s. 9; 2002, c. 11, s. 7; 2002, c. 53, s. 14; 2004, c. 24, s. 8; 2011, c. 20, s. 18.

#### **109.1.** *(Repealed).*

1978, c. 64, s. 37; 1980, c. 11, s. 74; 1984, c. 29, s. 18; 1988, c. 49, s. 22; 1990, c. 26, s. 10; 1990, c. 4, s. 737; 1999, c. 40, s. 239; 2011, c. 20, s. 18.

#### **109.1.1.** *(Repealed).*

1988, c. 49, s. 23; 1992, c. 61, s. 497; 2011, c. 20, s. 18.

#### **109.1.2.** *(Repealed).*

1988, c. 49, s. 23; 1992, c. 61, s. 498; 2011, c. 20, s. 18.

**109.2.** *(Repealed).*

1978, c. 64, s. 37; 2011, c. 20, s. 18.

**109.3.** *(Repealed).*

1988, c. 49, s. 24; 1990, c. 26, s. 11; 1999, c. 40, s. 239; 2011, c. 20, s. 18.

**110.** *(Repealed).*

1972, c. 49, s. 110; 1978, c. 64, s. 38; 1990, c. 4, s. 738; 2011, c. 20, s. 18.

**110.1.** *(Repealed).*

1978, c. 64, s. 39; 1979, c. 49, s. 33; 1982, c. 25, s. 13; 1984, c. 29, s. 19; 1985, c. 30, s. 80; 1988, c. 49, s. 25; 1990, c. 4, s. 739; 1992, c. 61, s. 659; 1992, c. 61, s. 499; 1991, c. 80, s. 10; 2011, c. 20, s. 18.

**110.2.** *(Repealed).*

1978, c. 64, s. 39; 1986, c. 95, s. 279.

**111.** *(Repealed).*

1972, c. 49, s. 111; 1990, c. 4, s. 740.

**112.** *(Repealed).*

1972, c. 49, s. 112; 2011, c. 20, s. 18.

**112.0.1.** *(Repealed).*

2009, c. 21, s. 26; 2011, c. 20, s. 18.

**112.1.** *(Repealed).*

1988, c. 49, s. 26; 1990, c. 4, s. 741; 1992, c. 61, s. 500.

**DIVISION I**

**POWERS AND ORDERS**

2017, c. 4, s. 140.

**113.** When someone refuses or neglects to do something ordered under this Act, the Minister may cause the thing to be done at the expense of the offender and may recover the costs from the offender, including interest and other charges.

1972, c. 49, s. 113; 1977, c. 5, s. 14; 1984, c. 29, s. 20; 1990, c. 26, s. 12; 1992, c. 57, s. 680; 1999, c. 40, s. 239; 2011, c. 20, s. 19.

**114.** If a person or municipality does not comply with this Act or the regulations, or with an authorization, order, approval, certificate, attestation, accreditation or certification issued under them, in particular by doing work, erecting structures or works or carrying on other activities in contravention of any of them, the Minister may, on the conditions the Minister determines, order the person or municipality to remedy the situation by doing one or more of the following:

(1) cease, modify or limit the activity concerned, to the extent determined by the Minister;

(2) reduce or cease the release of contaminants into the environment, and install or use any equipment or apparatus required for that purpose;



- (3) demolish all or part of the work, structures or works concerned;
- (4) restore all or part of the site to the state it was in before the work or other activities began or the structures or works were erected, or to a state approaching its original state;
- (5) implement compensatory measures; or
- (6) take any other measure the Minister considers necessary to remedy the situation.

The Minister may also, if of the opinion that it is necessary to ensure supervision of environmental quality, order the owner or lessee of a site where a source of contamination is located, or anyone else who is responsible for the site, to install, within the time and at the place designated by the Minister, any class or type of equipment or apparatus for measuring the concentration, quality or quantity of any contaminant, and oblige whoever is responsible to send the data collected in the manner and form determined by the Minister.

In addition, the Minister may order the owner or lessee of a site where a source of contamination is located, or anyone else who is responsible for the site, to install, within the time and at the place designated by the Minister, any works the Minister considers necessary to carry out sampling and analysis of any source of contamination or to install any equipment or apparatus described in the preceding paragraph, and require the owner, lessee or whoever is responsible for the site to send the data collected in the manner and form determined by the Minister.

1972, c. 49, s. 114; 1979, c. 49, s. 33; 1988, c. 49, s. 27; 2005, c. 50, s. 77; 2011, c. 20, s. 20; 2017, c. 4, s. 141.

**114.1.** Where he considers that there is urgency, the Minister may order any person or municipality being the owner of certain contaminants or having had the custody or control thereof, to collect or to remove any contaminant released into the water or onto the soil, accidentally or contrary to the provisions of this Act or the regulations, and to take the measures required to clean the water and the soil so that these contaminants cease to be spread or to propagate in the environment.

1978, c. 64, s. 40; 2017, c. 4, s. 142.

**114.2.** *(Repealed).*

1978, c. 64, s. 40; 1979, c. 49, s. 33; 1988, c. 49, s. 38; 2011, c. 20, s. 21.

**114.3.** The Minister may claim the direct and indirect costs of issuing an order under this Act from the person or municipality to whom the order applies.

If the order issued by the Minister is contested before the Administrative Tribunal of Québec, the claim is suspended until the Tribunal confirms all or part of the order.

2004, c. 24, s. 9; 2011, c. 20, s. 22; 2017, c. 4, s. 143.

**115.** In all cases where an offender is found guilty of an offence against this Act or the regulations, the Minister may, at the expense of the offender, take one or more of the measures provided for in section 114, under the same conditions.

1972, c. 49, s. 115; 2011, c. 20, s. 23.

**115.0.1.** When contaminants are, could be or could be prevented from being released into the environment, the Minister may claim from a person or municipality the costs of any intervention by the Minister to avert or diminish any adverse effects on the quality of the environment, on the life, health, safety, well-being or comfort of human beings or on ecosystems, other living species or property.

The first paragraph refers to a person or municipality that has custody or control of a contaminant or that had custody or control of it when the release into the environment occurred, or that is responsible for the occurrence.

The Minister may intervene in any situation referred to in the first paragraph until the situation is corrected.

The Minister may claim the direct and indirect costs related to the Minister's interventions from a person or municipality referred to in the first paragraph, whether or not that person or municipality was prosecuted for an offence under this Act.

2004, c. 24, s. 10; 2011, c. 20, s. 24; 2017, c. 4, s. 144.

**115.1.** The Minister may take all such measures as he may indicate to clean, collect or contain contaminants that are or that are likely to be released into the environment or to prevent their being released into the environment, where he considers such measures necessary to avert or diminish any adverse effects on the quality of the environment, on the life, health, safety, well-being or comfort of human beings or on ecosystems, other living species or property.

The Minister may also, where the measures the Minister takes under the first paragraph concern the presence of land contaminants, require registration in the land register of a notice of use restriction, a notice of contamination or a notice of decontamination, as the case may be, respectively referred to in sections 31.47, 31.58 and 31.59, which apply with the necessary modifications.

The Minister may claim the direct and indirect costs related to such measures or registration in the land register from any person or municipality who had custody of or control over the contaminants and from any person or municipality responsible for the release of the contaminants, as the case may be, whether or not the latter has been prosecuted for infringement of this Act.

1978, c. 64, s. 41; 1982, c. 25, s. 14; 1984, c. 29, s. 21; 2002, c. 11, s. 8; 2011, c. 20, s. 25; 2017, c. 4, s. 145.

**115.2.** The Minister may delegate, to a person the Minister designates, the power to make an order under subparagraph 1 of the first paragraph of section 114. However, that person may not make such an order unless of the opinion that the work, structures, works or other activities concerned cause or create a risk of causing serious harm or damage to living species, human health or the environment. Such an order is valid for a period of not more than 90 days.

In such a case, the person or municipality concerned may be ordered to take, within the time specified in the order, the measures required to prevent or reduce the risk of such harm or damage.

Any order made under this section is deemed to have been made by the Minister for the purposes of this Act or the regulations.

2011, c. 20, s. 26; 2017, c. 4, s. 146.

**115.3.** *(Repealed).*

2011, c. 20, s. 26; 2017, c. 4, s. 147.

**115.3.1.** The Minister may order the operator of any quarry or sand pit who began operations before 17 August 1977 to prepare and implement a land reclamation and restoration plan in accordance with the conditions specified by the Minister.

2017, c. 4, s. 148.

**115.4.** An order made under this Act must include reasons and takes effect on the date of its notification to the offender or on any later date specified in the order.

The secretary-treasurer or clerk of the local municipality in whose territory an order under this Act is to be enforced must be informed of the order by the Minister.

2011, c. 20, s. 26; 2017, c. 4, s. 149.

**115.4.1.** Before making an order under this Act, the Minister must notify the prior notice prescribed by section 5 of the Act respecting administrative justice (chapter J-3) to the person or municipality concerned and allow the person or municipality at least 15 days to submit observations.

2017, c. 4, s. 149.

**115.4.2.** Despite section 115.4.1, the Minister may issue an order under this Act without first notifying the prior notice required under that section, provided the order is made in urgent circumstances or in order to prevent serious or irreparable harm or damage to human beings, ecosystems, other living species, the environment or property.

A person or municipality to whom or which an order referred to in the first paragraph has been notified may, within the time specified in it, submit observations to the Minister with a view to obtaining a review of the order.

2017, c. 4, s. 149.

**115.4.3.** Any order issued to the owner of an immovable must be registered against the immovable. It may then be invoked against any acquirer whose title is registered subsequently, and the obligations imposed on the former owner by the order are binding on the subsequent acquirer.

2017, c. 4, s. 149.

**115.4.4.** In the event of non-compliance with an order issued under this Act, the costs related to implementing the measures ordered by the Minister and incurred by him in exercising his powers under section 113 constitute a prior claim on the immovable of the same nature and with the same rank as the claims referred to in paragraph 5 of article 2651 of the Civil Code.

The same applies to amounts owed to the Minister under sections 115.0.1 and 115.1.

Articles 2654.1 and 2655 of the Civil Code apply, with the necessary modifications, to the claims referred to in the first and second paragraphs.

2017, c. 4, s. 149.

**115.4.5.** The Minister may, after investigation, order a municipality to exercise the powers relating to environmental quality conferred on it by this Act or any other Act.

2017, c. 4, s. 149.

**115.4.6.** Before issuing an order entailing expenditures for the municipality, the Minister shall consult the Minister of Municipal Affairs, Regions and Land Occupancy.

1990, c. 26, s. 17; 1999, c. 43, s. 13; 2003, c. 19, s. 250; 2005, c. 28, s. 196; 2009, c. 26, s. 109; 2017, c. 4, s. 186.

**DIVISION II**

**REFUSAL, AMENDMENT, SUSPENSION AND REVOCATION OF AUTHORIZATION**

2011, c. 20, s. 26; 2017, c. 4, s. 150.

**115.5.** The Government or the Minister may, for all or part of a project, refuse to issue, amend or renew an authorization, or may amend, suspend or revoke it if the applicant or holder or, in the case of a legal person, one of its directors, officers or shareholders:

(1) is the prête-nom of another person;

(2) has, in the last five years, been convicted of an offence under a fiscal law, an indictable offence connected with activities covered by the authorization or an indictable offence under sections 467.11 to 467.13 of the Criminal Code (R.S.C. 1985, c. C-46);

(3) has filed a false declaration or document, or false information, or has distorted or has omitted to report a material fact to have the authorization issued, maintained, amended or renewed;

(4) has been convicted of an offence under this Act or the regulations in the last two years, or in the last five years if the minimum amount of the fine to which the offender is liable is that provided for in section 115.32;

(5) has failed to comply with an order or an injunction made under this Act;

(6) has defaulted on payment of an amount, including a fine or a monetary administrative penalty, owed under this Act or any other Act administered by the Minister or any regulation under those Acts;

(7) is not dealing at arm's length, within the meaning of the Taxation Act (chapter I-3), with a person who carries on a similar activity but whose authorization has been suspended or revoked or is the subject of an injunction or order to that effect, unless it is proven that the activity of the holder or applicant does not constitute a continuation of the activity of that person.

Subparagraphs 5 and 6 of the first paragraph apply to a failure to comply with an order, or to pay an amount owing, only upon expiry of the time for contesting the order or claim before the competent court or tribunal or for applying for a review in the case of a monetary administrative penalty, or, if applicable, only as of the 30th day following the final decision of the Tribunal confirming all or part of the order or claim.

2011, c. 20, s. 26; 2017, c. 4, s. 151; I.N. 2020-02-01.

**115.6.** The Government or the Minister may, for all or part of a project, refuse to issue, amend or renew an authorization, or may amend, suspend or revoke it if the applicant or holder or, in the case of a legal person, one of its directors, officers or shareholders has, for the purpose of financing activities covered by the authorization, entered into a contract for a loan of money with a person and this person or, in the case of a legal person, one of its directors, officers or shareholders has, in the last five years, been convicted of an offence under a fiscal law, an indictable offence connected with activities covered by the authorization or an indictable offence under any of sections 467.11 to 467.13 of the Criminal Code (R.S.C. 1985, c. C-46).

2011, c. 20, s. 26; 2017, c. 4, s. 152.

**115.7.** The Government or the Minister may, for all or part of a project, refuse to issue, amend or renew an authorization, or may amend, suspend or revoke it, if the applicant or holder or, in the case of a legal person, one of its directors, officers or shareholders, was a director, officer or shareholder of a legal person that

(1) has been convicted of an offence under this Act or the regulations in the last two years, or in the last five years if the minimum amount of the fine to which the offender is liable is that provided for in section 115.32;

(2) has, in the last five years, been convicted of an offence under a fiscal law, an indictable offence connected with activities covered by the authorization or an indictable offence under any of sections 467.11 to 467.13 of the Criminal Code (R.S.C. 1985, c. C-46).

2011, c. 20, s. 26; 2017, c. 4, s. 153.

**115.8.** For the purposes of sections 115.5 to 115.7, the applicant or holder must, in order to be issued an authorization or have it maintained, amended or renewed, file the declaration prescribed by government regulation.

The Government or the Minister may also, for the same purposes, require any additional information or document, in particular as regards penal or indictable offences of which the applicant or holder or any of their money lenders or, in the case of a legal person, any of its directors, officers or shareholders, has been convicted.

This section also applies to anyone who wishes to be transferred an authorization in accordance with section 31.0.2 or an accreditation in accordance with section 118.9.

2011, c. 20, s. 26; 2017, c. 4, s. 154.

**115.9.** For the purposes of sections 115.5 to 115.8,

(1) “shareholder” refers exclusively to a natural person who holds, directly or indirectly, shares that carry 20% or more of the voting rights in a legal person that is not a reporting issuer under the Securities Act (chapter V-1.1);

(2) “loan of money” does not include a loan granted by insurers as defined by the Insurers Act (chapter A-32.1), financial services cooperatives as defined by the Act respecting financial services cooperatives (chapter C-67.3), trust companies or savings companies as defined by the Trust Companies and Savings Companies Act (chapter S-29.02) or banks listed in Schedule I or II of the Bank Act (S.C. 1991, c. 46), insofar as those financial institutions are duly authorized to act in that capacity;

(3) in the case of a conviction for an indictable offence, the administrative penalty does not apply if the person has obtained a pardon for the offence.

2011, c. 20, s. 26; 2018, c. 23, s. 811.

**115.10.** The Government or the Minister may, for all or part of a project, amend, suspend or revoke an authorization, or refuse to amend or renew it, if the holder

(1) fails to comply with its provisions or uses it for purposes other than those specified in the authorization;

(2) fails to comply with this Act or the regulations; or

(3) fails to begin an activity within the time specified in the authorization or, if no time limit is specified, within two years after the authorization is issued.

2011, c. 20, s. 26; 2017, c. 4, s. 155.

**115.10.1.** If, in light of new or additional information that becomes available after an authorization is issued under this Act or after existing information is reassessed on the basis of new or additional scientific knowledge, the Minister is of the opinion that an activity he authorized under this Act is likely to cause irreparable harm or damage to or have serious adverse effects on living species, human health or the environment, the Minister may limit or put a stop to the activity or make it subject to any special standard or any condition, restriction or prohibition the Minister deems necessary to remedy the situation, for the period the Minister determines or permanently.

The Minister may exercise the power under the first paragraph with regard to any activity authorized by the Government under this Act. However, such a decision is valid for a period of not more than 30 days.

The Minister may also, for the same reasons and to the same extent as provided for in the first paragraph, limit or put a stop to any activity for which a declaration of compliance was filed or which may be carried out without prior authorization under this Act. The Minister may make such an activity subject to any special standard or any condition, restriction or prohibition the Minister determines.

2017, c. 4, s. 155.

**115.10.2.** For activities carried on in connection with a project it has authorized, the Government may, on the Minister's recommendation based on the reasons set out in the first paragraph of section 115.10.1, for the period it determines or permanently,

- (1) modify the special standards or the conditions, restrictions or prohibitions governing the activity concerned;
- (2) impose any new special standard or condition, restriction or prohibition on the activity; or
- (3) limit or put a stop to the activity.

2017, c. 4, s. 155.

**115.10.3.** A decision made by the Minister or the Government under sections 115.10.1 and 115.10.2, respectively, entails no compensation from the State and prevails over any incompatible provision of an Act, by-law, regulation or order in council.

2017, c. 4, s. 155.

**115.11.** Section 115.4.1 applies, with the necessary modifications, to any decision made by the Minister under any of sections 115.5 to 115.10.1.

In addition, before making a decision under those sections, the Government must allow the applicant or authorization holder at least 15 days to submit written observations.

Section 115.4.2 applies in the same way, with the necessary modifications, to any decision of the Minister or Government.

2011, c. 20, s. 26; 2017, c. 4, s. 156.

**115.12.** Sections 115.5 to 115.11 apply, with the necessary modifications and in addition to any other provisions concerning specific conditions of refusal, amendment, suspension or revocation, to all approvals, certificates, attestations, authorizations, accreditations and certifications granted under this Act or the regulations.

