Québec

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chapter Q-2

ENVIRONMENT QUALITY ACT

CHAPTER I
PROVISIONS OF GENERAL APPLICATION

DIVISION I
DEFINITIONS

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

(1) “water”: surface water and underground water wherever located;

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

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

(4) “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;

(5) “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;

(6) “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;

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

(8) “source of contamination”: any activity or condition causing the emission of a contaminant into the environment;

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

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

(11) “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;

(12) *(paragraph replaced)*;

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

(14) “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;

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

(16) “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;

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

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

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

not in force

(20) “tailings” means rejected mineral substances, sludge and water, except the final effluent, from extraction operations and ore treatment, and slag from pyrometallurgy operations;

(21) “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;

(22) *(paragraph repealed)*.

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.

DIVISION II
FUNCTIONS AND POWERS OF THE MINISTER

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;

not in force

(d.1) establish and administer, on the conditions and according to the procedures determined by regulation of the Government, a fund designed to encourage the involvement of persons, groups and municipalities in public hearings;

(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 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.

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 last 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.

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, emission, deposit, issuance or discharge 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 emitted, deposited, issued or discharged, 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.

A regulation made under this section is preceded by the publication of a draft regulation in the *Gazette officielle du Québec* for the purposes of a 60-day consultation.

2004, c. 24, s. 3.

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.

DIVISION II.1
THE BUREAU D'AUDIENCES PUBLIQUES SUR L'ENVIRONNEMENT

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 for the time and with the remuneration determined by it.

1978, c. 64, s. 1.

not in force

6.2.1. The members of the Bureau appointed under the first paragraph of section 6.2 shall remain in office notwithstanding the expiry of their terms until they are replaced or reappointed.

1992, c. 56, s. 3.

not in force

6.2.2. Before taking office, the members shall swear that they will perform the duties of their office impartially and honestly; the president shall do so before a judge of the Court of Québec, and the other members before the president of the Bureau.

1992, c. 56, s. 3; 1999, c. 40, s. 239.

not in force

6.2.3. The members who are appointed under the first paragraph of section 6.2 shall devote their time exclusively to their duties.

1992, c. 56, s. 3.

not in force

6.2.4. No member may, under pain of forfeiture of office, have any direct or indirect interest in an undertaking that might place his personal interest in conflict with his duties of office, unless such interest devolves on him by succession or gift and he renounces or disposes of it with dispatch.

1992, c. 56, s. 3.

not in force

6.2.5. The president shall be responsible for the administration and general management of the Bureau.

1992, c. 56, s. 3.

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.

It must hold public hearings whenever required to do so by the Minister.

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

Except within the scope of the application of section 31.3, the Minister publishes in the *Gazette officielle du Québec* a notice of every mandate to inquire entrusted by him to the Bureau.

1978, c. 64, s. 1.

6.4. The Bureau may hold several public hearings simultaneously.

Public hearings shall be conducted by one or more members of the Bureau, as may be determined by the president.

1978, c. 64, s. 1.

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.

not in force

6.5.1. In no case may the Bureau or its members be prosecuted for acts performed in good faith in the discharge of their duties.

1992, c. 56, s. 7.

6.6. The Bureau shall adopt by-laws for its internal management and rules of procedure relating to the conduct of public hearings.

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.

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

1978, c. 64, s. 1.

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. Not later than 30 June each year, the Bureau shall transmit a report of its activities for the preceding fiscal year to the Minister.

1987, c. 73, s. 20.

6.12. The Minister shall table the report in the National Assembly within 30 days of receiving it if it is in session or, if it is not sitting, within 30 days of the opening of the next session or resumption.

1987, c. 73, s. 20.

DIVISION III
Repealed, 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.

DIVISION III.1
THE RIGHT TO A HEALTHY ENVIRONMENT AND TO THE PROTECTION OF LIVING SPECIES

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 755 of the Code of Civil Procedure shall not exceed $500.

1978, c. 64, s. 4.

19.5. Every action or motion made pursuant to this division must be served on the Attorney General.

1978, c. 64, s. 4.

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 a certificate of 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.

DIVISION IV
PROTECTION OF THE ENVIRONMENT

20. No one may emit, deposit, issue or discharge or allow the emission, deposit, issuance or discharge into the environment of a contaminant in a greater quantity or concentration than that provided for by regulation of the Government.

The same prohibition applies to the emission, deposit, issuance or discharge of any contaminant the presence of which in the environment is prohibited by regulation of the Government or is likely to affect the life, health, safety, welfare or comfort of human beings, or to cause damage to or otherwise impair the quality of the soil, vegetation, wildlife or property.

1972, c. 49, s. 20.

21. Whoever is responsible for the accidental presence in the environment of a contaminant contemplated in section 20 must advise the Minister without delay.

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

22. No one may erect or alter a structure, undertake to operate an industry, carry on an activity or use an industrial process or increase the production of any goods or services if it seems likely that this will result in an emission, deposit, issuance or discharge of contaminants into the environment or a change in the quality of the environment, unless he first obtains from the Minister a certificate of authorization.

However, no one may erect or alter any structure, carry out any works or projects, undertake to operate any industry, carry on any activity or use any industrial process or increase the production of any goods or services in a constant or intermittent watercourse, a lake, pond, marsh, swamp or bog, unless he first obtains a certificate of authorization from the Minister.

The application for authorization must include the plans and specifications of the structure or project to use the industrial process, operate the industry or increase production and must contain a description of the apparatus or activity contemplated, indicate its precise location and include a detailed evaluation in accordance with the regulations of the Government of the quantity or concentration of contaminants expected to be emitted, deposited, issued or discharged into the environment through the proposed activity.

The Minister may also require from the applicant any supplementary information, research or assessment statement he may consider necessary to understand the impact the project will have on the environment and to decide on its acceptability, unless the project has already been the subject of a certificate of authorization issued under section 31.5, 31.6, 134 or 189, of an authorization issued under section 167 or 203 or of a certificate of exemption from the assessment and review procedure issued under section 154 or 189.

1972, c. 49, s. 22; 1978, c. 64, s. 5; 1979, c. 49, s. 33; 1988, c. 49, s. 4.

23. In the case of an application for authorization relating to certain classes of projects, activities or industries likely to harm or destroy the surface of the soil and determined by regulation of the Government, the applicant must submit a land reclamation plan as well as any guarantee exigible, the whole in accordance with the standards, terms and conditions prescribed by regulation of the Government.

1972, c. 49, s. 23.

24. The Minister shall, before giving his approval to an application made under section 22, ascertain that the emission, deposit, issuance or discharge of contaminants into the environment will be in accordance with the Act and regulations. He may, for that purpose, require any alteration in the plan or project submitted.

A certificate of authorization issued under section 22 is non-transferable, except where the Minister authorizes the transfer

on such conditions as he shall determine.

1972, c. 49, s. 24; 1979, c. 49, s. 33; 1988, c. 49, s. 5.

24.1. On the application of the holder of several certificates of authorization issued under section 22 relating to the same works or establishment, the same activity or the same work, the Minister may, on the conditions the Minister determines, combine the certificates of authorization into a single certificate, referred to as an “administrative certificate”.

When issuing an administrative certificate, the Minister may not make any modification to the conditions set out in the certificates of authorization so combined that would have the effect of either reducing the protection of the environment ensured by those conditions or subjecting the holder to new obligations.

2002, c. 35, s. 2.

24.2. From the date of its issue, the administrative certificate replaces the certificates of authorization it combines, which cease to have effect without prejudice, however, to any offences committed, proceedings instituted or penalties incurred before that date in relation to those certificates.

2002, c. 35, s. 2.

24.3. Once issued, the administrative certificate stands in lieu of the certificate of authorization as if it had been issued under section 22 and is considered to be a certificate of authorization for the purposes of this Act.

2002, c. 35, s. 2.

24.4. *(Repealed).*

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

25. When he ascertains the presence in the environment of a contaminant contemplated in section 20, the Minister may order whoever is responsible for the source of contamination to cease finally or temporarily or to limit, according to the conditions prescribed by him, the emission, deposit, issuance or discharge of such contaminant.

Before issuing an order, the Minister shall, as prescribed by section 5 of the Act respecting administrative justice (chapter J-3), notify to whoever is responsible for the source of contamination prior notice of not less than 15 days setting out the reasons which appear to justify an order, the date on which it is to have effect and the fact that whoever is responsible for the contamination may present observations. The prior notice shall be accompanied with a copy of every analysis, study or other technical report considered by the Minister for the purposes of the proposed order.

The Minister shall transmit a copy of the prior notice to any person who has submitted to him a sworn complaint in respect of the object of such notice. Notice of the contemplated order shall be published in a daily newspaper circulated in the region in which the contemplated source of contamination is located.

The Minister shall also transmit a copy of the prior notice to the secretary-treasurer or clerk of the municipality in whose territory the contemplated source of contamination is located. The latter shall place the prior notice at the disposal of the public for the period of 15 days provided for in the second paragraph.

The order shall include a statement of the grounds invoked by the Minister. It shall take effect on the date it is notified to whoever is responsible for the source of contamination or on any later date indicated in the order.

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.

26. The Minister may, however, without prior notice but for a period of not over 30 days, order whoever is responsible for a source of contamination to cease or abate to the extent that he determines, the emission, deposit, issuance or discharge of a contaminant when in his opinion an immediate danger results to the life or health of persons or a danger of serious or irreparable damage to property.

Such order must contain a summary of the reasons of the Minister. It shall take effect on the date of its notification upon the one responsible for the source of contamination.

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.

27. The Minister may, when he considers it necessary in order to ensure the protection or sanitary condition of the environment, order whoever is responsible for a source of contamination to use any class or type of apparatus which he indicates to abate or eliminate the emission, deposit, issuance or discharge of a contaminant.

He may, likewise, when he considers it necessary in order to ensure the supervision of the environmental quality, order whoever is responsible for a source of contamination to install, within the delays and at the place designated by him, any class or type of equipment or apparatus for measuring the concentration, quality or quantity of any contaminant and oblige the person responsible for the source of contamination to send the data collected according to the terms and conditions that he determines.

He may, finally, order whoever is responsible for a source of contamination to install, within the delays and at the place designated by him, all the works that he considers necessary to enable the sampling and analysis of any source of contamination or the installation of any equipment or apparatus described in the preceding paragraph.