2011, c. 20, s. 26; 2017, c. 4, s. 157.

## **DIVISION III**

### **MONETARY ADMINISTRATIVE PENALTIES**

2011, c. 20, s. 26; 2017, c. 4, s. 160.

**115.13.** Persons designated by the Minister may impose monetary administrative penalties on any person or municipality that fails to comply with this Act or the regulations in the cases and under the conditions set out in them.

For the purposes of the first paragraph, the Minister develops and makes public a general framework for applying such administrative penalties in connection with penal proceedings, specifying the following elements:

- (1) the purpose of the penalties, such as urging the person or municipality to take rapid measures to remedy the failure and deter its repetition;
- (2) the categories of functions held by the persons designated to impose penalties;
- (3) the criteria that must guide designated persons when a failure to comply has occurred, such as the type of failure, its repetitive nature, the seriousness of the effects or potential effects, and the measures taken by the person or municipality to remedy the failure;
- (4) the circumstances in which priority will be given to penal proceedings;
- (5) the other procedures connected with such a penalty, such as the fact that it must be preceded by notification of a notice of non-compliance.

The general framework must give the categories of administrative or penal sanctions as defined by the Act or the regulations.

2011, c. 20, s. 26; 2017, c. 4, s. 158.

**115.14.** No decision to impose a monetary administrative penalty may be notified to a person or municipality for a failure to comply with this Act or the regulations if a statement of offence has already been served on the person or municipality for a failure to comply with the same provision on the same day, based on the same facts.

2011, c. 20, s. 26; 2017, c. 4, s. 159.

**115.15.** In the event of a failure to comply with this Act or the regulations, a notice of non-compliance may be notified to the person or municipality concerned urging that the necessary measures be taken immediately to remedy the failure. Such a notice must mention that the failure may give rise to a monetary administrative penalty and penal proceedings.

2011, c. 20, s. 26.

**115.16.** When a person designated by the Minister imposes a monetary administrative penalty on a person or municipality, the designated person must notify the decision by a notice of claim in accordance with section 115.48.

No accumulation of monetary administrative penalties may be imposed on the same person or municipality for failure to comply with the same provision if the failure occurs on the same day and is based on the same facts. In cases where more than one penalty would be applicable, the person imposing the penalty decides which one is most appropriate in light of the circumstances and the purpose of the penalties.

2011, c. 20, s. 26.

**115.17.** The person or municipality may apply in writing for a review of the decision within 30 days after notification of the notice of claim.

2011, c. 20, s. 26; 2017, c. 4, s. 161.

**115.18.** The Minister designates the persons responsible for reviewing decisions on monetary administrative penalties. They must not come under the same administrative authority as the persons who impose such penalties.

2011, c. 20, s. 26.

**115.19.** After giving the applicant an opportunity to submit observations and produce any documents to complete the record, the person responsible for reviewing the decision renders a decision on the basis of the record, unless the person deems it necessary to proceed in some other manner. That person may confirm, quash or vary the decision under review.

2011, c. 20, s. 26.

**115.20.** The application for review must be dealt with promptly. The review decision must be written in clear and concise terms, with reasons given, must be notified to the applicant and must state the applicant's right to contest the decision before the Administrative Tribunal of Québec and the time limit for bringing such a proceeding.

If the review decision is not rendered within 30 days after receipt of the application or, if applicable, after the time required by the applicant to submit observations or documents, the interest provided for in the fifth paragraph of section 115.48 on the amount owed ceases to accrue until the decision is rendered.

2011, c. 20, s. 26; 2017, c. 4, s. 162.

**115.21.** The imposition of a monetary administrative penalty for failure to comply with the Act or the regulations is prescribed by two years as of the date of the failure to comply.

However, if false representations have been made to the Minister, or to a functionary, employee or other person referred to in any of sections 119 to 120.1, or if a failure to comply relates to hazardous materials referred to in Division VII.1 of Chapter I, or to section 20, the monetary administrative penalty may be imposed within two years after the date on which the inspection or investigation that led to the discovery of the failure to comply was begun.

In the absence of evidence to the contrary, the certificate of the Minister, inspector or investigator constitutes conclusive proof of the date on which the inspection or investigation was begun.

2011, c. 20, s. 26.

**115.22.** If a failure to comply for which a monetary administrative penalty may be imposed continues for more than one day, it constitutes a new failure for each day it continues.

2011, c. 20, s. 26.

**115.23.** A monetary administrative penalty of \$250 in the case of a natural person and \$1,000 in any other case may be imposed on any person or municipality that, in contravention of this Act, fails

(1) to send a notice or provide any information, study, research findings, expert evaluation, report, plan, program or document or fails to file them in the prescribed time, in cases where no other monetary administrative penalties are provided for by this Act or the regulations;

(2) to establish, maintain or, if applicable, update a list or register; or

(3) to post or publish information, a notice or a document.

The penalty provided for in the first paragraph may also be imposed on any person or municipality that

(1) fails to make a characterization study available to the Minister in accordance with the third paragraph of section 31.59 or section 70.5.5; or

(2) removes, defaces or allows to be defaced a notice posted under section 120.

2011, c. 20, s. 26; 2013, c. 16, s. 199; 2017, c. 4, s. 163.



**115.24.** A monetary administrative penalty of \$500 in the case of a natural person and \$2,500 in any other case may be imposed on any person or municipality that, in contravention of this Act,

(1) fails to comply with any standard or any condition, restriction, prohibition or requirement relating to an approval, authorization, certificate, attestation or certification issued by the Government or the Minister under this Act, in cases where no other monetary administrative penalty is provided for in this Act or the regulations for such failure;

(2) fails to apply or comply with a land rehabilitation plan, a corrective program, a depollution program or a residual materials management plan;

(3) fails to furnish security or establish a trust, or fails to maintain such security or trust for the entire period it is required; or

(4) fails to register in the land register.

The penalty provided for in the first paragraph may also be imposed on any person or municipality that

(1) fails to submit activity reports to the Minister under the fourth paragraph of section 29 at the intervals and in the manner and form determined by the Minister;

(2) fails to provide information requested under section 31.0.4 or under subparagraph 1 of the first paragraph of section 53.31;

(3) fails to notify the Minister in the cases referred to in section 31.0.9 or 31.16 and in accordance with the conditions provided for in those sections;

(4) fails to send the Minister an expert's certificate under section 31.48 or the fourth paragraph of section 31.68.1;

(5) has custody of land but does not grant access to a person requiring such access for the purposes set out in section 31.63;

(6) fails to establish a committee to exercise the function set out in the first paragraph of section 57; or

(7) prevents a person referred to in section 119 from exercising the powers conferred by that section or hinders such a person.

2011, c. 20, s. 26; 2013, c. 16, s. 199; 2017, c. 4, s. 164; 2021, c. 5, s. 8.

**115.25.** A monetary administrative penalty of \$1,000 in the case of a natural person and \$5,000 in any other case may be imposed on any person or municipality that

(1) fails to notify the Minister without delay of an accidental release of a contaminant into the environment, as required under section 21;

(2) carries out a project, carries on an activity or does something without first obtaining the authorization, approval, certificate, attestation, accreditation or certification required under this Act, in particular under sections 22, 31.0.5.1, 31.1 and 118.6;

(3) makes a change referred to in section 30 or 31.7 with regard to an activity authorized by the Government or the Minister without first obtaining an amendment to the authorization concerned as required under those sections;

(4) fails to comply with a condition, restriction or prohibition determined by the Government, a committee of ministers or the Minister under section 31.0.12, 31.6, 31.7.1 or the second paragraph of section 31.7.2;

(5) fails to inform the Minister of a permanent cessation of a water withdrawal or to comply with the measures the Minister imposes, as required under section 31.83;

(6) fails to carry out a characterization study or to submit a land rehabilitation plan together with the required documents for the Minister's approval, as required by this Act;

(7) fails to keep the facility concerned operating until the alternative measures approved by the Minister take effect, as required under the second paragraph of section 32.7;

(8) sets up or operates premises referred to in the first paragraph of section 33 that are not equipped with an authorized water management or treatment facility or one that complies with that section;

(9) imposes a different rate than the one imposed by the Minister, or imposes a rate before the date prescribed by the Minister in accordance with section 39;

(9.1) fails to carry out any work determined under the second paragraph of section 46.0.5 to replace the payment of a financial contribution or fails to comply with any condition, restriction or prohibition prescribed under that provision; or

(10) fails to fulfill the obligations set out in the first or second paragraph of section 66 with respect to the deposit or discharge of residual materials.

The penalty prescribed in the first paragraph may also be imposed on any person or municipality that fails to comply with a measure imposed by the Minister under section 31.0.5, 31.24, 31.83 or 70.18.

2011, c. 20, s. 26; 2013, c. 16, s. 199; 2017, c. 4, s. 165; 2017, c. 14, s. 33.

**115.26.** A monetary administrative penalty of \$2,000 in the case of a natural person and \$10,000 in any other case may be imposed on any person or municipality that

(1) releases or permits the release of a contaminant into the environment in a quantity or concentration exceeding that determined under this Act, in particular under section 25, 26 or 31.37, contrary to the first paragraph of section 20;

(2) contravenes the prohibition in the second paragraph of section 20 against the release of any contaminant whose presence in the environment is likely to adversely affect the life, health, safety, welfare or comfort of human beings, or to cause damage to or otherwise impair the quality of the environment, ecosystems, living species or property;

(3) is responsible for an accidental release of contaminants into the environment and fails to stop it as required under section 21;

(4) has custody of land in which contaminants are found and fails to notify the owner of the neighbouring land of their presence or to send a copy of the notice to the Minister, in the cases and on the conditions set out in section 31.52;

(5) contravenes the prohibition in section 31.90 or 31.105 against transferring water;

(6) fails to take water samples as required under section 45.1 and to forward them to an accredited laboratory;

(7) fails to take the measures prescribed by the Minister in accordance with an emergency plan formulated under section 49 in case of air pollution;

(7.1) has, on its own initiative, contrary to what is prescribed in section 53.31.0.2, developed or implemented in whole or in part a system for selective collection of certain residual materials if the development, implementation and financing of such a system are conferred, by a regulation made under

subparagraph *b* of subparagraph 6 of the first paragraph of section 53.30 and under section 53.30.1, on persons determined by the regulation;

(8) conducts the study required under section 65 but fails to notify the owner of the neighbouring land or to send a copy of the notice to the Minister, in the cases and on the conditions set out in section 65.3;

(9) is responsible for an accidental release of hazardous materials into the environment and fails to

(a) recover them, as required under section 70.5.1; or

(b) notify the owner of the neighbouring land or send a copy of the notice to the Minister, in the cases and on the conditions set out in section 70.5.3;

(10) fails to comply with an order imposed under this Act, or in any way prevents or hinders its enforcement;

(11) carries out a project, carries on or pursues an activity or does something even though

(a) the issue or renewal of the approval, authorization, certificate, attestation, accreditation or certification required under this Act has been refused; or

(b) the approval, authorization, certificate, attestation, accreditation or certification required under this Act has been suspended or revoked; or

(12) carries on an activity or does something that contravenes a decision the Government or the Minister renders in his or its regard under this Act.

In addition, the penalty provided for in the first paragraph may be imposed on any municipality that does not prohibit access, in accordance with section 83, to any bathing place considered to be a danger to health.

2011, c. 20, s. 26; 2013, c. 16, s. 199; 2017, c. 4, s. 166; 2021, c. 5, s. 9.

**115.27.** The Government or the Minister may, in a regulation made under this Act, specify that a failure to comply with the regulation may give rise to a monetary administrative penalty. The regulation may define the conditions for applying the penalty and set forth the amounts or the methods for determining them. The amounts may vary according to the degree to which the standards have been infringed, without exceeding the maximum amounts provided for in section 115.26. The maximum amounts may nonetheless be higher in the case of a monetary administrative penalty provided for in a regulation made under paragraph 2 of section 46.15.

2011, c. 20, s. 26.

**115.28.** If a provision of a regulation made by the Government under this Act is enforceable by a municipality and failure to comply with the provision may give rise to a monetary administrative penalty, the penalty may also be imposed by any municipality designated for that purpose by the Government for a failure that occurred on its territory. However, such a penalty may not be imposed in addition to a penalty imposed by a person designated by the Minister on the same person or municipality on the same day, based on the same facts.

The provisions of this Act concerning monetary administrative penalties apply to the municipality that imposes such a penalty, with the necessary modifications and under the conditions determined by the Government, which include the possibility of the decision being contested before the competent municipal court and details on the procedures for recovering the amounts owed.

A municipality that imposes a monetary administrative penalty may charge fees for the recovery of the amount.

The amounts collected by a municipality under this section belong to it and, with the exception of recovery fees, must be used to finance environmental measures and programs.

2011, c. 20, s. 26.

## CHAPTER VII

### PENAL PROVISIONS

2011, c. 20, s. 26; 2017, c. 4, s. 167.

#### **115.29.** Whoever

(1) contravenes section 31.0.1, paragraph 2 of section 31.38, section 31.55, the third paragraph of section 31.59, section 31.68, 50, 51, 52, subparagraph 2 or 3 of the first paragraph or the second paragraph of section 53.31, section 64.3 or 64.11, the third paragraph of section 65, section 68.1 or 70.5, the third paragraph of section 70.5.5, or section 70.6, 70.7 or 124.4,

(2) contravenes the first paragraph of section 121 by removing, defacing or allowing to be defaced a notice the person was ordered to post,

(3) refuses or neglects to send a notice or provide any information, study, research findings, expert evaluation, report, plan, program or any other documents required under this Act or the regulations, or fails to file them within the prescribed time, in cases where no other penalties are provided for by this Act or the regulations,

commits an offence and is liable to a fine of \$1,000 to \$100,000 in the case of a natural person and \$3,000 to \$600,000 in any other case.

2011, c. 20, s. 26; 2013, c. 16, s. 199; 2017, c. 4, s. 168; 2021, c. 5, s. 10.

#### **115.30.** Whoever

(1) contravenes the fourth paragraph of section 29, section 31.0.4, 31.0.9 or 31.16, paragraph 1 of section 31.38, section 31.47 or 31.48, the fourth paragraph of section 31.68.1, section 31.58, the third paragraph of section 31.60, section 31.63, subparagraph 1 or 2 of the first paragraph of section 46.2, section 46.10, subparagraph 1 of the first paragraph of section 53.31, section 53.31.12 or 56, the first paragraph of section 57, section 64.2 or 64.10, the second paragraph of section 65, the first paragraph of section 65.2 or 70.5.4, or section 123.1,

(2) fails to comply with any standard or any condition, restriction, prohibition or requirement relating to an approval, authorization, certificate, attestation, accreditation or certification issued by the Government or the Minister under this Act, in cases where no other penalty is provided for in this Act or the regulations,

(3) fails to comply with a corrective program imposed by the Minister under section 31.28,

(4) fails to apply or comply with a land rehabilitation plan approved by the Minister under this Act,

(5) fails to comply with a depollution program approved by the Minister under section 124.3,

(6) hinders a functionary, employee or other person referred to in section 119, 119.1, 120 or 120.1 in the performance of the duties of office, or hampers or misleads such a person by concealment or false declarations, or fails to obey an order such a person is authorized to give under this Act or the regulations,

(7) fails to furnish security or establish a trust, or fails to maintain such security or trust for the entire period it is required,

(8) fails to register in the land register as required by this Act or the regulations,

(9) *(paragraph repealed)*,

commits an offence and is liable to a fine of \$2,500 to \$250,000 in the case of a natural person and \$7,500 to \$1,500,000 in any other case.

2011, c. 20, s. 26; 2013, c. 16, s. 199; 2017, c. 4, s. 169; 2021, c. 5, s. 11; I.N. 2021-06-01 .

### **115.31.** Whoever

(1) contravenes section 22, the first paragraph of section 30, section 31.0.5.1, 31.1, 31.7, 31.10, 31.26, 31.51, 31.51.1, 31.53, 31.54 or 31.57, the second paragraph of section 31.68.1, section 31.75, the first or second paragraph of section 32.7, section 33, 39, 41 or 43, the first paragraph of section 46.6, section 55, 66, 70.5.2, 70.8 or 70.9, the first paragraph of section 118.9, or section 154 or 189,

(2) fails to notify the Minister without delay of any accidental release of a contaminant into the environment, as required under section 21,

(3) fails to comply with a condition, restriction or prohibition determined by the Government, a committee of ministers or the Minister under section 31.0.12, 31.6 or 31.7.1 or the second paragraph of section 31.7.2,

(4) fails to comply with a measure imposed by the Minister under section 31.0.5, 31.24, 31.83 or 70.18,

(5) fails to inform the Minister of a permanent cessation of a water withdrawal or to comply with the measures the Minister imposes, as required under section 31.83,

(5.1) fails to carry out any work determined under the second paragraph of section 46.0.5 to replace the payment of a financial contribution or fails to comply with any condition, restriction or prohibition prescribed under that provision;

(6) files or signs an attestation required under this Act or the regulations that is false or misleading,

(7) carries out a project, carries on an activity or does something without first obtaining any other authorization required under this Act or the regulations, in cases where no other penalty is provided for in this Act or the regulations, or

(8) makes a declaration or provides information that is false or misleading in order to obtain an approval, authorization, certificate, attestation, accreditation or certification required under this Act or the regulations,

commits an offence and is liable, in the case of a natural person, to a fine of \$5,000 to \$500,000 or, despite article 231 of the Code of Penal Procedure (chapter C-25.1), to a maximum term of imprisonment of 18 months, or to both the fine and imprisonment, and, in any other case, to a fine of \$15,000 to \$3,000,000.

If penal proceedings are brought against a professional within the meaning of the Professional Code (chapter C-26) for an offence under subparagraph 6 of the first paragraph, the Minister shall inform the syndic of the professional order concerned.

2011, c. 20, s. 26; 2013, c. 16, s. 199; 2017, c. 4, s. 170; 2017, c. 14, s. 34.

### **115.32.** Whoever

(1) contravenes section 20, 31.52, 45, 45.1, 65.3, 70.5.1, 70.5.3 or 83,

(2) is responsible for an accidental release of contaminants into the environment and fails to stop it as required under section 21,

(3) contravenes the prohibition against transferring water prescribed by section 31.90 or 31.105,

(4) fails to take the measures prescribed by the Minister in accordance with an emergency plan formulated under section 49 in case of air pollution,

(5) contravenes the prohibition in section 53.31.0.2;

(6) fails to comply with an order imposed under this Act, or in any manner hinders or prevents the enforcement of such an order,

(7) carry out a project, carry on or pursue an activity or do something even though

(a) the issue or renewal of the approval, authorization, certificate, attestation, accreditation or certification required under this Act has been refused, or

(b) the approval, authorization, certificate, attestation, accreditation or certification required under this Act has been suspended or revoked,

(8) carries on an activity or does something that contravenes any other decision the Government or the Minister renders in his or its regard under this Act,

commits an offence and is liable, in the case of a natural person, to a fine of \$10,000 to \$1,000,000 or, despite article 231 of the Code of Penal Procedure (chapter C-25.1), to a maximum term of imprisonment of three years, or to both the fine and imprisonment, and, in any other case, to a fine of \$30,000 to \$6,000,000.

2011, c. 20, s. 26; 2013, c. 16, s. 199; 2017, c. 4, s. 171; 2021, c. 5, s. 12.

**115.33.** The maximum penalties prescribed in section 115.32 apply to an offence described in sections 115.29 to 115.31 if the harm or damage caused by the offence to human health or the environment, including vegetation and wildlife, is sufficiently serious to justify heavier penalties.

2011, c. 20, s. 26.

**115.34.** Despite sections 115.29 to 115.32, the Government or, as applicable, the Minister may determine the regulatory provisions made under this Act whose contravention constitutes an offence and renders the offender liable to a fine the minimum and maximum amounts of which are set by the Government or the Minister. The Government may provide that, despite article 231 of the Code of Penal Procedure (chapter C-25.1), a contravention renders the offender liable to the fine, a term of imprisonment, or both the fine and imprisonment.

The maximum penalties under the first paragraph may not exceed those prescribed in section 115.32. The penalties may vary according to the importance of the standards that have been infringed.

2011, c. 20, s. 26.

**115.35.** The fines prescribed in sections 115.29 to 115.32 or the regulations are doubled for a second offence and tripled for a subsequent offence. The maximum term of imprisonment is five years less a day for a second or subsequent offence.

If an offender commits an offence under this Act or the regulations after having been previously convicted of any such offence and if, without regard to the amounts prescribed for a second or subsequent offence, the minimum fine to which the offender was liable for the first offence was equal to or greater than the minimum fine prescribed for the second offence, the minimum and maximum fines and, if applicable, the minimum and maximum terms of imprisonment prescribed for the second offence become, if the prosecutor so requests, those prescribed in the case of a second or subsequent offence.

This section applies to prior convictions pronounced in the two-year period preceding the second offence or, if the minimum fine to which the offender was liable for the prior offence is that prescribed in section

115.32, in the five-year period preceding the second offence. Fines for a third or subsequent offence apply if the penalty imposed for the prior offence was the penalty for a second or subsequent offence.

2011, c. 20, s. 26.

**115.36.** If an offence under this Act or the regulations is committed by a director or officer of a legal person, partnership or association without legal personality, the minimum and maximum fines that would apply in the case of a natural person are doubled.

2011, c. 20, s. 26.

**115.37.** If an offence under this Act or the regulations continues for more than one day, it constitutes a separate offence for each day it continues.

A person who continues, day after day, to use a structure or industrial process, to operate an industry, to carry on an activity or to produce goods or services without holding the authorization required under this Act or the regulations is also guilty of a separate offence for each day and is liable to the penalties provided for in section 115.31.

2011, c. 20, s. 26; 2013, c. 16, s. 200.

**115.38.** Whoever does or omits to do something in order to assist a person or municipality to commit an offence under this Act or the regulations, or advises or encourages or incites a person or municipality to commit such an offence, is considered to have committed the same offence.

2011, c. 20, s. 26.

**115.39.** In any penal proceedings relating to an offence under this Act or the regulations, proof that the offence was committed by an agent, mandatary or employee of any party is sufficient to establish that it was committed by that party, unless the party establishes that it exercised due diligence and took all necessary precautions to prevent the offence.

2011, c. 20, s. 26.

**115.40.** If a legal person or an agent, mandatary or employee of a legal person, partnership or association without legal personality commits an offence under this Act or the regulations, its director or officer is presumed to have committed the offence unless it is established that the director or officer exercised due diligence and took all necessary precautions to prevent the offence.

For the purposes of this section, in the case of a partnership, all partners, except special partners, are deemed to be directors of the partnership unless there is evidence to the contrary appointing one or more of them, or a third person, to manage the affairs of the partnership.

2011, c. 20, s. 26.

**115.41.** In determining the penalty, the judge may take into account aggravating factors such as

(1) the seriousness of the harm or damage, or of the risk of harm or damage, to human health or the environment, including vegetation and wildlife;

(2) the particular nature of the environment affected as, for example, whether the feature affected is unique, rare, significant or vulnerable;

(3) the intentional, negligent or reckless nature of the offence;

(4) the foreseeable character of the offence or the failure to follow recommendations or warnings to prevent it;

(5) the cost to society of repairing the harm or damage;

(6) the dangerous nature of the substances resulting in the offence;

(7) the behaviour of the offender after committing the offence, as, for example, whether the offender attempted to cover up the offence or omitted to take rapid measures to prevent or limit the damage or remedy the situation;

(8) the increase in revenues or decrease in expenses that the offender obtained, or intended to obtain, by committing the offence or by omitting to take measures to prevent it;

(9) the failure to take reasonable measures to prevent the commission of the offence or limit its effects despite the offender's financial ability to do so, given such considerations as the size of the offender's undertaking and the offender's assets, turnover and revenues.

A judge who, despite the presence of an aggravating factor, decides to impose the minimum fine must give reasons for the decision.

2011, c. 20, s. 26.

**115.42.** On an application made by the prosecutor and submitted with the statement of offence, the judge may impose on the offender, in addition to any other penalty, a further fine not exceeding the financial benefit realized by the offender as a result of the offence, even if the maximum fine has also been imposed.

2011, c. 20, s. 26.

**115.43.** In the judgment, the judge may order an offender convicted under this Act or the regulations

(1) to refrain from any action or activity that may lead to the continuation or repetition of the offence;

(2) to carry out any action or activity to prevent the offence from being continued or repeated;

(3) to establish a pollution prevention plan or an environmental emergency plan, submit the plan to the Minister for approval and abide by the approved plan;

(4) to carry out follow-up studies on the environmental impact of the activities carried on by the offender or to pay a sum of money to a person or body designated by the judge to carry out such studies;

(5) to take one or more of the following measures, with priority given to those determined by the judge as being best for the protection of the environment:

(a) to restore things to the state they were in prior to the offending act;

(b) to restore things to a state approaching their original state;

(c) to implement compensatory measures;

(d) to pay compensation, in a lump sum or otherwise, for repair of the damage resulting from the commission of the offence;

(e) to pay, as compensation for the damage resulting from the commission of the offence, a sum of money to the Electrification and Climate Change Fund established under section 15.1 of the Act respecting the Ministère du Développement durable, de l'Environnement et des Parcs (chapter M-30.001) or to the Fund for the Protection of the Environment and the Waters in the Domain of the State established under section 15.4.38 of that Act;

(6) to provide security or consign a sum of money to guarantee performance of those obligations;



(7) to make public the conviction and any prevention or repair measures imposed, under the conditions determined by the judge.

Moreover, if the Minister, in carrying out this Act or the regulations, has taken restoration or compensatory measures in the place and stead of the offender, the judge may order the offender to reimburse the Minister for the direct and indirect costs of such measures, including interest.

2011, c. 20, s. 26; 2017, c. 4, s. 172; 2020, c. 19, s. 30.

**115.44.** The prosecutor must give the offender at least 10 days' prior notice of an application for restoration or for compensatory measures, or of any request for an indemnity, a sum of money to be paid to the Electrification and Climate Change Fund or to the Fund for the Protection of the Environment and the Waters in the Domain of the State or a reimbursement of costs to the Minister, unless the parties are in the presence of a judge. In that case, the judge must, before rendering a decision and on the request of the offender, grant the offender what the judge considers a reasonable period of time in which to present evidence with regard to the prosecutor's application or request.

2011, c. 20, s. 26; 2017, c. 4, s. 173; 2020, c. 19, s. 30.

**115.45.** When determining a fine higher than the minimum fine prescribed in this Act or the regulations, or when determining the time within which an amount must be paid, the judge may take into account the offender's ability to pay, provided the offender furnishes proof of assets and liabilities.

2011, c. 20, s. 26.

**115.46.** Penal proceedings for offences under this Act or the regulations are prescribed by the longer of

- (1) five years from the date the offence was committed;
- (2) two years from the date on which the inspection or investigation that led to the discovery of the offence was begun if
  - (a) false representations were made to the Minister, or to a functionary, employee or other person referred to in section 119, 119.1, 120 or 120.1;
  - (b) the offence relates to hazardous materials covered by Division VII.1 of Chapter I;
  - (c) the case involves an offence under section 20.

In the cases referred to in subparagraph 2 of the first paragraph, the certificate of the Minister, inspector or investigator constitutes, in the absence of evidence to the contrary, conclusive proof of the date on which the inspection or investigation was begun.

2011, c. 20, s. 26.

**115.47.** A municipality may institute penal proceedings with regard to offences committed on its territory in contravention of a regulatory provision that was made under this Act and that the municipality is in charge of carrying out. If applicable, such proceedings may be instituted before the competent municipal court.

The fines collected as a result of such proceedings belong to the municipality.

The costs relating to proceedings instituted before a municipal court belong to the municipality under the jurisdiction of that court, except the part of the costs remitted to another prosecuting party by the collector under article 345.2 of the Code of Penal Procedure (chapter C-25.1), and the costs remitted to the defendant or imposed on the municipality under article 223 of that Code.

A municipality may draw to the attention of the Minister, for appropriate action, any offence against a regulatory provision under the municipality's responsibility.

2011, c. 20, s. 26.

## CHAPTER VIII

### CLAIMS AND RECOVERY

2011, c. 20, s. 26; 2017, c. 4, s. 174.

**115.48.** The Minister may claim payment from a person or municipality of any amount owed to the Minister under this Act or the regulations by notification of a notice of claim. However, in the case of a monetary administrative penalty, the claim is made by the person designated by the Minister under section 115.16.

A notice of claim must state the amount of the claim, the reasons for it and the time from which it bears interest. In the case of a monetary administrative penalty, it must mention the right to obtain a review of the decision and the time limit for applying for a review. In other cases, the notice must mention the right to contest the claim before the Administrative Tribunal of Québec and the time limit for bringing such a proceeding.

The notice must also include information on the procedure for recovery of the amount owing, in particular with regard to the issue of a recovery certificate under section 115.53 and its effects. The person or municipality concerned must also be advised that failure to pay the amount owing may give rise to the refusal, amendment, suspension or revocation of any authorization issued under this Act or the regulations and, if applicable, that the facts on which the claim is founded may result in penal proceedings.

If the notice applies to more than one person or municipality, the debtors are solidarily liable.

Unless otherwise provided, the amount owing bears interest at the rate determined under the first paragraph of section 28 of the Tax Administration Act (chapter A-6.002), from the 31st day after notification of the notice.

Notification of a notice of claim interrupts the prescription provided for in the Civil Code with regard to the recovery of an amount owing.

2011, c. 20, s. 26; 2017, c. 4, s. 175.

**115.49.** A notice of claim, other than a notice of claim notified in accordance with section 115.16, may be contested before the Administrative Tribunal of Québec by the person or municipality concerned, within 30 days after notification of the notice or review decision.

When rendering its decision, the Administrative Tribunal of Québec may make a ruling with respect to interest accrued on the penalty while the matter was pending before the Tribunal.

2011, c. 20, s. 26; 2017, c. 4, s. 176; 2017, c. 14, s. 35.

**115.50.** The directors and officers of a legal person that has defaulted on payment of an amount owed to the Minister under this Act or the regulations are solidarily liable, with the legal person, for the payment of the amount, unless they establish that they exercised due care and diligence to prevent the failure which led to the claim.

2011, c. 20, s. 26.

**115.51.** The reimbursement of an amount owed to the Minister under this Act or the regulations is secured by a legal hypothec on the debtor's movable and immovable property.

2011, c. 20, s. 26.

**115.52.** The debtor and the Minister may enter into a payment agreement with regard to the amount owing. Such an agreement, or the payment of the amount owing, does not constitute, for the purposes of penal proceedings or any other administrative penalty under this Act or the regulations, an acknowledgement of the facts giving rise to it.

2011, c. 20, s. 26.

**115.53.** If the amount owing is not paid in its entirety or the payment agreement is not adhered to, the Minister may issue a recovery certificate upon the expiry of the time for applying for a review of the decision, upon the expiry of the time for contesting the review decision before the Administrative Tribunal of Québec or upon the expiry of 30 days after the final decision of the Tribunal confirming all or part of the Minister's decision or the review decision, as applicable.

However, a recovery certificate may be issued before the expiry of the time referred to in the first paragraph if the Minister is of the opinion that the debtor is attempting to evade payment.

A recovery certificate must state the debtor's name and address and the amount of the debt.

2011, c. 20, s. 26.

**115.54.** Once a recovery certificate has been issued, any refund owed to a debtor by the Minister of Revenue may, in accordance with section 31 of the Tax Administration Act (chapter A-6.002), be withheld for payment of the amount due referred to in the certificate.

The withholding interrupts the prescription provided for in the Civil Code with regard to the recovery of an amount owing.

2011, c. 20, s. 26.

**115.55.** Upon the filing of the recovery certificate at the office of the competent court, together with a copy of the final decision stating the amount of the debt, the decision becomes enforceable as if it were a final judgment of that court not subject to appeal, and has all the effects of such a judgment.

2011, c. 20, s. 26.

**115.56.** The debtor is required to pay a recovery charge in the cases, under the conditions and in the amount determined by ministerial order.

2011, c. 20, s. 26.

**115.57.** The Minister may, by agreement, delegate to another department or body all or some of the powers relating to the recovery of an amount owing under this Act or the regulations.

2011, c. 20, s. 26.

**116.** *(Repealed).*

1972, c. 49, s. 116; 1978, c. 64, s. 42; 1990, c. 4, s. 742; 1992, c. 61, s. 501.

**116.1.** *(Section renumbered).*

1978, c. 64, s. 43; 1979, c. 49, s. 38; 1990, c. 4, s. 743; 1994, c. 17, s. 60; 1997, c. 43, s. 545; 1999, c. 36, s. 158; 2004, c. 24, s. 11; 2006, c. 3, s. 35; I.N. 2016-01-01 (NCCP); 2017, c. 4, s. 177.



*See section 123.4.*

**116.1.1.** *(Section renumbered).*

2004, c. 24, s. 12; 2011, c. 20, s. 27; 2017, c. 4, s. 178.



*See section 123.5.*

**116.2.** *(Section renumbered).*

1978, c. 64, s. 43; 1979, c. 49, s. 33; 1982, c. 25, s. 15; 1988, c. 49, s. 28; 2017, c. 4, s. 179.



*See section 124.3.*

**116.3.** *(Section renumbered).*

1978, c. 64, s. 43; 1979, c. 49, s. 33; 1988, c. 49, s. 38; 1996, c. 2, s. 841; 2017, c. 4, s. 180.



*See section 124.4.*

**116.4.** *(Section renumbered).*

1978, c. 64, s. 43; 1979, c. 49, s. 33; 1988, c. 49, s. 38; 1997, c. 43, s. 546; 2017, c. 4, s. 181.



*See section 124.5.*

**117.** *(Section renumbered).*

1972, c. 49, s. 117; 1990, c. 26, s. 13; 2009, c. 21, s. 27; 2017, c. 4, s. 182.



*See section 121.3.*

**118.** *(Section renumbered).*

1972, c. 49, s. 118; 1996, c. 2, s. 841; 2017, c. 4, s. 183.



*See section 121.4.*

**118.0.1.** *(Repealed).*

1990, c. 26, s. 14; 2017, c. 4, s. 184.

**118.1.** *(Repealed).*

1978, c. 64, s. 44; 1990, c. 26, s. 15; 1991, c. 80, s. 11; 1997, c. 43, s. 547; 2002, c. 11, s. 9; 2011, c. 20, s. 29.

**118.1.1.** *(Repealed).*

1997, c. 43, s. 548; 2017, c. 4, s. 184.

**118.2.** *(Repealed).*

1978, c. 64, s. 44; 1990, c. 26, s. 16; 2017, c. 4, s. 184.

## CHAPTER IX

### MUNICIPALITIES

2017, c. 4, s. 185.

**118.3.** The Government, on such conditions as it may determine, may exempt the territory or part of the territory of a municipality from the effect of certain sections of this Act, to the extent that the municipality has formally agreed with the Minister on the control of sources of contamination of the environment, and the issuance of contaminants in the territory of that municipality. This exemption takes effect upon publication in the *Gazette officielle du Québec*.

1978, c. 64, s. 44.

#### **118.3.1.** (*Section renumbered*).

1990, c. 26, s. 17; 1999, c. 43, s. 13; 2003, c. 19, s. 250; 2005, c. 28, s. 196; 2009, c. 26, s. 109; 2017, c. 4, s. 186.



See section 115.4.6.

**118.3.2.** Subject to Division VI of the Act respecting municipal debts and loans (chapter D-7), no approval other than that of the Minister of Municipal Affairs, Regions and Land Occupancy is required where a municipality wishes to contract a loan to comply with

- (1) an order issued by the Minister pursuant to this Act;
- (2) a decision rendered by the Minister under section 60.