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

27.1. The Minister may order the operator of any quarry or sand pit who began operations before 17 August 1977, to prepare and implement a relandscaping program, according to the conditions indicated by him.

That order must be preceded by the prior notice and other formalities provided for in section 25.

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

28. *(Repealed).*

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

29. The Minister may, after inquiry, order a municipality to exercise the powers relating to the quality of the environment conferred on such municipality by this Act or by any other general law or special Act.

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.

29.1. *(Repealed).*

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

30. *(Repealed).*

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

31. The Government may make regulations to:

(a) classify contaminants and sources of contamination;

(b) withdraw classes of contaminants or sources of contamination from the application of this Act or from any part of it;

(c) prohibit, limit and control sources of contamination as well as the emission, deposit, issuance or discharge into the environment of any class of contaminants throughout all or part of the territory of Québec;

(d) determine for any class of contaminants or sources of contamination a maximum permissible quantity or concentration of emission, deposit, issuance or discharge into the environment throughout all or part of the territory of Québec;

(e) define standards for the protection and quality of the environment or any of its parts throughout all or part of the territory of Québec;

(e.1*)* 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 use, management or purification of water, for the purpose of protecting the environment and achieving environmental quality objectives for all or any part of the territory of Québec, and establish any rule necessary or relevant to the functioning of the measures pertaining in particular to the determination of the persons or municipalities required to pay such fees or charges, the conditions applicable to their collection and the interest and penalties exigible in case of non-payment;

(f) determine the terms and conditions whereunder an application for a certificate of authorization of plans and specifications or projects must be made to the Minister under sections 22 and 24, classify for that purpose the structures and industrial processes, industries, works, activities and projects and, as the case may be, withdraw certain classes of them from all or part of this Act;

(g) determine the form and tenor of any authorization certificate, certificate, authorization, permit, permission or approval granted under this Act or a regulation thereunder;

(g.1*)* prescribe, in cases where a person responsible for a source of contamination has, in accordance with sections 116.2 to 116.4, submitted a depollution program to the Minister and received the Minister's approval, annual duties payable by the person or a method and factors for the computation of such duties, together with the time and the terms and conditions of payment. The annual duties may vary according to certain factors such as

(i) the class of the source of contamination;

(ii) the territory in which the source of contamination is located;

(iii) the nature or extent of the emission of contaminants into the environment;

(iv) the duration of the depollution program;

(h) determine the methods for collecting, analysing and computing any emission, deposit, issuance or discharge of a contaminant;

(h.1*)* prescribe methods for collecting, preserving and analyzing samples of water, air, soil and residual materials for the purposes of any regulation under this Act;

(h.2*)* prescribe that any analyses contemplated by paragraphs *h* and *h.*1 shall be carried out in whole or in part in a laboratory accredited by the Minister pursuant to section 118.6 and indicate the statements of analysis results to be prepared and transmitted to the Minister;

(i) establish standards for the installation and operation of any apparatus or equipment contemplated in section 27;

(j) provide, in the case of certain contaminants or sources of contamination, a time within which the Minister is to be informed of the accidental presence in the environment of a contaminant contemplated in section 20, and prescribe that registers be kept for such purposes and for the purposes of section 21;

(k) prescribe, for one or more classes of projects, the valid term of any certificate of authorization, approval, authorization or certificate issued under one or another of the sections of this Act;

(l) regulate or prohibit the use of any contaminant and the presence of any contaminant in products sold, distributed or utilized in Québec;

(m) determine the terms and conditions according to which every application for a permit, certificate, authorization, approval or permission provided for under this Act, must be made and, in such cases as he shall determine, those according to which every application to amend or renew any such document must be made;

(n) require, as a condition prior to the issue of a certificate of authorization, a certificate or an authorization or to the issue or renewal of a permit and in such cases as it may determine, that a person furnish security to enable the Minister

to take or cause to be taken the steps required pursuant to section 113, 115, 115.0.1 or 115.1, the cost of which may be charged to the person, fix the nature and amount of the security and the conditions for its utilization by the Minister and for its remittance; the amount may vary depending upon the class, nature, extent or cost of the project for which the security is required;

(n.1) (paragraph repealed);

(n.2) (paragraph repealed);

(n.3) (paragraph repealed);

(n.4) (paragraph repealed);

(o) (paragraph repealed);

(p) (paragraph repealed);

(q) (paragraph repealed);

(r) (paragraph repealed);

not in force

(s) determine, for the purposes of paragraph *d*.1 of section 2, the conditions and procedures for establishing and administering the fund referred to in that paragraph.

(t) determine the fees payable by the holder of an authorization, approval, certificate, permit, attestation or permission to cover the costs of control and monitoring measures, particularly the costs of inspecting facilities and examining information or documents provided to the Minister, the conditions of payment and the interest payable in case of non-payment, and exempt from payment of all or part of the fees, on the conditions the Minister determines, a holder who has set up an environmental management system that meets a recognized Québec, Canadian, or international standard.

A regulation made under subparagraph *e*.1 of the first paragraph prescribing fees or charges related to the use, management or purification of water must provide that those fees or charges are to be credited to the Green Fund for the purpose of ensuring water governance, including protecting and developing water resources and ensuring that there is an adequate quality and quantity of water in a sustainable development perspective.