1990, c. 26, s. 17; 1991, c. 80, s. 12; 1999, c. 43, s. 13; 2002, c. 11, s. 10; 2003, c. 19, s. 250; 2005, c. 28, s. 196; 2009, c. 26, s. 109; 2011, c. 20, s. 30.

**118.3.3.** A regulation made under this Act prevails over any municipal by-law relating to the same object, unless the by-law has been approved by the Minister, in which case it prevails to the extent determined by the Minister. Notice of such approval must be published without delay in the *Gazette officielle du Québec*. This paragraph applies despite section 3 of the Municipal Powers Act (chapter C-47.1).

The Minister may amend or revoke any approval granted under the first paragraph if the Government adopts a new regulation relating to a matter covered in a previously approved municipal by-law.

Notice of the Minister's decision must be published without delay in the *Gazette officielle du Québec*.

The first paragraph does not apply to the provisions of a regulation made under this Act that prescribes that such a regulation or certain of its sections are to be applied by all municipalities, by a certain category of municipalities or by one or more municipalities if the municipal by-law concerns the implementation of the provisions of a regulation made under this Act.

For the purposes of the first paragraph, the approval of the Minister of Municipal Affairs, Regions and Land Occupancy referred to in section 79.17 of the Act respecting land use planning and development (chapter A-19.1) is equivalent to the approval of the Minister. In such a case, publication in the *Gazette officielle du Québec* under the first paragraph is not required

2017, c. 4, s. 187; 2017, c. 14, s. 36; 2021, c. 7, s. 92.

**118.3.4.** A municipal by-law approved under the first paragraph of section 118.3.3 may be used for the application of section 19.1.

1978, c. 64, s. 50; 1984, c. 29, s. 25; 2017, c. 4, s. 201.

**118.3.5.** Without restricting the powers of the Minister in this respect, it is the duty of the municipalities to carry out and have carried out any regulation of the Government made under this Act ordering that such regulation or certain sections of that regulation shall be applied by all the municipalities, by a certain category of municipalities or by one or several municipalities, unless a municipal by-law dealing with the matters contemplated in the regulations aforementioned has been approved in conformity with section 118.3.3. No building, repair or enlargement permit may be issued by a municipality if the building, repair or enlargement project does not fully comply with such regulations.

1972, c. 49, s. 86; 1978, c. 64, s. 28; 1979, c. 49, s. 33; 1988, c. 49, s. 15; 2017, c. 14, s. 32.

## CHAPTER X

### ACCESS TO INFORMATION AND REGISTERS

2017, c. 4, s. 188.

**118.4.** Every person or municipality has the right to obtain from the Ministère du Développement durable, de l'Environnement et des Parcs a copy of the following available information or documents:

- (1) any information on the quantity, quality or concentration of contaminants released by a source of contamination or on the presence of a contaminant in the environment;
- (2) the soil characterization studies and toxicological and ecotoxicological risk assessments and groundwater impact assessments required under Division IV of Chapter IV;
- (3) the required studies, expert evaluations and reports for the purpose of determining the impact of a water withdrawal on the environment, other users or public health;
- (4) any statements of control and monitoring results with regard to contaminant releases and any reports and information provided to the Minister under Division III of Chapter IV and the regulations; and
- (5) any annual management reports or hazardous materials management plans sent to the Minister under sections 70.7 and 70.8.

This section applies subject to the right-of-access restrictions provided for in sections 28, 28.1 and 29 of the Act respecting Access to documents held by public bodies and the Protection of personal information (chapter A-2.1) and does not apply to information on the location of threatened or vulnerable species.

1978, c. 64, s. 44; 1979, c. 49, s. 38; 1985, c. 30, s. 81; 1990, c. 26, s. 18; 1994, c. 17, s. 60; 1999, c. 36, s. 158; 2006, c. 3, s. 35; 2017, c. 4, s. 188.

**118.5.** The Minister shall keep a register of:

- (a) all applications for authorization certificates, certificates, authorizations or permits submitted under sections 22, 31.1, 31.6, 31.75, 32, 32.1, 32.2, 48, 55, 70.10, 70.14, 160 and 196;
- (b) all authorization certificates, certificates, authorizations and permits issued under the said sections, including those which have been suspended or revoked;
  - (b.1) all notices that, under a regulation, must be given to the Minister in relation to projects exempt from the application of section 22;
- (c) all environmental impact assessment statements submitted under section 31.3;
- (d) all orders and notices prior to the issue of an order rendered under this Act;
- (e) all depollution programs submitted or approved under section 116.2;

- (f) all proceedings brought under Division XI and all decisions rendered under that division;
- (g) all attestations of environmental conformity filed under section 95.1;
- (h) all applications and reapplications for a depollution attestation submitted under sections 31.16 and 31.28 and all applications to amend an attestation submitted under section 31.25 and subparagraph 1 of the first paragraph of section 31.39;
- (i) all proposed, issued or amended depollution attestations and all notices of intention to refuse transmitted under subdivision 1 of Division IV.2 and all notices transmitted by the Minister under sections 31.22, 31.25 and 31.28;
- (j) all depollution attestations issued or amended under subdivision 2 of Division IV.2;
- (k) the entire application record contemplated by section 31.21 and all comments made by persons or municipalities, transmitted during the period set aside for consultation of the record;
- (l) all statements of results relating to the control and monitoring of contaminant discharge, all reports and all information furnished to the Minister under Division IV.2 of this Act and the regulations hereunder;
- (m) all characterization studies, all toxicological and ecotoxicological risk assessments and groundwater impact assessments and all rehabilitation plans required under Division IV.2.1;
- (n) all attestations transmitted pursuant to section 31.48;
- (n.1) all studies or expert evaluations and all reports required under this Act or the regulations for the purpose of determining the impact of a withdrawal or planned withdrawal of water on the environment, other users or public health;
- (o) the annual management reports and the management plans transmitted to the Minister pursuant to sections 70.7 and 70.8; and
- (p) all agreements made under subparagraph 7 of the first paragraph of section 53.30 for the implementation or financing of a system to recover or reclaim residual materials.

1978, c. 64, s. 44; 1980, c. 11, s. 75; 1982, c. 25, s. 16; 1987, c. 68, s. 102; 1988, c. 49, s. 29; 1990, c. 26, s. 19; 1991, c. 80, s. 13; 1997, c. 43, s. 549; 1999, c. 75, s. 34; 2002, c. 53, s. 15; 2002, c. 11, s. 11; 2011, c. 20, s. 31; 2009, c. 21, s. 29.

**118.5.0.1.** The Minister shall keep a register of projects that are subject to the environmental impact assessment and review procedure provided for in subdivision 4 of Division II of Chapter IV in which the following documents are made available to the public:

- (1) the notices required under section 31.2;
- (2) the Minister's directives for preparing an environmental impact assessment statement and the observations and issues raised under sections 31.3 and 31.3.1;
- (3) the impact assessment statements received by the Minister, the Minister's findings and questions under section 31.3.3, and any information supplementing an impact assessment statement;
- (4) the recommendations of the Bureau d'audiences publiques sur l'environnement required under section 31.3.5;
- (5) the authorizations issued or amended under this subdivision and any other information, document or study forming an integral part of such authorizations;
- (6) any monitoring reports required under government authorizations; and

- (7) any other document prescribed by government regulation.

The Government may, by regulation, prescribe the terms applicable to the publication of information and documents in the environmental assessment register created under this section.

2017, c. 4, s. 188.

**118.5.1.** The Minister shall keep a register relating to the monetary administrative penalties imposed by the persons the Minister designates for that purpose under this Act or the regulations.

The register must contain at least the following information:

- (1) the date the penalty was imposed;
- (2) the date and nature of the failure for which, and the legislative and regulatory provisions under which, the penalty was imposed;
- (3) the name of the municipality in whose territory the failure occurred;
- (4) if the penalty was imposed on a legal person, the legal person's name and the address of the legal person's head office or one of the legal person's establishments or the business establishment of one of the legal person's agents;
  - (4.1) if the penalty was imposed on a partnership or association without legal personality, the name and address of the partnership or association;
- (5) if the penalty is imposed on a natural person, the person's name, the name of the municipality in whose territory the person resides and, if the failure occurred during the ordinary course of business of the person's enterprise, the name and address of the enterprise;
- (6) the amount of the penalty imposed;
- (7) the date of receipt of an application for review, the date and conclusions of the decision;
- (8) the date a proceeding is brought before the Administrative Tribunal of Québec and the date and conclusions of the decision rendered by the Tribunal, as soon as the Minister is made aware of the information;
- (9) the date a proceeding is brought against the decision rendered by the Administrative Tribunal of Québec, the nature of the proceeding and the date and conclusions of the decision rendered by the court concerned, as soon as the Minister is made aware of the information; and
- (10) any other information the Ministers considers of public interest.

2011, c. 20, s. 32; 2013, c. 16, s. 201.

**118.5.2.** The Minister shall keep a register of the following information relating to convictions for offences under this Act or the regulations:

- (1) the date of conviction;
- (2) the nature of the offence and the legislative or regulatory provisions under which the offender was convicted;
- (3) the date of the offence and the name of the municipality in whose territory it was committed;



(4) if the offender is a legal person, the legal person's name and the address of the legal person's head office or one of the legal person's establishments or the business establishment of one of the legal person's agents;

(4.1) if the offender is a partnership or association without legal personality, the name and address of the partnership or association;

(5) if the offender is a natural person, the person's name, the name of the municipality in whose territory the person resides and, if the failure occurred during the ordinary course of business of the person's enterprise, the name and address of the enterprise;

(6) if the offender is an officer or director of a legal person, a partnership or an association without legal personality, the officer's or director's name, the name of the municipality in whose territory the officer or director resides and, as applicable, the name and the address of the head office of the legal person or one of the legal person's establishments or the business establishment of one of the legal person's agents, or the name and address of the partnership or association;

(7) the penalty imposed by the judge;

(8) the date a proceeding is brought against the decision rendered, the nature of the proceeding and the date and conclusions of the decision rendered by the competent court, as soon as the Minister is made aware of the information; and

(9) any other information the Minister considers of public interest.

2011, c. 20, s. 32; 2013, c. 16, s. 202.

**118.5.3.** Subject to the right-of-access restrictions provided for in sections 28, 28.1 and 29 of the Act respecting Access to documents held by public bodies and the Protection of personal information (chapter A-2.1), the documents and information contained in the registers established under sections 118.5 to 118.5.2 are public except information concerning the location of threatened or vulnerable species.

In addition, the restrictions provided for in section 23.1 of this Act apply to the information and documents contained in the register established under section 118.5.

The Minister shall publish such documents and information on the Minister's department's website with due dispatch.

2011, c. 20, s. 32; 2017, c. 4, s. 189.

## CHAPTER XI

### ACCREDITATION AND CERTIFICATION

2017, c. 4, s. 190.

**118.6.** The Minister may accredit or certify a person or municipality to take samples or carry out analyses, calculations, assessments, expert evaluations or verifications.

The Minister may issue such an accreditation or certification, on the conditions the Minister determines, to any person or municipality that

(1) meets the applicable conditions prescribed for that purpose by government regulation, in particular the eligibility or issuing conditions; and

(2) pays the fees set by government regulation.

1985, c. 30, s. 82; 2017, c. 4, s. 190.

**118.7.** The term of an accreditation or certification is set by the Minister.

When an accreditation or certification expires, the Minister may renew it, on the conditions he determines, if the accredited or certified person or municipality

(1) meets the conditions prescribed by government regulation for that purpose, in particular the conditions for maintaining it; and

(2) pays the fees set by government regulation.

2017, c. 4, s. 190.

**118.8.** An accredited or certified person or municipality must notify the Minister immediately of any change in his or its contact information.

The person or municipality may also apply to the Minister to have an accreditation or certification amended.

2017, c. 4, s. 190.

**118.9.** A certification is non-transferable.

An accreditation is transferable. However, the transferor must send the Minister prior notice of the transfer containing the information and documents prescribed by government regulation.

With the notice, the transferee must include the declaration required by the Minister under section 115.8 as well as the information and documents prescribed by government regulation.

Within 30 days of receiving the information and documents mentioned in the second and third paragraphs, the Minister may notify to the transferor and the transferee a notice of his intention to oppose the transfer for any of the reasons listed in sections 115.5 to 115.7. If the Minister does not send such a notice within that time, the transfer is deemed to have been completed.

The notice of intention must grant the transferor and transferee at least 15 days to submit their observations.

Within 15 days of receiving the observations or on the expiry of the period for submitting them, the Minister shall notify his decision to the transferor and transferee.

Once the transfer of an authorization has been completed, the new holder has the same rights and obligations as the transferor.

2017, c. 4, s. 190.

**118.10.** The Minister may establish advisory committees to advise him on any question he may submit to them concerning, among other things, the issue of an accreditation or certification or its amendment, renewal, suspension or revocation.

The Minister shall determine the number, composition and mandates of the committees.

2017, c. 4, s. 190.

**118.11.** The Minister may enter into an agreement to delegate to a person or municipality all or part of his responsibilities under sections 118.6 to 118.10 or any power relating to the enforcement of this chapter.

Such an agreement may set out, among other things,

- (1) the delegates' responsibilities;
- (2) the powers set out in this Act that may be exercised by a delegatee, including suspension, amendment, revocation or control powers;
- (3) the sums a delegatee may keep and the purposes for which they may be used;
- (4) the rules on the collection, use, communication and preservation of information by a delegatee;
- (5) the reporting procedures a delegatee must follow;
- (6) the sanctions applicable for non-compliance with obligations arising from the agreement; and
- (7) the conditions governing renewal and cancellation of the agreement.

The delegatee is responsible for any harm or damage caused in the course of carrying out the delegation agreement.

2017, c. 4, s. 190.

## CHAPTER XII

### PROCEEDING BEFORE THE ADMINISTRATIVE TRIBUNAL OF QUÉBEC

1997, c. 43, s. 536; 2017, c. 4, s. 128.

**118.12.** Any order issued by the Minister, except an order issued under section 45.3.1, 45.3.2, 45.3.3, 49.1, 58, 61, 115.4.5 and 120, may be contested by the municipality or person concerned before the Administrative Tribunal of Québec.

This also applies where the Minister

- (1) refuses to issue, renew or amend all or part of an authorization, accreditation or certification;
- (2) prescribes any special standard or any condition, restriction or prohibition when issuing, amending or renewing an authorization, accreditation or certification;
- (3) suspends, amends on his own initiative or revokes all or part of an authorization, approval, accreditation or certification;
- (4) is opposed to the transfer of an authorization or accreditation;
- (5) approves, with amendments, a rehabilitation plan submitted under Division IV of Chapter IV or refuses to make an amendment, requested under section 31.60, to such a plan;
- (6) sets or apportions costs or expenses other than those referred to in section 45.3.1 or 45.3.3;
- (7) refuses to grant the emission allowances referred to in subdivision 1 of Division VI, disallows the use of such allowances to cover greenhouse gas emissions, suspends, withdraws or cancels such allowances, determines default greenhouse gas emissions or imposes any other penalty under that subdivision;
- (8) determines compensation under section 61;
- (9) determines any special standard or any condition, restriction or prohibition when issuing a depollution attestation referred to in subdivision 2 of Division III, amends such an attestation on his own initiative or refuses to amend it; or

(10) makes a decision under section 115.10.1.

If the Minister imposes a rate under section 39, the operator or person served may contest the decision before the Tribunal.

Despite the first paragraph, the Tribunal may not, when assessing the facts or the law, substitute its assessment of the public interest for that made by the Minister under section 31.79.1 or the second paragraph of section 31.81 to make his decision.

1972, c. 49, s. 96; 1977, c. 5, s. 14; 1978, c. 64, s. 31; 1979, c. 49, s. 28; 1980, c. 11, s. 72; 1979, c. 49, s. 33; 1982, c. 25, s. 9; 1984, c. 29, s. 16; 1987, c. 25, s. 9; 1988, c. 49, s. 16; 1990, c. 26, s. 6; 1997, c. 43, s. 537; 1999, c. 75, s. 32; 2002, c. 11, s. 4; 2011, c. 20, s. 12; 2009, c. 33, s. 2; 2009, c. 21, s. 23; 2017, c. 4, s. 129; I.N. 2020-02-01.

**118.13.** A review decision rendered by a person designated by the Minister under section 115.18 and confirming a monetary administrative penalty under this Act or the regulations may be contested by the person or municipality concerned before the Administrative Tribunal of Québec.

2011, c. 20, s. 13; 2017, c. 4, s. 130.

**118.14.** The Minister and the person designated by the Minister shall, on making a decision under section 118.12 or 118.13, notify the decision to the person or municipality concerned and inform them of their right to contest the decision before the Administrative Tribunal of Québec.

1972, c. 49, s. 97; 1975, c. 83, s. 84; 1979, c. 49, s. 33; 1988, c. 49, s. 38; 1997, c. 43, s. 538; 2011, c. 20, s. 14; 2017, c. 4, s. 131.

**118.15.** A proceeding must be brought within 30 days of notification of the contested decision.

1972, c. 49, s. 98; 1977, c. 5, s. 14; 1979, c. 49, s. 33; 1988, c. 49, s. 38; 1997, c. 43, s. 539; 2011, c. 20, s. 15; 2017, c. 4, s. 132; 2017, c. 14, s. 37.

**118.16.** The proceeding does not suspend the execution of the decision of the Minister, unless, upon a motion heard and judged by preference, a member of the Tribunal orders otherwise by reason of urgency or of the risk of serious and irreparable harm.

If the Tribunal issues such an order, the proceeding shall be heard and judged by preference.

Despite the first paragraph, a proceeding instituted under section 118.13 suspends execution of the decision, subject to interest accruing.

1972, c. 49, s. 99; 1977, c. 5, s. 14; 1979, c. 49, s. 33; 1988, c. 49, s. 38; 1991, c. 30, s. 25; 1991, c. 80, s. 7; 1997, c. 43, s. 542; 2000, c. 60, s. 2; 2011, c. 20, s. 16; 2017, c. 4, s. 134.

**118.17.** Any person, group or municipality may intervene before the Tribunal.

1972, c. 49, s. 100; 1977, c. 5, s. 14; 1978, c. 64, s. 33; 1986, c. 95, s. 278; 1997, c. 43, s. 543; 2017, c. 4, s. 135.

## CHAPTER XIII

### INSPECTIONS AND INVESTIGATIONS

2017, c. 4, s. 191; I.N. 2018-04-01.

**119.** Every functionary authorized for that purpose by the Minister may at any reasonable time enter land, a building, including a dwelling house, a vehicle or a boat, to examine books, registers and records, or the premises, for the purposes of this Act or the regulations.

A person who has the care, possession or control of such books, registers or records must make them available to the functionary and facilitate their examination.

The functionary may also, on that occasion,

- (1) collect samples;
- (2) carry out any necessary excavation or drilling or have such excavation or drilling carried out on any premises;
- (3) install measuring apparatus;
- (4) conduct tests and take measurements;
- (5) make analyses;
- (6) record the state of a place or natural environment by means of photographs, videos or other sound or visual recording methods;
- (7) examine, record or copy a document or data, on any medium whatsoever; or
- (8) require that something be set in action, used or started, under the conditions specified by the functionary.

Every functionary or employee of a municipality designated by the Minister to perform the duties of inspector for the purposes of enforcing the regulatory provisions made under this Act and specified in the instrument of designation may also exercise the powers conferred by this section.

1972, c. 49, s. 119; 1978, c. 64, s. 45; 1979, c. 49, s. 33; 1988, c. 49, s. 30; 2002, c. 53, s. 16; 2011, c. 20, s. 33.

**119.0.1.** For the purposes of section 119, the functionary authorized by the Minister may only enter a dwelling house without the consent of the owner or lessee

- (1) if, given the urgency of the situation, there is a serious risk to human health, the environment or wildlife; or
- (2) to ensure compliance with the provisions of this Act or the regulations specified by order of the Minister.

2011, c. 20, s. 34.

**119.0.2.** If a municipality is required to apply all or part of a regulation made under this Act, its functionaries or employees, duly authorized by it, are invested with the powers set out in section 119 for the purposes of the regulation concerned.

2017, c. 4, s. 192.

**119.1.** A functionary authorized by the Minister for that purpose who has reasonable grounds to believe that an offence against any provision of this Act or the regulations thereunder has been committed may, at the time of an inquiry relating to the offence, apply to a judge for authorization to enter any place to perform any act described in section 119 that, without such authorization, would constitute an unreasonable search or seizure.

The application for authorization shall be accompanied with a sworn declaration in writing of the functionary.

The declaration shall include, in particular, the following information:

- (1) a description of the offence that is the subject of the inquiry;
- (2) the reasons why performance of the act that is the subject of the application will provide evidence of the commission of the offence;
- (3) the description of the place referred to in the application;
- (4) the time needed to perform the act that is the subject of the application;
- (5) the period when the act that is the subject of the application is to be performed.

The judge may grant the authorization on the terms and conditions the judge determines if satisfied, on the strength of the declaration, that performance of the act that is the subject of the application will provide evidence of the commission of the offence. The judge who grants the authorization may order any person to lend assistance if it may reasonably be necessary for performance of the authorized act.

A functionary authorized therefor by the Minister may, without authorization, perform an act described in section 119 if, given the urgency of the situation, the conditions to be met and the time needed to obtain authorization,

- (1) may result in danger to human health or safety;
- (2) may cause serious damage or harm to the environment, to living species or to property;
- (3) may result in the loss, disappearance or destruction of the evidence.

1990, c. 4, s. 744; 2011, c. 20, s. 35; 2017, c. 4, s. 193.

**120.** The Minister and the functionaries designated by him for that purpose may require, of any person or municipality doing, having done or having indicated his intention of doing anything contemplated by this Act or the regulations hereunder, all the information necessary for the exercise of their duties, and order the posting of any notice necessary for the protection of the public in respect of any matter governed by this Act or the regulations hereunder.

1972, c. 49, s. 120; 1978, c. 64, s. 46; 1979, c. 49, s. 33; 1988, c. 49, s. 31; 2017, c. 4, s. 194.

**120.1.** Any functionary or person authorized by the Minister may make a search in accordance with the Code of Penal Procedure (chapter C-25.1).

For the purposes of the second paragraph of article 96 of the Code of Penal Procedure, danger to the safety of property also exists where the functionary or the authorized person has reasonable grounds to believe that the time that would be involved in obtaining a warrant or a telewarrant may cause serious damage or harm to the environment or living species.

1978, c. 64, s. 47; 1988, c. 49, s. 32; 1990, c. 4, s. 745; 2017, c. 4, s. 195.

**120.2.** A functionary contemplated in section 120.1 shall make a written report to the Minister of every seizure that he carries out.

1978, c. 64, s. 47; 1988, c. 49, s. 32.

**120.3.** A functionary contemplated in section 120.1 shall be responsible for the custody of everything he seizes until a judge declares it confiscated or orders it returned to its owner. In addition, the functionary shall have custody of the things seized and submitted in evidence, unless the judge to whom they were submitted in evidence decides otherwise.

However, the Minister may authorize the functionary to entrust the offender with the custody of the object of the seizure, and the offender must accept custody of it until a judge declares it confiscated or orders it returned to its owner.

1978, c. 64, s. 47; 1988, c. 49, s. 32; 1992, c. 61, s. 502.

**120.4.** No person, without the authorization of the Minister, may dispose of, use or offer for sale the object of a seizure or remove or damage it or allow it, its container or seizure tag to be removed or damaged.

1978, c. 64, s. 47; 1988, c. 49, s. 32.

**120.5.** *(Repealed).*

1978, c. 64, s. 47; 1988, c. 49, s. 32; 1992, c. 61, s. 503.

**120.6.** *(Repealed).*

1988, c. 49, s. 32; 1992, c. 61, s. 503.

**120.6.1.** Where penal proceedings have been instituted under this Act or the regulations and, as a result, seized property is confiscated, the Minister shall assume the provisional administration of the confiscated property and may dispose of it or prescribe how it is to be disposed of.

1990, c. 26, s. 20; 2011, c. 20, s. 36.

**120.7.** The Government may make regulations prescribing the form and content of any seizure or release tag relating to an inspection tag and prescribing how these documents may be used.

1988, c. 49, s. 32; 1992, c. 61, s. 504.

**121.** No person may hinder, in the performance of his duties, a functionary or employee referred to in sections 119, 119.1, 120 and 120.1, mislead him by concealment or false declarations, neglect to obey any order he may give under this Act, or remove or deface a notice he has ordered posted, or allow it to become defaced.

Every functionary or employee referred to in the first paragraph must, if required, present a certificate of his office, signed by the Minister or the Deputy Minister.

1972, c. 49, s. 121; 1978, c. 64, s. 48; 1979, c. 49, s. 33; 1984, c. 29, s. 22; 2002, c. 53, s. 17; 2011, c. 20, s. 37.

**121.1.** A functionary, employee or other person who exercises the duties described in section 119, 119.1, 120 or 120.1 may not be prosecuted for acts performed in good faith in the performance of those duties.

2011, c. 20, s. 38.

**121.2.** The Minister or any investigator designated by him may inquire into any matter contemplated by this Act or the regulations hereunder.

For the purpose of conducting an investigation, the Minister and the investigator shall be vested with the powers and immunity of commissioners appointed under the Act respecting public inquiry commissions (chapter C-37), except the power to order imprisonment. In respect of an investigator, section 2 of the said Act shall apply.

1972, c. 49, s. 123; 1979, c. 49, s. 33; 1988, c. 49, s. 35; 2011, c. 20, s. 43.

**121.3.** If a person believes that he can attribute to the presence of a contaminant in the environment or to the release of a contaminant, impairment to his health or damage to his property, he may within thirty days after ascertaining the damage request the Minister to make an inquiry.

A person who considers that his right to access to water that is safe for drinking, cooking and personal hygiene is compromised by a water withdrawal may also request the Minister to make an inquiry.

The first paragraph applies to a municipality as regards damage to its property.

1972, c. 49, s. 117; 1990, c. 26, s. 13; 2009, c. 21, s. 27; 2017, c. 4, s. 182.

**121.4.** The Minister must furnish a report of the results of any inquiry which he considers necessary to undertake under section 121.3 to the one he believes responsible, the complainant and the municipality in whose territory the source of contamination is situated.

1972, c. 49, s. 118; 1996, c. 2, s. 841; 2017, c. 4, s. 183.

**122.** *(Section renumbered).*

1972, c. 49, s. 122; 2017, c. 4, s. 196.



*See section 2.6.*

**122.1.** *(Repealed).*

1982, c. 25, s. 17; 1988, c. 49, s. 33; 2002, c. 53, s. 18; 2011, c. 20, s. 39.

## CHAPTER XIV

### MISCELLANEOUS PROVISIONS

2017, c. 4, s. 197.

**122.2.** The authority who issues an authorization may also suspend or cancel it on an application by the holder.

In addition, the authority who issues an authorization under Title II of this Act may amend the authorization on an application by the holder.

This section applies, with the necessary modifications, to any approval, certificate, attestation, accreditation or certification granted under this Act or the regulations.

1982, c. 25, s. 17; 1987, c. 25, s. 10; 2011, c. 20, s. 40; 2017, c. 4, s. 197; 2017, c. 14, s. 38.

**122.3.** *(Repealed).*

1982, c. 25, s. 17; 1999, c. 75, s. 35; 2011, c. 20, s. 41.

**122.4.** *(Repealed).*

1982, c. 25, s. 17; 1988, c. 49, s. 34; 1997, c. 43, s. 550; 2011, c. 20, s. 42.

**123.** *(Section renumbered).*

1972, c. 49, s. 123; 1979, c. 49, s. 33; 1988, c. 49, s. 35; 2011, c. 20, s. 43.



*See section 121.2.*

**123.1.** The holder of an authorization issued under this Act is required to comply with the standards and the conditions, restrictions and prohibitions set out in the authorization.



This section applies to all the authorizations issued under this Act since 21 December 1972.

1978, c. 64, s. 49; 1979, c. 49, s. 33; 1982, c. 25, s. 18; 1984, c. 29, s. 23; 2017, c. 4, s. 198.

**123.2.** Every decision of the Deputy Minister or of the Commission municipale du Québec in respect of water tax or water rates rendered on or after 21 December 1972 is executory notwithstanding any proceeding brought under chapter XII of Title I or other contestation before any court of justice until a decision of the Administrative Tribunal of Québec or a final decision of the court, as the case may be, is rendered.

This section applies also to any decision of the Commission municipale du Québec rendered under article 628 of the Charter of the City of Montréal (1959-1960, chapter 102).

1978, c. 64, s. 49; 1979, c. 49, s. 33; 1982, c. 25, s. 19; 1997, c. 43, s. 551; 2017, c. 4, s. 199; I.N. 2018-04-01.

**123.3.** The Minister shall exercise the powers vested in the director of the Provincial Bureau of Health under any general law or special Act. In the same manner, the Minister shall exercise the powers vested in the director of sanitary engineering or in the Minister of Health and Social Services or Ministère de la Santé et des Services sociaux under the Provincial Health Regulations made under the Public Health Act (Revised statutes, 1964, chapter 161).

1978, c. 64, s. 49; 1979, c. 49, s. 33; 1985, c. 23, s. 24; 1988, c. 49, s. 38.

**123.4.** In all civil or penal proceedings instituted pursuant to this Act and in any proceeding brought in accordance with Chapter XII, a certificate of the analysis of a contaminant or other substance signed by a person having made the analysis at the request of the Minister of Sustainable Development, Environment and Parks is admissible in lieu of the affidavit of the person as regards the facts declared in it if the person attests on the certificate that he personally observed the facts. The certificate is proof, in the absence of any evidence to the contrary, of the quality of the signatory.

1978, c. 64, s. 43; 1979, c. 49, s. 38; 1990, c. 4, s. 743; 1994, c. 17, s. 60; 1997, c. 43, s. 545; 1999, c. 36, s. 158; 2004, c. 24, s. 11; 2006, c. 3, s. 35; I.N. 2016-01-01 (NCCP); 2017, c. 4, s. 177.

**123.5.** In all civil or penal proceedings instituted under this Act, the cost of any sampling, analysis, inspection or investigation, at the rate established by regulation of the Minister, shall be included in the cost of the proceedings.

Expenses incurred by the Minister to determine the nature of the work required to restore things to their original state or to a state approaching their original state, or to implement compensatory measures shall also be included in the cost of proceedings.

2004, c. 24, s. 12; 2011, c. 20, s. 27; 2017, c. 4, s. 178.

**124.** The Minister is exonerated of all liability for damage suffered by an authorization holder and resulting from an activity carried out in accordance with the information or documents provided by that holder and on which the authorization is based, unless the damage is due to an intentional or gross fault.

The same applies to damage suffered by any declarant of an activity and resulting from an activity carried out in accordance with the information or documents accompanying the declaration of compliance made under sections 31.0.6 and 31.0.7.

1972, c. 49, s. 124; 1982, c. 25, s. 20; 1984, c. 29, s. 24; 1994, c. 41, s. 20; 2005, c. 6, s. 226; 2005, c. 33, s. 4; 2017, c. 4, s. 200.

**124.0.1.** Where, in a regulation made under this Act, reference is made to a method of sampling, measurement, preservation or analysis established in another text, the reference shall be considered to include all subsequent amendments to that text, unless provided otherwise.

1994, c. 41, s. 21.

**124.1.** No provision of a regulation, the coming into force of which is later than 9 November 1978, likely to affect the immovables comprised in a reserved area or in an agricultural zone established in accordance with the Act respecting the preservation of agricultural land and agricultural activities (chapter P-41.1) applies to that area or zone unless the regulation provides it expressly.

1978, c. 10, s. 111; 1996, c. 26, s. 85.

**124.2.** *(Section renumbered).*

1978, c. 64, s. 50; 1984, c. 29, s. 25; 2017, c. 4, s. 201.



*See section 118.3.4.*

**124.3.** Any person responsible for a source of contamination not resulting from the operation of an industrial establishment contemplated by section 31.10 may submit a depollution program to the Minister for approval.

1978, c. 64, s. 43; 1979, c. 49, s. 33; 1982, c. 25, s. 15; 1988, c. 49, s. 28; 2017, c. 4, s. 179.

**124.4.** If the person responsible for the source of contamination requests the approval of a depollution program contemplated in section 124.3, he shall, by any means the Minister determines, inform the population of the region where the source of contamination is situated.

Proof of the dissemination of this information shall be furnished to the Minister.

The Minister shall also transmit the request for approval to the secretary-treasurer or clerk of the municipality in whose territory the source of contamination is situated. The latter shall place such file at the disposal of the public for a period of 15 days.

1978, c. 64, s. 43; 1979, c. 49, s. 33; 1988, c. 49, s. 38; 1996, c. 2, s. 841; 2017, c. 4, s. 180.

**124.5.** Every person, group or municipality may present observations to the Minister until the expiry of the period of 15 days contemplated in the third paragraph of section 124.4 and the period of 15 days following the dissemination of that information to the population in accordance with the first paragraph of that section; these periods may be wholly or partly simultaneous.

The Minister shall not issue his approval before the end of these periods.

1978, c. 64, s. 43; 1979, c. 49, s. 33; 1988, c. 49, s. 38; 1997, c. 43, s. 546; 2017, c. 4, s. 181.

**124.6.** The Minister shall notify the Minister of Health and Social Services of the presence of any contaminant in the environment that is likely to adversely affect the life, health, safety, welfare or comfort of human beings. The Minister may also, if of the opinion that it is advisable, notify the Minister of Public Security and the Minister of Agriculture, Fisheries and Food.

2017, c. 4, s. 202.

**124.7.** The Minister shall, at least once every 10 years, produce and table in the National Assembly a report on the implementation of this Act and recommendations on the advisability of amending it.

The first report must be tabled in the National Assembly not later than 23 March 2027.

2017, c. 4, s. 202.

**124.8.** The Minister shall, every five years, propose to the Government a revision of the regulatory provisions made under sections 31.0.6 and 31.0.11.

2017, c. 4, s. 202; I.N. 2020-10-20.

**125.** *(Repealed).*

1972, c. 49, s. 141; 1979, c. 49, s. 29; 1982, c. 25, s. 21; 1988, c. 49, s. 36.

**126.** Notwithstanding any inconsistent provision of any general law or special Act, this Act applies to the Government and its departments and bodies.

1972, c. 49, s. 126; 1977, c. 5, s. 14; 1990, c. 26, s. 21; 1994, c. 13, s. 15; 1999, c. 40, s. 239; 2002, c. 11, s. 12.

**126.1.** Divisions IX and X of Chapter I do not apply to an establishment contemplated in the Act respecting occupational health and safety (chapter S-2.1) where only the health, safety and physical well-being of the workers are concerned.

1979, c. 63, s. 309.

## DIVISION XV

*Heading repealed, 2011, c. 20, s. 44.*

1978, c. 94, s. 3; 2011, c. 20, s. 44.

**127.** *(Repealed).*

1974, c. 51, s. 1; 2011, c. 20, s. 45.

**128.** *(Repealed).*

1974, c. 51, s. 2; 2011, c. 20, s. 45.

**129.** *(Repealed).*

1974, c. 51, s. 3; 2011, c. 20, s. 45.

**129.1.** *(Repealed).*

1988, c. 49, s. 37; 2017, c. 4, s. 203.

**129.2.** *(Repealed).*

1992, c. 56, s. 18; 2011, c. 20, s. 46.

**130.** *(Repealed).*

1974, c. 51, s. 4; 1978, c. 64, s. 54.

## TITLE II

### PROVISIONS APPLICABLE TO THE JAMES BAY AND NORTHERN QUÉBEC REGION

1978, c. 94, s. 4; 2017, c. 4, s. 204.