A regulation made under subparagraph *e*.1 of the first paragraph prescribing waste-disposal or elimination fees or charges may provide that all or part of those fees or charges are to be paid to the Société québécoise de récupération et de recyclage for the purpose of the carrying out of its functions in the field of residual materials recovery and reclamation.

The fees determined under subparagraph *t* of the first paragraph are based on the nature of the holder's activities, the characteristics of the facility, the nature, quantity and location of waste or stored, buried, processed or treated materials, and on the number of offences under a provision of this Act or a regulation made under it of which the holder has been convicted in a final judgment during the period determined by the Government, and the nature and seriousness of those offences. For the purposes of this subparagraph, a person or municipality that was carrying on an activity referred to in this Act when the provisions of this Act or a regulation made under it for the purpose of requiring an authorization, approval, certificate, permit, attestation or permission were made applicable to that activity is considered to be a holder.

The first regulation made under subparagraph *t* of the first paragraph must be examined by the competent committee of the National Assembly before it is approved by the Government.

The amounts collected under subparagraph *t* of the first paragraph are credited to the Green Fund.

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.

31.0.1. The Minister may, by order, determine

(1) the fees payable by an applicant for the issue, renewal or modification of an authorization, approval, certificate, permit, attestation or permission under this Act or the regulations. The fees shall be fixed on the basis of the costs incurred to process the application;

(2) *(paragraph repealed)*;

(3) the fees payable by a person who must file with the Minister an attestation of environmental conformity under section 95.1 or a notice in relation to a project exempt from the application of section 22 under a regulatory provision. The fees shall be fixed on the basis of the costs incurred to examine the documents.

The fees may vary according to the nature, scope or cost of the project, the class of 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 fix the terms and conditions of payment of the fees as well as the interest payable in case of non-payment.

Every ministerial order made under this section shall be published in the Gazette officielle du Québec and come into force in accordance with the provisions of the Regulations Act (chapter R-18.1).

2002, c. 53, s. 3; 2004, c. 24, s. 5.

DIVISION IV.1
ENVIRONMENTAL IMPACT ASSESSMENT AND REVIEW OF CERTAIN PROJECTS

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 and obtaining an authorization certificate from the Government.

1978, c. 64, s. 10.

31.2. Every person wishing to undertake the realization of any of the projects contemplated in section 31.1 must file a written notice with the Minister describing the general nature of his project; the Minister, in turn, shall indicate to the proponent of the project the nature, the scope and the extent of the environmental impact assessment statement that he must prepare.

1978, c. 64, s. 10.

31.3. After receiving the environmental impact assessment statement, the Minister shall make it public and indicate to the proponent of the project to initiate the stage of public information and consultation provided for by regulation of the Government.

Any person, group or a municipality may, within the time prescribed by regulation of the Government, apply to the Minister for the holding of a public hearing in connection with such a project.

Unless he considers such application to be frivolous, the Minister shall direct the Bureau to hold a public hearing and report its findings and its analysis thereof to him.

1978, c. 64, s. 10; 1999, c. 40, s. 239.

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. Where the environmental impact assessment statement is considered satisfactory by the Minister, it is submitted together with the application for authorization to the Government. The latter may issue or refuse a certificate of

authorization for the realization of the project with or without amendments, and on such conditions as it may determine. That decision may be made by any committee of ministers of which the Minister is a member and to which the Government has delegated that power.

If it issues a certificate of authorization for the realization of 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, the Government or the committee of ministers may, if it considers it necessary for greater environmental protection, establish standards other than those prescribed by a regulation under this Act and include them in the certificate.

The decision shall be transmitted to the proponent of the project and to the persons having made representations.

1978, c. 64, s. 10; 2005, c. 33, s. 1.

31.6. The Government or any committee of ministers contemplated in section 31.5 may exempt, wholly or partly, from the environmental impact assessment and review procedure provided for in this division, any project the physical realization of which is to begin not later than one year after the coming into force of the regulation of the Government making that project subject to the said procedure.

Not later than 15 days before making such decision, the Government shall publish a notice of his intention in the *Gazette officielle du Québec.*

Notice of such decision shall then be published in the *Gazette officielle du Québec.*

However, the Government or a committee of ministers contemplated in section 31.5 may, without notice, exempt a project from the environmental impact assessment and review procedure, where the realization of the project is required in order to repair or prevent the damage caused by an actual or apprehended disaster.

The Government or the committee of ministers may similarly exempt a project to establish or enlarge a landfill site referred to in the second paragraph of section 31.5 from the application of all or part of the environmental impact assessment and review procedure if, in its opinion, the situation requires that the project be realized in a time frame that is shorter than what is required for the application of the procedure. The decision of the Government or of the committee of ministers must describe the situation that warrants the exemption. The operation period of a landfill site so authorized may not exceed one year. A decision made under this paragraph may be renewed only once in respect of the same project.

Where it exempts a project from the environmental impact assessment and review procedure under this section, the Government or the committee of ministers contemplated in section 31.5 shall issue a certificate of authorization for the said project and add thereto the conditions it deems necessary for the protection of the environment.