## CHAPTER I

### DEFINITIONS

1978, c. 94, s. 4; 2017, c. 4, s. 205.

**131.** In this Title, unless the context indicates a different meaning,

(1) “Cree Nation Government” means the legal person established in the public interest by the Act respecting the Cree Nation Government (chapter G-1.031);

(2) “Kativik Regional Government” means the legal person established in the public interest by the Act respecting Northern villages and the Kativik Regional Government (chapter V-6.1);

(3) “Native people” means the Crees and Inuit;

(4) “Band” means one of the Bands within the meaning of the Indian Act (R.S.C. 1985, c. I-5) of Fort George, Old Factory, Rupert House, Waswanipi, Mistassini, Nemaska, Great Whale River and Eastmain until its constitution as a legal person as provided for in Section 9 of the Agreement and, thereafter, this legal person;

(5) *(paragraph repealed)*;

(6) “Agreement” means the Agreement contemplated in section 1 of the Act approving the Agreement concerning James Bay and Northern Québec (chapter C-67), as well as Complementary Agreements Nos. 1 and 3 tabled in the National Assembly, 18 April 1978, as Sessional Papers, No. 114;

(7) *(paragraph repealed)*;

(7.1) *(paragraph repealed)*;

(8) *(paragraph repealed)*;

(9) “Crees” means the Cree beneficiaries within the meaning of the Act respecting Cree, Inuit and Naskapi Native persons (chapter A-33.1);

(10) “Inuit” means the Inuit beneficiaries within the meaning of the Act respecting Cree, Inuit and Naskapi Native persons;

(10.1) “Naskapis” means the Naskapi beneficiaries, within the meaning of the Act respecting Cree, Inuit and Naskapi Native persons;

(11) “project” means any works or activity of development or utilization of the territory or the carrying out of an industrial process which might affect the environment or the social milieu, except for the maintenance and operation of the plants or undertakings after construction;

(12) “Cree village” means any Cree village constituted by The Cree Villages and the Naskapi Village Act (chapter V-5.1);

(13) “Naskapi village” means the Naskapi Village of Kawawachikamach constituted by The Cree Villages and the Naskapi Village Act;

(14) northern village” means any northern village constituted under the Act respecting Northern villages and the Kativik Regional Government.

1978, c. 94, s. 4; 1979, c. 25, s. 106; 1996, c. 2, s. 836; 1999, c. 40, s. 239; 2013, c. 19, s. 75, s. 91; I.N. 2019-10-01.

**132.** In this Title, the mention of a category of lands, namely, Category I, IA, IA-N, IB, IB-N, II, II-N or III, refers to lands delimited according to the Act respecting the land regime in the James Bay and New Québec territories (chapter R-13.1).

1978, c. 94, s. 4; 1979, c. 25, s. 107; I.N. 2019-10-01.

## CHAPTER II

### PARTICULAR PROVISIONS APPLICABLE TO THE JAMES BAY REGION LOCATED SOUTH OF THE 55TH PARALLEL

1978, c. 94, s. 4; 2017, c. 4, s. 205.

**133.** This chapter applies to the territory bounded to the north by the 55th parallel, to the west by the boundaries of Ontario and of the Northwest Territories, to the east by the 69th meridian and to the south by a line that coincides with the southern limit of the middle zone and the Cree traplines located to the south of the middle zone, as determined under the Act respecting hunting and fishing rights in the James Bay and New Québec territories (chapter D-13.1), as well as to the Category I and II lands for the Crees of Great Whale River.

1978, c. 94, s. 4; I.N. 2019-10-01.

## DIVISION I

### JAMES BAY ADVISORY COMMITTEE ON THE ENVIRONMENT

1978, c. 94, s. 4; 2017, c. 4, s. 205.

**134.** A body is created under the name of “Comité consultatif pour l’environnement de la Baie James”. Such body may also be designated under the name, in Cree, of “Gaweshouwaitego Asgee Weshouwehun” and, in English, of “The James Bay Advisory Committee on the Environment”.

1978, c. 94, s. 4.

**135.** The Advisory Committee is composed of thirteen members, including four appointed by the Government, four by the Governor General in Council or any other person he authorizes for such purpose and four others by the Cree Nation Government. Each such member holds office during the appointing party’s pleasure and that party also provides for the member’s replacement.

The members appointed by the Government are not remunerated except in the cases, on the conditions and to the extent it indicates. Those members are, however, entitled to be reimbursed for any expenses incurred in the performance of their duties, on the conditions and to the extent determined by the Government.

The other members shall, where required, be remunerated or indemnified by the party that appointed them.

In addition, the Chairman of the Hunting, Fishing and Trapping Coordinating Committee, appointed under section 60 of the Act respecting hunting and fishing rights in the James Bay and New Québec territories (chapter D-13.1) is a member *ex officio* of the Advisory Committee. However, where, under section 60 of the said Act, the Chairman of the said Coordinating Committee is appointed by the Makivik Corporation contemplated in the Act respecting the Makivik Corporation (chapter S-18.1), the Second Vice-Chairman is a member *ex officio* of the Advisory Committee.

1978, c. 94, s. 4; 1979, c. 25, s. 108; 1987, c. 25, s. 11; 2013, c. 19, s. 91.

**136.** A vacancy does not interrupt the operation of the Advisory Committee, if it is possible to form a quorum.

1978, c. 94, s. 4.

**137.** Notwithstanding the first paragraph of section 135, the governments of Québec and of Canada and the Cree Nation Government may, by unanimous agreement, modify the number of members appointed by each of them.

Notice of such agreement must be published in the *Gazette officielle du Québec*.

1978, c. 94, s. 4; 2013, c. 19, s. 91.

**138.** The head office of the Advisory Committee is located in the territory formed by the territories defined by the Québec boundaries extension acts, as set forth in chapter 6 of the statutes of 1897/1898 and chapter 7 of the statutes of 1912 (1st session).

It may establish offices anywhere in Québec for the carrying on of its business.

It directs a secretariat.

1978, c. 94, s. 4.

**139.** The budget of the secretariat of the Advisory Committee must be approved each year by the Minister.

Such budget is financed by the appropriations voted annually for that purpose by the National Assembly. The Minister is authorized to claim from the Government of Canada half the amounts indicated in that budget.

1978, c. 94, s. 4.

**140.** Where the governments of Québec and of Canada, the Cree Nation Government, the Cree villages, the Bands and the municipalities, each within their respective jurisdictions, elaborate laws and regulations concerning environmental and social protection in the territory described in section 133, they shall consult the Advisory Committee, as the preferential and official forum.

Furthermore, the functions of the Advisory Committee are to oversee, through free exchange of views and information, the application of Section 22 of the Agreement, and to exercise administrative control over the Evaluating Committee contemplated in section 148.

For such purpose, it may, in particular,

(a) recommend the adoption of laws, regulations and other measures designed to improve the protection of the environment and of the social milieu;

(b) consider and formulate recommendations concerning laws, regulations and administrative procedures dealing with the environment, the social milieu and land use;

(c) consider and formulate recommendations concerning environmental and social impact assessment and review mechanisms and procedures.

The Advisory Committee may also adopt, subject to section 205, rules for its internal management, which must be approved by the Minister, by the Cree Nation Government and by any person designated for that purpose by the Governor General in Council.

The Advisory Committee, by the rules of internal management it may adopt, may designate among its members other officers than those provided for in the regulations made under section 205 and, by unanimous decision of all its members, may modify the quorum rules established in the said regulations. The rules of

internal management provided for in this paragraph do not require the approvals contemplated in the fourth paragraph.

1978, c. 94, s. 4; 1996, c. 2, s. 842; 2013, c. 19, s. 76, s. 91.

**141.** Any member of the Advisory Committee or the Advisory Committee itself may retain the services of any specialist whose advice or expertise may be required.

If the services are retained by a member of the Advisory Committee, the specialist is paid by the party which appointed that member. If the services are retained by the Advisory Committee, the costs and fees are paid by the secretariat.

1978, c. 94, s. 4.

**142.** The governments of Québec and of Canada, the Cree Nation Government and the Cree villages shall consult the Advisory Committee from time to time on the major issues respecting the implementation of the environmental and social protection regime applicable to the territory contemplated in section 133 and land use measures. The Advisory Committee may formulate any recommendation it considers appropriate.

1978, c. 94, s. 4; 1996, c. 2, s. 842; 2013, c. 19, s. 91.

**143.** The Minister shall consult the Advisory Committee before submitting for adoption a regulation which applies exclusively to the environmental and social protection regime of Category I or II lands, or Category III lands surrounded by Category I lands.

Similar consultation is required where the Minister intends to modify or not to apply recommendations of the Advisory Committee which apply only to the lands contemplated in the first paragraph.

The absence of consultation prescribed by this section cannot, however, have the effect of invalidating a regulation.

1978, c. 94, s. 4.

**144.** The Minister of Natural Resources and Wildlife shall transmit to the Advisory Committee, for consideration and comment, before finalizing them, the tactical plans for integrated forest development drawn up by the Minister that cover forests in the domain of the State situated in the territory contemplated in section 133. The Advisory Committee must transmit its comments, if any, within 90 days.

1978, c. 94, s. 4; 1979, c. 81, s. 20; 1986, c. 108, s. 249; 1990, c. 64, s. 24; 1994, c. 13, s. 16; 1999, c. 40, s. 239; 2003, c. 8, s. 6; 2006, c. 3, s. 35; 2001, c. 6, s. 155; 2010, c. 3, s. 324.

**145.** The Advisory Committee shall communicate its decisions and recommendations to the governments of Québec and of Canada, to the Cree Nation Government, to the Cree villages, to the Bands or to the municipalities for their attention, information and appropriate action.

1978, c. 94, s. 4; 1996, c. 2, s. 842; 2013, c. 19, s. 77, s. 91.

**146.** Upon request, the Advisory Committee shall put at the disposal of the Cree villages and the Bands the information, technical or scientific data and the advice and technical assistance which it obtains from time to time from a government or from any governmental agency.

1978, c. 94, s. 4; 1996, c. 2, s. 842.

**147.** Before 30 June of each year, the Advisory Committee shall transmit to the Minister, who shall communicate it to the National Assembly, a report of its activities for the preceding fiscal year.

1978, c. 94, s. 4.

## DIVISION II

### EVALUATING COMMITTEE AND REVIEW COMMITTEE

1978, c. 94, s. 4; 2017, c. 4, s. 205.

**148.** A body is created under the name of “Comité d’évaluation” . Such body may also be designated under the name, in Cree, of “Gaweshouwaitego Dan Djeis Nandou Tsheytaknuch Asgee Je’ Espeich” and, in English, of “Evaluating Committee” .

Another body is created under the name of “Comité d’examen” . Such body may also be designated under the name, in Cree, of “Gaweshouwaitego Dan Djeis Neh Nakitstagonuch Asgee” and, in English, of “Review Committee” .

1978, c. 94, s. 4.

**149.** The Evaluating Committee is composed of six members.

The Government, the Governor General in Council or any person he authorizes for such purpose, and the Cree Nation Government each appoint two members, during pleasure.

Each member is remunerated by the party which appointed him.

A vacancy does not interrupt the operation of the Evaluating Committee, if it is possible to form a quorum.

1978, c. 94, s. 4; 2013, c. 19, s. 91.

**150.** The Advisory Committee shall provide the Evaluating Committee with the necessary secretariat services.

1978, c. 94, s. 4.

**151.** The Review Committee is composed of five members.

The Government appoints three members, including the chairman, and remunerates them. The two others are appointed and remunerated by the Cree Nation Government; however, their expenses are paid by the secretariat of the Advisory Committee.

The members are appointed during pleasure.

A vacancy does not interrupt the operation of the Review Committee, if it is possible to form a quorum.

1978, c. 94, s. 4; 2013, c. 19, s. 91.

**152.** In the exercise of their functions and jurisdictions, the Gouvernement du Québec, the Cree Nation Government, the Cree villages, the municipalities, the Bands, the Advisory Committee, the Evaluating Committee and the Review Committee shall give due consideration to the following principles:

(a) the protection of the hunting, fishing and trapping rights of the Native people in the territory described in section 133 as well as their rights in Category I lands, with regard to any activity connected with projects affecting the said territory;

(b) the protection of the environment and social milieu, particularly by the measures proposed pursuant to the assessment and review procedure contemplated in sections 153 to 167, in view of reducing as much as possible for the Native people the negative impacts of the activities connected with projects affecting the territory contemplated in section 133;



(c) the protection of the Native people, of their societies, communities and economy, with regard to any activity connected with projects affecting the territory contemplated in section 133;

(d) the protection of the wildlife, of the physical and biological milieu and of the ecological systems of the territory contemplated in section 133, with regard to any activity connected with projects affecting the said territory;

(e) the rights and guarantees of the Native people in Category II lands, established under the Act respecting hunting and fishing rights in the James Bay and New Québec territories (chapter D-13.1);

(f) the participation of the Crees in the application of the environmental and social protection regime provided for in this division;

(g) any rights and interest of non-Native people;

(h) the right of the persons acting lawfully to carry out projects in the territory contemplated in section 133.

1978, c. 94, s. 4; 1996, c. 2, s. 842; 2013, c. 19, s. 78, s. 91.

### DIVISION III

#### ENVIRONMENTAL AND SOCIAL IMPACT ASSESSMENT AND REVIEW PROCEDURE

1978, c. 94, s. 4; 2017, c. 4, s. 205.

**153.** The projects automatically subject to the assessment and review procedure contemplated by this subdivision are listed in Schedule A and the projects which are automatically exempt from the said procedure are listed in Schedule B.

The Government may, by regulation made under section 205, modify the said Schedule A and B, and automatically subject or exempt other projects to or from the assessment and review procedure.

1978, c. 94, s. 4.

**154.** No person may undertake or carry out any project which is not automatically exempt from the assessment and review procedure, unless

(a) a certificate of authorization has been issued by the Minister, after the application of the assessment and review procedure; or

(b) an attestation of exemption of the project from the assessment and review procedure has been issued by the Minister.

1978, c. 94, s. 4; 1979, c. 49, s. 33; 1988, c. 49, s. 38.

**155.** Every person intending to undertake a project that is automatically subject to the assessment and review procedure must, at the stage of the consideration of the possible options and of the technical, economic and social implications of the said project, give written notice of his intention to the Minister and briefly indicate the nature of the project, the place where the project is to be undertaken, and the date foreseen for the start of the work.

The Minister shall notify the Evaluating Committee of the same and the Committee may make recommendations respecting the stage at which the proponent of the project should submit to the Minister the

information contemplated in section 156. The Minister shall transmit these recommendations, which he may modify, to the proponent of the project.

1978, c. 94, s. 4; 1979, c. 49, s. 33; 1988, c. 49, s. 38.

**156.** For the purpose of obtaining the certificate of authorization or attestation contemplated in section 154, the proponent of a project must transmit to the Minister the preliminary information required by regulation made under section 205.

The Minister shall forthwith transmit the preliminary information to the Evaluating Committee.

1978, c. 94, s. 4; 1979, c. 49, s. 33; 1988, c. 49, s. 38.

**157.** In the case of a project that is not contemplated in section 153, the Evaluating Committee shall formulate recommendations to the Minister regarding the advisability of submitting or not submitting the project to the assessment and review procedure.

The Minister shall then decide whether to submit the project or not. If he does not follow the recommendation of the Evaluating Committee in this matter, he must consult it again before transmitting his decision to the proponent of such project.

If the final decision of the Minister is not to submit the project, he shall deliver the attestation contemplated in paragraph *b* of section 154.

1978, c. 94, s. 4; 1979, c. 49, s. 33; 1988, c. 49, s. 38.

**158.** The Evaluating Committee shall formulate recommendations to the Minister regarding the type of impact assessment statement, either preliminary or detailed, or both, as well as the scope of each of these assessment statements, as the case may be, that must be prepared by the proponent of a project that is subject to the assessment and review procedure.

The Minister shall inform the proponent of his directions and recommendations regarding the impact survey which must be prepared by the latter. If he does not follow the advice of the Evaluating Committee in this matter, the Minister must consult it again before transmitting his decision to the initiator of such project.

The operation of facilities or undertakings after construction forms an integral element of a project subject to the assessment and review procedure.

1978, c. 94, s. 4; 1979, c. 49, s. 33; 1988, c. 49, s. 38.

**159.** The decisions made by the Deputy Minister pursuant to sections 157 and 158 must be communicated to the proponent of the project and to the Cree Nation Government within 30 days following the receipt by the Deputy Minister of the preliminary information, unless the Deputy Minister decides that additional time is required to make these decisions or to permit the Evaluating Committee to formulate its recommendations. The Deputy Minister may take the advice of the Evaluating Committee before extending the time of 30 days.

The Cree Nation Government may take cognizance of any preliminary information provided by the proponent of a project as well as any recommendation of the Evaluating Committee.

1978, c. 94, s. 4; 1979, c. 49, s. 33; 1999, c. 40, s. 239; 2013, c. 19, s. 91.

**160.** The proponent of the project shall prepare an impact assessment statement, either preliminary or detailed, or both, according to the directions and recommendations of the Minister and in conformity with the regulations made under section 205.

The proponent of the project shall transmit the impact assessment statement to the Minister with an application for a certificate of authorization. The Minister shall send a copy of the impact assessment statement to the Review Committee and to the Cree Nation Government.

1978, c. 94, s. 4; 1979, c. 49, s. 33; 1988, c. 49, s. 38; 2013, c. 19, s. 91.

**161.** The Cree Nation Government, and any Band or Cree village may, within 30 days following the reception of the impact assessment statement by the Cree Nation Government, submit representations to the Review Committee. Furthermore, where the interested Band or Cree village so allows, any person interested may submit written or verbal representations to the Review Committee. The time fixed in this paragraph may be extended by the Minister, who shall consult the Review Committee.

The Minister may, according to circumstances, authorize other modes of public consultation.

1978, c. 94, s. 4; 1979, c. 49, s. 33; 1988, c. 49, s. 38; 1996, c. 2, s. 837; 1999, c. 40, s. 239; 2013, c. 19, s. 91.