The decision made under the first three paragraphs and the certificate of authorization pertaining thereto ceases to have effect if the physical realization of the project is not begun within the time provided in the first paragraph.

This section does not apply to the territory contemplated in the second paragraph of section 31.9. The Government may, however, by way of exception for reasons of national defense or state security or for any other reason of public interest, exempt a project, wholly or partly, from the environmental impact assessment and review procedure applicable in this territory.

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

31.7. Every decision rendered under section 31.5 or 31.6 is binding on the Minister, where he subsequently exercises the powers provided in section 22, 32, 55, 70.11 or in Division IV.2.

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.

31.8. The Minister may withdraw from a public consultation any information or data concerning industrial processes and prolong, in the case of a given project, the minimum period of time provided for by regulation of the Government during which the Minister may be required to hold a public hearing.

1978, c. 64, s. 10.

31.8.1. Where a project referred to in section 31.1 is to be carried out in part outside Québec and, as a consequence, the project 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, as provided by law, an agreement with any competent authority to coordinate the environmental assessment procedures, which may include the establishment of a unified procedure.

The agreement may, in keeping with the objectives of this division, provide for

(1) the constitution and operation of a body responsible for the implementation of all or part of the environmental assessment procedure;

(2) the conditions applicable to the carrying out of the study on the project's environmental impact; and

(3) the holding of information sessions and public consultations as well as public hearings on the project.

The provisions of the agreement pertaining to the matters mentioned in the second paragraph apply in lieu of 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.

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;

(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 and heritage property;

(c) prescribe the terms and conditions of the information and of the public consultation pertaining to any application for an authorization certificate or for an environmental impact assessment statement for all or some of the classes of projects contemplated in section 22 or in section 31.1, including the publication of notices in newspapers by the applicant, the form and content of such notices and the time within which persons and municipalities may make representations and apply for a public hearing to be held and the time allowed to the Bureau to hold a public hearing 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 sections 31.2 to 31.5 must be rendered;

(d) prescribe the mode of advertising the public hearings of the Bureau and indicate the persons to whom reports of hearings and environmental impact assessment statements are to be transmitted;

(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.

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.

DIVISION IV.2
DEPOLLUTION ATTESTATION

§ 1. — *Industrial establishments*

31.10. This subdivision applies to the classes of industrial establishments determined by order of the Government.

Such order shall come into force on the date of its publication in the *Gazette officielle du Québec.*

1988, c. 49, s. 8.

31.11. No person may emit, deposit, release or discharge into the environment or allow the emission, deposit, release or discharge into the environment of a contaminant resulting from the operation of an industrial establishment for which the Minister has refused to issue a depollution attestation until the Minister has issued a depollution attestation with respect to another application submitted for the operation of that establishment.

1988, c. 49, s. 8; 1991, c. 30, s. 2.

31.12. Every depollution attestation shall set out the following elements:

(1) the description and location of the points of emission, deposit, release or discharge into the environment of contaminants resulting from the operation of the industrial establishment and the description of what constitutes the source of each of the points of emission, deposit, release or discharge of contaminants, to the extent that such points are subject to a standard or requirement coming under one of the elements set out in the attestation;

(2) the list of the regulations made under this Act which apply to the operator of an industrial establishment;

(3) the contaminant discharge standards prescribed by regulation under paragraphs *c* and *d* of section 31, subparagraphs *c* and *f* of the first paragraph of section 46 and paragraphs *a* and *c* of section 95, to the extent that such standards apply to the operator of an industrial establishment;

(4) *(paragraph repealed)*;

(5) *(paragraph repealed)*;

(6) the methods for collecting, analysing and measuring any emission, deposit, release or discharge of a contaminant and the methods for collecting, preserving and analysing water, air, soil and residual material samples determined or prescribed by regulation under paragraphs *h* to *h.*2 of section 31 as well as the standards prescribed by regulation under paragraph *i* of section 31 with respect to the installation and operation of any apparatus or equipment installed in order to measure the concentration, quality or quantity of any contaminant, to the extent that such methods or standards apply to the operator of an industrial establishment;

(7) any other element prescribed by regulation.

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

31.13. Where applicable, the depollution attestation shall set out the following elements:

(1) the contaminant discharge standards set down by the Minister under the first paragraph of section 31.15 and, in the case described in the second paragraph of that section, the implementation requirements and schedule established by the Minister under that paragraph;

(1.1) the contaminant discharge standards referred to in paragraph 3 of section 31.12 the implementation of which, pursuant to a decision of the Minister under the third paragraph of section 31.15, is deferred, as well as the period over which their implementation is deferred;

(2) a corrective program imposed by the Minister under section 31.15.1;

(2.1) a residual materials management plan imposed by the Minister under section 31.15.2;

(2.2) any additional requirements concerning the control and monitoring of the discharge of contaminants established by the Minister under section 31.15.3;

(3) the measures required to prevent the accidental occurrence of a contaminant in the environment;

(4) the emergency measures which must be taken in the event that a contaminant occurs accidentally in the environment;

(5) the obligation, on the part of the holder of the attestation, to conduct studies relating to the origin of the contaminants, the abatement of their discharge and the impact of such discharge on environment quality, animal life, plant life and property and on human life, health, safety, comfort and well-being, as well as studies relating to the analysis of accident risks and toxicological risks and to the development of preventive and emergency measures.