**162.** Within 45 days following the reception of the impact assessment statement by the Review Committee, the latter shall recommend to the Minister whether to authorize the project or not and, as the case may be, on what conditions, or shall recommend that he require the applicant to carry out such supplementary research or studies as he indicates, or to prepare a detailed impact assessment statement, as the case may be.

The time fixed in the first paragraph may be extended by the Minister, who shall consult the Review Committee.

1978, c. 94, s. 4; 1979, c. 49, s. 33; 1988, c. 49, s. 38; 1999, c. 40, s. 239.

**163.** In the case of a preliminary impact assessment statement or of an impact assessment statement deemed insufficient, the Minister must, after consulting the Review Committee, advise on the proposed alternatives, require that the applicant carry out such supplementary research or studies as he indicates, or that he prepare a detailed impact assessment statement.

The Minister, after consulting the Evaluating Committee, shall determine the scope of any supplementary assessment statement or research or of any detailed impact assessment statement.

The detailed impact assessment statement or the supplementary assessment statement or research prepared under this section is subject to the process provided for in sections 160 to 162 for impact assessment statements.

1978, c. 94, s. 4; 1979, c. 49, s. 33; 1988, c. 49, s. 38.

**164.** Where the Minister is satisfied with the impact assessment statements provided by an applicant, he shall transmit a certificate of authorization or a refusal in writing to him. Copy of such decision is transmitted to the Cree Nation Government.

Conditions that the applicant must respect in the carrying out and in the operation of his project may be added to a favourable decision.

If the Minister does not follow, in the matters contemplated in this section and in section 163, the recommendations of the Review Committee, he must consult it again before transmitting any decision.

1978, c. 94, s. 4; 1979, c. 49, s. 33; 1988, c. 49, s. 38; 2013, c. 19, s. 91.

**165.** The Minister may, exceptionally, for reasons connected with national defence, national security or any other serious reason, order that certain preliminary information required from the proponent of a project under this subdivision shall not be disclosed.

1978, c. 94, s. 4.

**166.** Each Cree village and each Band shall appoint a person to exercise respectively on Category IB and IA lands situated within the territory contemplated in section 133, the functions, duties and powers conferred upon the Minister by this division, in the place and stead of the latter.

The persons appointed under this section shall not have, however, any jurisdiction over projects contemplated by paragraphs *a* and *d* of section 35 of the Act respecting the land regime in the James Bay and New Québec territories (chapter R-13.1). The assessment and review procedure relating to these projects falls within the jurisdiction of the Minister.

1978, c. 94, s. 4; 1979, c. 49, s. 33; 1988, c. 49, s. 38; 1996, c. 2, s. 842.

**167.** Subject to the provisions applicable to Category I lands under the Act respecting the land regime in the James Bay and New Québec territories (chapter R-13.1) and notwithstanding section 154, the Government may, at any time, when it deems it appropriate in the public interest, authorize, on its conditions, the carrying out or the operation of a project that has not been authorized by the Minister, or modify certain conditions imposed by the latter.

In such cases, the Minister may, after consulting the Review Committee, recommend to the Government that it add to its decision certain conditions designed to ensure the protection of the environment and social milieu. The Government may impose such conditions or any other condition it deems useful.

1978, c. 94, s. 4; 1979, c. 49, s. 33; 1988, c. 49, s. 38.

### CHAPTER III

#### PARTICULAR PROVISIONS APPLICABLE TO THE TERRITORY LOCATED NORTH OF THE 55TH PARALLEL

1978, c. 94, s. 4; 2017, c. 4, s. 205.

**168.** This chapter applies to the whole territory located to the north of the 55th parallel, except in Category I and II lands for the Crees of Great Whale River.

1978, c. 94, s. 4; I.N. 2019-10-01.

#### DIVISION I

##### KATIVIK ENVIRONMENTAL ADVISORY COMMITTEE

1978, c. 94, s. 4; 2017, c. 4, s. 205.

**169.** A body is created under the name of “Comité consultatif de l’environnement Kativik”. Such body may also be designated under the name, in Inuttituuq, of “Kativik Nunamut Isumasaliuriyngita Katimayingit” and, in English, of “Kativik Environmental Advisory Committee”.

1978, c. 94, s. 4.

**170.** The Advisory Committee is composed of nine members, among whom three are appointed by the Government, three by the Governor General in Council or any other person he authorizes for such purpose, and three others by the Kativik Regional Government. Each such member holds office during the appointing party’s pleasure and that party also provides for the member’s replacement.

The members appointed by the Government are not remunerated except in the cases, on the conditions and to the extent it indicates. Those members are, however, entitled to be reimbursed for any expenses incurred in the performance of their duties, on the conditions and to the extent determined by the Government.

The other members shall, where required, be remunerated or indemnified by the party that appointed them.

1978, c. 94, s. 4; 1987, c. 25, s. 12.

**171.** A vacancy does not interrupt the operation of the Advisory Committee, if it is possible to form a quorum.

1978, c. 94, s. 4.

**172.** Notwithstanding section 170, the governments of Québec and of Canada and the Kativik Regional Government may, by unanimous agreement, modify the number of members appointed by each of them.

Notice of such agreement must be published in the *Gazette officielle du Québec*.

1978, c. 94, s. 4.

**173.** The head office of the Kativik Environmental Advisory Committee is located in the territory formed by the territories defined by the Québec boundaries extension acts, as set forth in chapter 6 of the statutes of 1897-1898 and chapter 7 of the statutes of 1912 (1st session).

It may establish offices anywhere in Québec for the carrying on of its business.

It directs a secretariat.

1978, c. 94, s. 4.

**174.** The budget of the secretariat of the Advisory Committee must be approved each year by the Minister.

Such budget is financed by the appropriations voted annually for that purpose by the National Assembly. The Minister is authorized to claim from the Government of Canada half the amounts indicated in that budget.

1978, c. 94, s. 4.

**175.** Where, each within its own jurisdiction, the governments of Québec and of Canada and municipalities elaborate laws and regulations concerning environmental and social protection in the territory described in section 168, they shall consult the Advisory Committee, as the preferential and official forum.

Furthermore, the functions of the Advisory Committee are to oversee, through free exchange of views and information, the application of Section 23 of the Agreement.

For such purpose, it may, in particular:

(a) recommend the adoption of laws, regulations and any other measures designed to improve the protection of the environment and of the social milieu;

(b) consider and formulate recommendations concerning laws, regulations and administrative procedures dealing with the environment, the social milieu and land use;

(c) consider and formulate recommendations concerning environmental and social impact assessment and review mechanisms and procedures.

The Advisory Committee may also adopt, subject to section 205, rules for its internal management which must be approved by the Minister, by the Kativik Regional Government and by any person designated for that purpose by the Governor General in Council.

The Advisory Committee, by the rules of internal management it may adopt, may designate among its members other officers than those provided for in the regulations made under section 205 and, by unanimous

decision of all its members, may modify the quorum rules established in the said regulations. The rules of internal management provided for in this paragraph do not require the approvals contemplated in the fourth paragraph.

1978, c. 94, s. 4.

**176.** Sections 141, 143 and 147 apply with the necessary modifications to the Kativik Environmental Advisory Committee and to its members, as the case may be.

1978, c. 94, s. 4.

**177.** The governments of Québec and of Canada and municipalities shall consult the Advisory Committee from time to time on the major issues respecting the implementation of the environmental and social protection regime applicable to the territory contemplated in section 168 and land use measures. The Committee may formulate any recommendation it deems appropriate.

1978, c. 94, s. 4.

**178.** The Minister of Natural Resources and Wildlife transmits to the Advisory Committee, for consideration and comments, before finalizing them, the tactical plans for integrated forest development drawn up by the Minister that cover forests in the domain of the State situated in the territory contemplated in section 168. The Advisory Committee must transmit its comments, if any, within 90 days.

1978, c. 94, s. 4; 1979, c. 81, s. 20; 1986, c. 108, s. 250; 1990, c. 64, s. 24; 1994, c. 13, s. 16; 1999, c. 40, s. 239; 2003, c. 8, s. 6; 2006, c. 3, s. 35; 2001, c. 6, s. 156; 2010, c. 3, s. 325.

**179.** The Advisory Committee shall communicate its decisions and recommendations to the governments of Québec and of Canada or to the municipalities for their attention, information and appropriate action.

1978, c. 94, s. 4.

**180.** Upon request, the Advisory Committee shall put at the disposal of the municipalities the information, technical or scientific data and the advice and technical assistance which it obtains from time to time from a government or from any governmental agency.

1978, c. 94, s. 4.

## DIVISION II

### KATIVIK ENVIRONMENTAL QUALITY COMMISSION

1978, c. 94, s. 4; 2017, c. 4, s. 205.

**181.** A body, hereinafter called “the Commission”, is created under the name of “Commission de la qualité de l’environnement Kativik”. Such body may also be designated, under the name, in Inuttituuṭ, of “Kativik Nunaup Piusisusianingata Katimayingit” and in English, of “Kativik Environmental Quality Commission”.

1978, c. 94, s. 4.

**182.** The Commission is composed of nine members.

The Government appoints and replaces, at its pleasure, five members of the Commission, among whom it designates the chairman. The appointment of the chairman must, however, be approved by the Kativik Regional Government, which appoints and replaces, at its pleasure, four other members, two of them at least being Inuit residing in the territory contemplated in section 168, or one being an Inuk residing in the said territory and the other being either a Naskapi also residing in the said territory or on Category IA-N lands or a mandatary of the Naskapis designated by the Naskapi village.

The members appointed by the Government are not remunerated except in the cases, on the conditions and to the extent it determines. Those members are, however, entitled to be indemnified for any expenses incurred in the performance of their duties, on the conditions and to the extent determined by the Government.

The members appointed by the Kativik Regional Government are remunerated by the latter.

A vacancy does not interrupt the operation of the Commission, if it is possible to form a quorum.

1978, c. 94, s. 4; 1979, c. 25, s. 109; 1987, c. 25, s. 13; 1996, c. 2, s. 842.

**183.** The first paragraph of section 173 applies with the necessary modifications to the Commission.

The Commission maintains at its head office a register of its decisions as well as all the data connected therewith, which the public may consult.

1978, c. 94, s. 4.

**184.** The officials and employees of the Commission are appointed according to the Public Service Act (chapter F-3.1.1). The chairman of the Commission is deemed to be the chief executive officer of an agency in respect of such officials and employees.

1978, c. 94, s. 4; 1978, c. 15, s. 133, s. 140; 1983, c. 55, s. 161; 2000, c. 8, s. 242.

**185.** The Commission may adopt rules for its internal management and rules governing its participation in the assessment and review procedure. These rules must be approved by the Minister and by the Kativik Regional Government.

The Commission may retain the services of specialists whose expert opinion or expertise may be required and authorize some of its members to retain services at its expense.

1978, c. 94, s. 4.

**186.** In the exercise of their functions and jurisdictions, the Gouvernement du Québec, the municipalities, the Kativik Environmental Advisory Committee and the Commission shall give due consideration to the following principles:

(a) the protection of the hunting, fishing and trapping rights of the Inuit and of the Naskapis in the territory described in section 168, as well as their other rights in the said territory, with regard to any activity connected with projects affecting the said territory;

(b) the principles enumerated in paragraphs *b*, *c*, *d* and *g* of section 152 do far as they may apply to the territory contemplated in section 168;

(c) the participation by all the inhabitants of the territory described in section 168 in the implementation of the environmental and social protection regime.

1978, c. 94, s. 4; 1979, c. 25, s. 110.

**DIVISION III**

**ENVIRONMENTAL AND SOCIAL IMPACT ASSESSMENT AND REVIEW PROCEDURE**

1978, c. 94, s. 4; 2017, c. 4, s. 205.

**187.** The impact assessment of a project by its proponent and the conduct of the assessment and review procedure by the Commission are undertaken at the earliest practicable point in time.

1978, c. 94, s. 4.

**188.** Projects automatically subject to the assessment and review procedure contemplated by this subdivision are listed in Schedule A, and the projects which are automatically exempt from the said procedure are listed in Schedule B.

The Government may, by regulation made under section 205, modify the said Schedule A and B and automatically subject or exempt other projects to or from the assessment and review procedure.

1978, c. 94, s. 4.

**189.** No person may undertake or carry out any project which is not automatically exempt from the assessment and review procedure unless

(a) a certificate of authorization has been issued by the Minister, after the application of the assessment and review procedure; or

(b) an attestation of exemption of the project from the assessment and review procedure has been issued by the Minister.

1978, c. 94, s. 4; 1979, c. 49, s. 33; 1988, c. 49, s. 38.

**190.** For the purpose of obtaining the certificate of authorization or attestation contemplated in section 189, the proponent of a project must transmit to the Minister the preliminary information required by regulation made under section 205.

1978, c. 94, s. 4; 1979, c. 49, s. 33; 1988, c. 49, s. 38.

**191.** The Minister shall transmit the preliminary information to the Commission.

1978, c. 94, s. 4; 1979, c. 49, s. 33; 1988, c. 49, s. 38.

**192.** In the case of a project that is not contemplated in section 188, the Commission shall transmit to the Minister its decision regarding the advisability of submitting or not submitting the project to the assessment and review procedure.

In the case where no Naskapi or mandatary of the Naskapis is a member of the Commission when the latter is preparing to exempt a proposed project on Category IB-N or II-N lands from the assessment and review procedure, the Commission must transmit the preliminary information contemplated in section 190 to the Naskapi village, which may submit its recommendations to the Commission.

The Commission may make the decision contemplated in the second paragraph after the expiry of 20 days following the date on which the Naskapi village received the preliminary information or following its reception of the latter's recommendations, whichever occurs first.

If the decision of the Commission is not to submit the project, the Minister shall issue the attestation contemplated in paragraph *b* of section 189.

1978, c. 94, s. 4; 1979, c. 25, s. 111; 1979, c. 49, s. 33; 1988, c. 49, s. 38; 1996, c. 2, s. 838.



**192.1.** Where the Commission decides, pursuant to section 192, to subject a proposed project on Category IB-N or II-N lands to the assessment and review procedure, it shall inform the Naskapi village thereof.

1979, c. 25, s. 112; 1996, c. 2, s. 842.

**193.** Every project submitted to the assessment and review procedure must follow the process provided for in this subdivision whatever the other required approvals, licences or permits may be.

Subject to section 203, the Government shall not, prior to the issuance of a certificate of authorization or an attestation contemplated in section 189, give any funds or loans for projects not automatically exempt from the assessment and review procedure, unless, the Minister responsible for such funds or loans decides otherwise.

Nothing in this section has the effect of preventing the proponent of the project from obtaining approvals, credits, financing or guarantees for feasibility studies, research or any other purpose which may facilitate the processing of the project through the assessment and review procedure.

1978, c. 94, s. 4.

**194.** A notice that a project must be submitted to an environmental and social impact assessment statement is published by the Commission in the *Gazette officielle du Québec* within 30 days following the date on which it received the information contemplated in section 194 or, if such is the case, the date on which a decision was rendered under section 192, as the case may be.

The lack of publication of such notice within the prescribed time does not render illegal the assessment and review procedure of any project.

1978, c. 94, s. 4; 1999, c. 40, s. 239.

**195.** The Minister, after consulting the Commission, shall decide on the scope and contents of the environmental and social impact assessment statement that must be prepared by the proponent of the project and inform the latter thereof.

The Minister shall make such decision on the basis, particularly, of the contents suggested for such impact assessment statement by regulation of the Government made under section 205.

The operation of the plants or undertakings after construction forms an integral element of the project subject to the assessment and review procedure.

1978, c. 94, s. 4; 1979, c. 49, s. 33; 1988, c. 49, s. 38.

**196.** The proponent of the project shall deliver to the Minister the environmental and social impact assessment statement with an application for a certificate of authorization. The Minister may require that the applicant carry out such supplementary research and studies as he indicates. The Minister shall deliver to the Commission the impact assessment statement and the results of such supplementary research and studies as he receives them.

When he deems the file complete, the Minister shall inform the Commission thereof.

1978, c. 94, s. 4; 1979, c. 49, s. 33; 1988, c. 49, s. 38.

**197.** The Commission shall examine and evaluate the impact assessment statement and render the decision provided for in section 200, taking into account, particularly, the following considerations, to which it shall grant the importance it deems appropriate:

(a) the favourable and unfavourable aspects of the project as well as its positive and negative effects on the environment and social milieu;

(b) environmental adversities which cannot be avoided by present technological means, and those which the applicant has not chosen to avoid completely, as well as the proposals of the latter aiming at limiting such adversities;

(c) reasonable and available measures for preventing or reducing negative impacts and intensifying the positive impacts of the project;

(d) reasonable alternatives to the project and its elements;

(e) the methods and other measures proposed by the applicant to control sufficiently the emission of contaminants into the environment or to regulate other environmental problems, as the case may be;

(f) the conformity of the envisaged project with the laws and regulations concerning the environmental problems caused by this type of project, including bills and draft regulations tabled officially by the Minister;

(g) safety measures which are to be set in operation by the applicant in case of accident.

1978, c. 94, s. 4.

**198.** The applicant shall indicate to the Commission, before it renders the decision provided for in section 200, any errors, inaccuracies, contradictions or new circumstances which may cause important negative impacts on the environment and the social milieu and which have not been duly considered in the impact assessment statement.

1978, c. 94, s. 4.

**199.** Any interested person, group or municipality may, of his or its own initiative, submit written representations to the Commission with respect to any project. The Commission may also invite interested persons, groups or municipalities to make representations to it with respect to any project.

1978, c. 94, s. 4.

**200.** The Commission decides whether the Minister must authorize the project or not and, as the case may be, under which conditions.

In the case where no Naskapi or mandatary of the Naskapis is a member of the Commission at the time the latter is preparing to make the decision contemplated in the first paragraph, regarding a proposed project on Category IB-N or II-N lands, the Commission must transmit a copy of the impact study to the Naskapi village for comment before making that decision.

In the case contemplated in the second paragraph, the Commission may make its decision after the expiry of 30 days following the date on which the Naskapi village received a copy of the impact study or following its reception of the latter's recommendation, whichever occurs first.

The Commission may extend the period contemplated in the third paragraph where the nature or importance of the project justifies it and to the extent that the additional period does not prevent it from transmitting its decision within the period prescribed under the fifth paragraph.

The Commission transmits its decision to the Minister within 45 days in the case of a project which it has decided to submit to the assessment and review procedure in conformity with section 192 and within 90 days in the case of a project automatically subject to such procedure, unless the Minister grants additional time when the nature or importance of the project justifies it.

The delays contemplated in the fifth paragraph run from the date on which the Minister informs the Commission that the file on such project is complete, in accordance with the second paragraph of section 196.

Finally, the Commission shall transmit a copy of its decision to the Naskapi village in the case contemplated in the second paragraph.

1978, c. 94, s. 4; 1979, c. 25, s. 113; 1979, c. 49, s. 33; 1988, c. 49, s. 38; 1996, c. 2, s. 839; 1999, c. 40, s. 239.

**201.** The Deputy Minister shall carry out the decision of the Commission, and, as the case may be, issued the certificate of authorization with the conditions fixed by the Commission, unless the Minister authorizes him to substitute a different decision.

The Deputy Minister transmits to the applicant a certificate of authorization or a refusal in writing, in conformity with any decision contemplated in the first paragraph. Copy of the decision of the Deputy Minister is transmitted to the Commission and to the Kativik Regional Government.

The Deputy Minister also transmits a copy of the said decision to the Naskapi village in the cases contemplated in the second paragraph of section 200.

1978, c. 94, s. 4; 1979, c. 25, s. 114; 1979, c. 49, s. 33; 1996, c. 2, s. 842.

**202.** To the extent that it is necessary or useful in the exercise of its functions, the Commission has the right to receive any information ordinarily available and possessed by the Government or by any governmental agency with respect to any activity carried on in the territory contemplated in section 168 or affecting such territory.

1978, c. 94, s. 4.

**203.** Notwithstanding section 189, the Government may, for cause, authorize, with its conditions, the carrying out or the operation of a project which has not been authorized by the Minister, or modify the conditions imposed by the latter. It may even, where it deems it necessary in the public interest, exempt a project from all or part of the assessment and review procedure provided for in this subdivision.

1978, c. 94, s. 4; 1979, c. 49, s. 33; 1988, c. 49, s. 38.

**204.** In the exercise of the powers which are conferred upon him by other provisions of this Act, the Minister shall ensure, collaborating, where required, with the Commission, that the plans and specifications of any authorized project are in conformity with the requirements of the certificate of authorization and that the project is carried out in conformity with the conditions imposed.

1978, c. 94, s. 4; 1979, c. 49, s. 33; 1988, c. 49, s. 38.

## CHAPTER IV

### REGULATIONS

1978, c. 94, s. 4; 2017, c. 4, s. 205.

**205.** The Government may, by regulation:

(a) adopt the rules of internal management of the James Bay Advisory Committee on the Environment, those of the Kativik Environmental Advisory Committee and those of the Kativik Environmental Quality Commission, subject to section 140, 175 and 185;

(b) adopt the rules of internal management of the Evaluating Committee and Review Committee;

(c) modify, pursuant to a recommendation of the Cree Nation Government to that effect, Schedules A and B and, pursuant to a similar recommendation, automatically subject to, or exempt from, the assessment and review procedure contemplated in Division II of this chapter, other project;

(d) modify, pursuant to a recommendation of Makivik Corporation to that effect, Schedules A and B and, pursuant to a similar recommendation, automatically subject to, or exempt from, the assessment and review procedure contemplated in Division III of this chapter, other projects;

(e) identify the preliminary information that must be transmitted by a project proponent, under sections 156 and 190;

(f) define the meaning of the expressions “preliminary impact assessment statement” and “detailed impact assessment statement” referred to in Division II and determine the objects and the mode of presentation of such environmental and social impact assessment statements;

(g) determine the contents of the impact assessment statements contemplated in section 158 and suggest the contents of those contemplated in section 195.

These regulations are not subject to the first two paragraphs of section 124 nor to the first paragraph of sections 140 and 175.

Upon the coming into force of the regulations contemplated in subparagraphs *a* and *b* of the first paragraph, such regulations are presumed to have been made by the bodies contemplated therein.

1978, c. 94, s. 4; 1999, c. 40, s. 239; 2013, c. 19, s. 91.

## CHAPTER V

### MISCELLANEOUS PROVISIONS

1978, c. 94, s. 4; 2017, c. 4, s. 205.

**206.** The rules of internal management adopted by the James Bay Advisory Committee on the Environment, the Kativik Environmental Advisory Committee and the Kativik Environmental Quality Commission under the fourth and fifth paragraphs of sections 140 and 175 and the first paragraph of section 185 and the rules governing the participation of the Kativik Environmental Quality Commission in the assessment and review procedure adopted in virtue of the first paragraph of section 185 come into force upon their publication in the *Gazette officielle du Québec*.

1978, c. 94, s. 4.

**207.** Division XI of Chapter I does not apply to decisions rendered by the Minister or by a person contemplated in section 166 under Division II and III of this chapter.

1978, c. 94, s. 4; 1979, c. 49, s. 33; 1988, c. 49, s. 38.

**208.** Projects contemplated in paragraph 8.1.3 of the Agreement are subject to the assessment and review procedures contemplated in Division II and III of this chapter, but only in respect of ecological impacts.

This section does not, however, have the effect of preventing the proponent of such a project, on his own initiative or upon a recommendation of the Minister, from assessing the sociological impacts of such project.

In addition, the proponents of such projects shall implement the reasonable mitigating measures required to minimize the negative impacts of such projects on the hunting, fishing and trapping activities of the Crees, the Inuit and the Naskapis.

1978, c. 94, s. 4; 1979, c. 25, s. 115; 1979, c. 49, s. 33; 1988, c. 49, s. 38.

**209.** Notwithstanding any other provision of this chapter or of any regulation, Le Complexe La Grande (1975) described in Schedule I to Section 8 of the Agreement may be undertaken and integrally carried out,

without being submitted to the assessment and review procedure provided for in Division II and III of this chapter.

1978, c. 94, s. 4.

**210.** Subject to the first paragraph of section 166, the Government may designate another person to carry out the functions, powers and duties conferred on the Minister by Divisions II and III of this chapter.

1978, c. 94, s. 4; 1979, c. 49, s. 33; 1988, c. 49, s. 38.

**211.** No project may be submitted, under this Act, to more than one assessment and review procedure, unless it partly affects both of the territories contemplated in sections 133 and 168 or it partly affects a territory not contemplated in the said sections.

1978, c. 94, s. 4.

**212.** The members of the James Bay Advisory Committee on the Environment, of the Evaluating Committee, of the Review Committee, of the Kativik Environmental Advisory Committee and of the Kativik Environmental Quality Commission are not personally responsible for any action carried out in good faith in the exercise of their functions.

1978, c. 94, s. 4.

**213.** Subdivision 4 of Division II of Chapter IV of Title I and the regulations for the application thereof do not apply in the territories contemplated in sections 133 and 168, except in respect of the regulations for the application of section 22 and the regulations generally applicable to the Bureau d'audiences publiques sur l'environnement made under paragraphs *c* and *d* of section 31.9.

1978, c. 94, s. 4; 1978, c. 64, s. 52; 2017, c. 4, s. 206.

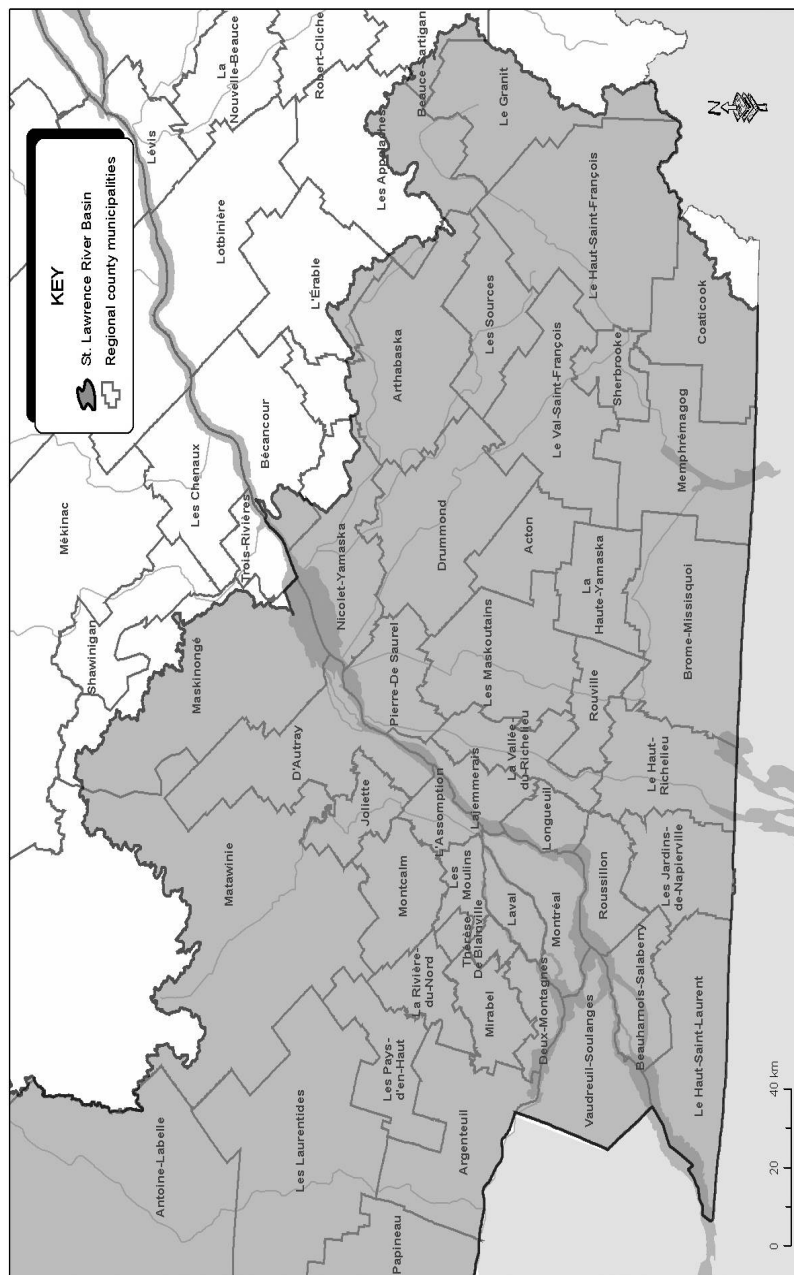
**214.** *(This section ceased to have effect on 17 April 1987).*

1982, c. 21, s. 1; U. K., 1982, c. 11, Sch. B, Part I, s. 33.

SCHEDULE 0.A

(section 31.89)

MAP SHOWING THE PART OF QUÉBEC COMPRISED WITHIN THE ST. LAWRENCE RIVER BASIN AND COVERED BY THE GREAT LAKES-ST. LAWRENCE RIVER BASIN SUSTAINABLE WATER RESOURCES AGREEMENT





2009, c. 21, s. 30.



**SCHEDULE A**

*(Sections 153, 188, 205)*

**PROJECTS AUTOMATICALLY SUBJECT TO THE ASSESSMENT AND REVIEW PROCEDURE**

The projects listed below are automatically subject to the assessment and review procedure contemplated in sections 153 to 167 and 187 to 204:

- (a)* all mining developments, including the additions to, alterations or modifications of existing mining developments;
- (b)* all borrow, sand and gravel pits and quarries, with areas of or over 3 hectares;
- (c)* all hydro-electric power plants and nuclear installations and their associated works;
- (d)* all storage and water supply reservoirs related to works intended to produce electricity;
- (e)* all electric power transmission lines of over 75 kV;
- (f)* all operations or installations related to the extraction or processing of energy yielding materials;
- (g)* all fossil-fuel fired power generating plants with a calorific capacity of or above 3,000 KW;
- (h)* any road or branch of such road of at least 25 km in length which is intended for forestry operations for a period of at least 15 years;
- (i)* all wood, pulp and paper mills or other plants for the transformation or the treatment of forest products;
- (j)* all land use projects which affect more than 65 km<sup>2</sup>;
- (k)* all sanitary sewage systems including more than 1 km of piping and all waste water treatment plants designed to treat more than 200 kl of waste water per day;
- (l)* all systems for the collection and disposal of residual materials, except mine tailings and hazardous materials;
- (m)* all projects for the creation of parks or ecological reserves;
- (n)* all outfitting facilities designed to accommodate at one time 30 persons or more, including networks of outpost camps;
- (o)* the delimitation of the territory of any new community or municipality and any expansion of 20% or more of their total territory or their urbanized areas;
- (p)* all access roads to a locality or road network contemplated for a new development;
- (q)* all port and harbour facilities, railroads, airports, pipelines or dredging operations for the improvement of navigation.

The projects listed in this Schedule do not include the activities contemplated in paragraph g of Schedule B.

Notwithstanding paragraph *a*, mining exploration projects are not automatically subject to the assessment and review procedure contemplated in sections 153 to 167.

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1978, c. 94, s. 6; 1996, c. 2, s. 840; 1999, c. 75, s. 36.

## **SCHEDULE B**

*(Sections 153, 188, 205)*

### **PROJECTS AUTOMATICALLY EXEMPT FROM THE ASSESSMENT AND REVIEW PROCEDURE**

The projects listed below are automatically exempt from the assessment and review procedure contemplated in sections 153 to 167 and 187 to 204:

- (a)* all hotels or motels of 20 beds or less and all service stations along highways;
- (b)* all other structures intended for dwellings, wholesale and retail trade, or intended for offices or garages, or intended for handicrafts or car parks;
- (c)* all fossil-fuel fired power generating plants having a calorific capacity below 3,000 kW;
- (d)* all school or educational establishments, rest areas, observation points, banks, fire stations or immovables intended for administrative, recreational, cultural, religious, sport and health purposes or for telecommunications;
- (e)* all control or transformer stations of a voltage of 75 kV or less, or electric power transmission lines of a voltage of 75 kV or less;
- (f)* all water and sewer mains, and all oil or gas mains of less than 30 cm in diameter with a maximum length of 8 km;
- (g)* all testing, preliminary investigation, research, experiments outside the plant, aerial or ground reconnaissance work and survey or technical survey works prior to any project;
- (h)* all forestry development when included in plans provided for in the Forest Act (chapter F-4.1) provided that, where they are applicable to the territory referred to in section 133 of this Act, the plans governed by Division IV of Chapter III of Title I of the Forest Act, before being approved or finalized by the Minister of Natural Resources and Wildlife, were the subject of a consultation, in the case of a general plan, with the Cree-Québec Forestry Board as required under the second and third paragraphs of section 95.20 of that Act and, in the case of an annual plan, with the joint working group concerned, as required under paragraphs 37 and 39 of Part IV (C-4) of Schedule C to the Agreement Concerning a New Relationship Between le Gouvernement du Québec and the Crees of Québec;
- (i)* all municipal streets and sidewalks;
- (j)* all maintenance and operation of public and private roads;
- (k)* all repairs and maintenance on existing municipal works;
- (l)* all temporary hunting, fishing and trapping camps and all outfitting facilities or camps for less than 30 persons;
- (m)* all small wood cuttings for personal or community use;
- (n)* all borrow pits for highway maintenance purposes.

Moreover, all projects carried out within the territorial limits of a non-Native community and which do not have an impact on the wildlife outside of these limits are exempt from sections 153 to 167.

Lastly, any project within the territorial limits of a community which does not have an impact on the wildlife outside of such limits as well as the extraction and handling of soapstone, sand, gravel, copper and wood for personal or community use are exempt from sections 187 to 204.

## ENVIRONMENT QUALITY

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The exemptions provided for in paragraphs *a* to *f* and in paragraphs *l* to *n* of this Schedule apply to the establishment, construction, modification, renovation and relocation of the projects contemplated.

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1978, c. 94, s. 6; 1979, c. 81, s. 20; 1986, c. 108, s. 251; 2002, c. 25, s. 21; 2003, c. 8, s. 6; 2006, c. 3, s. 35.

### REPEAL SCHEDULES

In accordance with section 17 of the Act respecting the consolidation of the statutes (chapter R-3), chapter 49 of the statutes of 1972, in force on 31 December 1977, is repealed, except sections 127, 129, 136 and 138 to 166, effective from the coming into force of chapter Q-2 of the Revised Statutes.

In accordance with section 17 of the Act respecting the consolidation of the statutes and regulations (chapter R-3), sections 138 to 143, 145, 147, 149, 151 and 153 to 159 of chapter 49 of the statutes of 1972, in force on 1 November 1980, are repealed effective from the coming into force of the updating to 1 November 1980 of chapter Q-2 of the Revised Statutes.

In accordance with section 17 of the Act respecting the consolidation of the statutes and regulations (chapter R-3), the third paragraph of section 31*i*, the second and third paragraphs of section 227, section 227-1, the second, third and fourth paragraphs of section 235 and the third paragraph of section 236 of chapter 49 of the statutes of 1972, in force on 31 December 1981, are repealed effective from the coming into force of the updating to 31 December 1981 of chapter Q-2 of the Revised Statutes.

In accordance with section 17 of the Act respecting the consolidation of the statutes and regulations (chapter R-3), section 136 of chapter 49 of the statutes of 1972, in force on 1 January 1984, is repealed effective from the coming into force of the updating to 1 January 1984 of chapter Q-2 of the Revised Statutes.

In accordance with section 17 of the Act respecting the consolidation of the statutes and regulations (chapter R-3), sections 45, 45*a*, 45*b* and 45*c* of chapter 49 of the statutes of 1972, in force on 1 July 1984, are repealed effective from the coming into force of the updating to 1 July 1984 of chapter Q-2 of the Revised Statutes.