(6) any other condition of operation applicable to the establishment including, where applicable, a condition contained in an authorization already issued under section 22, 32 or 48 and determined by the Minister.

The Minister may, at the request of the holder of a depollution attestation issued before 14 June 2002, modify the attestation to add a condition of operation contained in an authorization issued under section 22, 32 or 48.

Any condition contained in an authorization issued under section 22, 32 or 48 ceases to be contained therein where it is incorporated into a depollution attestation under subparagraph 6 of the first paragraph or under the second paragraph of this section.

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

31.14. *(Repealed).*

1988, c. 49, s. 8; 1991, c. 30, s. 5.

31.15. Where all of the contaminant discharge standards adopted by the Government or a municipality are insufficient to ensure that the environment affected by an industrial establishment is suitable for the normal development of human beings and plant and animal life, or do not adequately protect human beings and plant and animal life from unacceptable risks imputable to the acute or chronic toxicity of any contaminant or to its carcinogenic, mutagenic, teratogenic or synergistic effects, the Minister may, in the depollution attestation, establish other contaminant discharge standards for each industrial establishment. The Minister shall, however, before establishing a contaminant discharge standard under this paragraph, make public the criteria and methods according to which the standard may be established.

The Minister may, for each contaminant discharge standard he may establish under the first paragraph, indicate in the attestation a date of implementation for each standard by fixing requirements and dates of application.

The Minister may also, when issuing a depollution attestation, defer, for a period not exceeding three years, the application of a contaminant discharge standard referred to in paragraph 3 of section 31.12 where he considers that compliance with the standard at the time of its application in respect of the holder will interfere with the requirements and dates of application established under the second paragraph.

For the purposes of the third paragraph, there is interference where the introduction of an abatement technology or of an industrial process which would allow compliance with the regulatory standard referred to in the third paragraph is insufficient and incompatible with the technology or process the introduction of which is intended to allow compliance with a discharge standard established by the Minister under the first paragraph.

1988, c. 49, s. 8; 1991, c. 30, s. 6.

31.15.1. Where the Minister ascertains that the applicant of a depollution attestation does not comply with a contaminant discharge standard referred to in paragraph 3 of section 31.12, he may require that the applicant submit to

him, 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 to comply with the standard within a maximum period of two years.

The Minister may, when issuing the attestation, impose the corrective program, with or without amendment.

If the applicant fails to submit a corrective program within the time allowed, the Minister may impose on him, on issuing the attestation, any corrective program he considers necessary to bring the attestation holder to comply with the standard within a maximum period of two years and, for that purpose, fix the conditions, requirements, time limits and terms of the program.

This section does not apply where the application for an attestation concerns an industrial establishment having begun its operation after the date of coming into force of the order determining the class of industrial establishments to which the applicant's establishment belongs or where the application concerns an industrial establishment for which the Minister has already issued a depollution attestation.

1991, c. 30, s. 7; 1997, c. 43, s. 510.

31.15.2. The Minister may require that the applicant submit to him, within 60 days after the date of notification of a written notice or on any later date specified in the notice, a residual materials management plan for the residual materials produced by the industrial establishment or found on the site of the establishment.

The Minister may, on issuing an attestation, impose the residual materials management plan, with or without amendment.

If the applicant fails to submit a residual materials management plan within the time allowed, the Minister may impose on him, on issuing the attestation, any residual materials management plan he considers necessary for the protection of the environment and, for that purpose, fix the conditions, requirements, time limits and terms of the plan.

The residual materials management plan must indicate, in particular, the estimated annual maximum quantity of each residual material produced by the industrial establishment or found on the site of the establishment as well as the mode of management and final destination of residual material.

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

31.15.3. The Minister may, where all of the methods and standards referred to in paragraph 6 of section 31.12 are insufficient to ensure adequate control and monitoring of the discharge of contaminants resulting from the operation of an industrial establishment, fix in the attestation any additional requirement concerning the control and monitoring of the discharge of contaminants including, in particular, the procedure for transmitting statements of the results obtained.

1991, c. 30, s. 7.

31.15.4. The Minister may, for each industrial establishment for which an application for a depollution attestation has been submitted, determine among the elements referred to in paragraphs 3 to 5 of section 31.13 those which apply to such an establishment.

1991, c. 30, s. 7.

31.16. Every operator of an industrial establishment shall submit an application to the Minister for a depollution attestation within the time and in the manner and form prescribed by regulation.

If the operator fails to submit an application to the Minister within the time and in the manner and form prescribed by regulation, the Minister may order the operator to cease to emit, deposit, release or discharge into the environment a contaminant resulting from the operation, by the operator, of an industrial establishment until the operator submits an application for a depollution attestation in the manner and form prescribed by regulation.

At least 30 days before making an order, the Minister shall, pursuant to section 5 of the Act respecting administrative justice (chapter J-3), notify the operator of his failure to submit an application for a depollution attestation within the time and in the manner and form prescribed by regulation and specifying that in the event of his failure to submit his application in the manner and form prescribed by regulation on the expiry of 30 days after the notification of the prior notice, the Minister will be authorized, after giving him an opportunity to present observations, to order him, in accordance

with the second paragraph, to cease to emit, deposit, release or discharge a contaminant into the environment. The Minister shall also transmit a copy of the prior notice to the secretary-treasurer or clerk of the municipality in whose territory the industrial establishment is located.

The order must set out the reasons of the Minister. It shall take effect on the thirtieth day following the date on which it is notified to the operator of the industrial establishment or on any later date specified therein, unless the operator submits, before the order takes effect, an application for a depollution attestation in the manner and form prescribed by regulation.

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

31.17. The application for a depollution attestation shall include the documents and contain the information prescribed by regulation.

However, the Minister may, at any time, require the applicant to furnish him, within such time as he shall determine, with further particulars and dictate how such particulars are to be presented.

1988, c. 49, s. 8.

31.18. After studying the application for a depollution attestation, the Minister shall transmit a written notice to the applicant informing him of the content of the proposed depollution attestation or of his intention to refuse, on such grounds as he shall state, to issue a depollution attestation to the applicant.

1988, c. 49, s. 8.

31.19. The applicant may within 30 days following the date of transmission of one of the notices described in section 31.18, present observations in writing to the Minister for the purpose of requesting him to change the content of the proposed depollution attestation or, as the case may be, for the purpose of proposing a depollution attestation to the Minister.

The Minister shall transmit his decision to the applicant before the publication of the notice under section 31.20.

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

31.20. The Minister shall publish a notice of his intention to issue or to refuse to issue a depollution attestation in a daily or weekly newspaper having general circulation in the region in which the industrial establishment is located.

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

The notice shall indicate the locations where, and the period during which the application record may be consulted and the days and times set aside for consultation thereof.

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

31.21. The Minister shall, after publishing the notice described in section 31.20, make the application record available for public consultation for a minimum period of 45 days or any other period prescribed by regulation. The application record shall include the documents prescribed by regulation.

During the period set aside for consultation of the record, all persons, groups and municipalities may forward their comments to the Minister.

1988, c. 49, s. 8; 1991, c. 30, s. 11.

31.21.1. The Minister shall, at the expiry of the period set aside for consultation of the application record, transmit to the applicant a written notice informing him of his intention to issue or to refuse to issue him with a depollution attestation.

The Minister shall indicate, in the notice, the reasons for his intention and, where applicable, the content of the proposed depollution attestation or the amendments he intends to bring to the attestation.

The applicant may, within 30 days after the date of transmission of the notice, present observations in writing to the Minister requesting him to change the content of the proposed depollution attestation or, as the case may be, to issue him with a depollution attestation.

1991, c. 30, s. 12; 1997, c. 43, s. 514.

31.22. At the expiry of the time limit provided for in the third paragraph of section 31.21.1, the Minister shall either

(1) issue, a depollution attestation to the applicant; or

(2) refuse to issue a depollution attestation to the applicant and notify him in a writing which states the grounds for refusal.

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

31.23. The holder of a depollution attestation shall

(1) comply with the contaminant discharge standards and the implementation requirements and schedule referred to in subparagraph 1 of the first paragraph of section 31.13;

(1.1) comply with the corrective program referred to in subparagraph 2 of the first paragraph of section 31.13;

(2) comply with elements set out in subparagraphs 2.1 to 6 of the first paragraph of section 31.13;

(3) notify the Minister forthwith, or, in the cases provided for by regulation under subparagraph *j* of the first paragraph of section 31, within the time prescribed therein, of the accidental occurrence in the environment of any contaminant and take all necessary measures to minimize the effects and to eliminate and prevent the causes thereof;

(4) keep up to date and preserve, in accordance with the regulations, the records indicated therein;

(5) furnish the Minister, in accordance with the regulations, with the reports indicated therein;

(6) furnish, at the request of the Minister, any information necessary to ascertain compliance of the contaminant discharge with the standards referred to in paragraph 3 of section 31.12 and in subparagraph 1 of the first paragraph of section 31.13;

(7) *(subparagraph repealed);*

(8) inform the Minister, in accordance with the regulations, of any event or incident entailing a contravention of the provisions of his attestation and of the measures he has taken in order to minimize or eliminate the effects of the event or incident.

Where the holder of a depollution attestation intends to proceed with the installation of devices for the treatment of waste water in the industrial establishment for which he was issued an attestation or intends to install or put in place, in that establishment, any apparatus or equipment intended to prevent, abate or eliminate the release of contaminants in the atmosphere, he shall, prior to installation, submit to the Minister a technical report on the solution selected, in accordance with the regulations.

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

31.24. The new operator of an industrial establishment for which the previous operator held a depollution attestation shall become the holder of the depollution attestation from the date on which he begins to operate the establishment.

The new holder shall, within 30 days after the date on which he begins to operate the establishment, inform the Minister of the change of holder.

1988, c. 49, s. 8; 1991, c. 30, s. 15.

31.25. The holder of a depollution attestation shall not make changes that may entail a departure from the provisions of his attestation or make changes to the industrial processes or production equipments that may change the nature of, or add new contaminants to, the contaminants emitted, deposited, released or discharged into the environment by the industrial establishment, unless he obtains an amended depollution attestation from the Minister or, except in the cases described in the fourth paragraph, a written notice indicating that such changes require no amendment to his attestation.

In the cases referred to in the first paragraph, the holder shall submit to the Minister an application to amend a depollution attestation in the manner and form prescribed by regulation. Section 31.17 applies, with the necessary modifications, to an application to amend an attestation.

After having examined the application to amend a depollution attestation, the Minister shall, within 60 days after the application is submitted,

(1) issue the applicant with an amended depollution attestation;

(2) refuse to issue the applicant with an amended depollution attestation and, in that case, he shall transmit to him a notice informing him of the reasons for his refusal; or

(3) transmit to the applicant a written notice informing him that the changes require no amendment to his depollution attestation.

Notwithstanding the third paragraph, in the cases determined by regulation, sections 31.18 to 31.21.1 apply, with the necessary modifications, to an application to amend an attestation.

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

31.26. In the following cases, the Minister may, of his own initiative, amend a depollution attestation issued by him or on his behalf:

(1) where the attestation is issued on the basis of erroneous or fraudulent information or where the applicant fails to declare any important fact;

(2) where, contrary to section 31.25, the holder of the attestation fails to apply to the Minister for amendment of his attestation;

(3) where the additional requirements established by the Minister concerning the control and monitoring of the discharge of contaminants including, in particular the procedure for transmitting the statements of the results obtained, must be amended to permit better control over the sources of contamination.

(4) where a modification to the conditions of operation becomes necessary following the issue of a certificate of authorization under section 22.

Where the Government makes a regulation under this Act that applies to the operator of an industrial establishment and where the operator holds a depollution attestation, the Minister shall adjust the content of the attestation to take account of the new regulatory standards that apply to him.

The Minister may however, within 90 days after the adoption by the Government of a new contaminant discharge standard, defer, for a period not exceeding three years, the application of a standard, if he considers that compliance with the standard at the time of its application in respect of the holder will interfere with the requirements and dates of application established under the second paragraph of section 31.15. The Minister shall, in that case, indicate in the attestation the contaminant discharge standards the application of which is deferred and the period of time for which it is deferred.

For the purposes of the third paragraph, there is interference where the introduction of an abatement technology or of an industrial process which would ensure compliance with the regulatory standard referred to in the third paragraph is insufficient and incompatible with the technology or process the introduction of which is intended to ensure compliance with a discharge standard established by the Minister under the first paragraph of section 31.15.

Before issuing an amended depollution attestation, the Minister shall, as prescribed by section 5 of the Act respecting administrative justice (chapter J-3), transmit to the holder of the depollution attestation a written notice informing him of his

intention to amend the attestation, for the reasons he indicates, and give the holder the opportunity to present observations within 30 days after the date of transmission of the notice.

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

31.27. A depollution attestation shall be issued for a period of 5 years.

However, where the application for a depollution attestation concerns an industrial establishment having begun its operation after the date of coming into force of the order determining the class of industrial establishments to which the operator's establishment belongs, the first depollution attestation to which the establishment is subject shall be issued for a period of 10 years.

Notwithstanding the expiry of the period referred to in the first or second paragraph, the operator shall remain the holder of the depollution attestation until such time as the Minister makes a decision with respect to any reapplication for a depollution attestation.

1988, c. 49, s. 8; 1991, c. 30, s. 17.

31.28. The holder of a depollution attestation shall submit a reapplication for a depollution attestation to the Minister within the time and in the manner and form prescribed by regulation.

Sections 31.17 and 31.18 and the first paragraph of section 31.19, adapted as required, apply to the reapplication for an attestation.

After the time limit provided for in the first paragraph of section 31.19 has expired, the Minister shall either

(1) issue a new depollution attestation; or

(2) refuse to issue a new depollution attestation to the applicant and notify him in a writing which states the grounds for refusal.

However, notwithstanding the third paragraph, in the cases determined by regulation, the second paragraph of section 31.19 and sections 31.20 to 31.21.1, adapted as required, apply to the reapplication for an attestation.

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

31.29. The Minister may suspend or revoke all or part of a depollution attestation issued by him or on his behalf in the cases described in subparagraphs 1 and 2 of the first paragraph of section 31.26 and in cases where the holder of the attestation

(1) does not comply with the contaminant discharge standards referred to in paragraph 3 of section 31.12;

(1.1) does not comply with the contaminant discharge standards and the requirements and dates of application referred to in subparagraph 1 of the first paragraph of section 31.13;

(1.2) does not comply with the corrective program referred to in subparagraph 2 of the first paragraph of section 31.13;

(1.3) does not comply with the residual materials management plan referred to in subparagraph 2.1 of the first paragraph of section 31.13;

(2) does not take the preventive measures referred to in subparagraph 3 of the first paragraph of section 31.13;

(2.1) fails to comply with any other condition of operation referred to in subparagraph 6 of the first paragraph of section 31.13;

(3) does not take every measure necessary to minimize the effects of the accidental occurrence in the environment of a contaminant and to eliminate and prevent the causes thereof;

(3.1) does not submit to him a reapplication for a depollution attestation within the time prescribed by regulation;

(4) hinders the Minister, a functionary or a person referred to in sections 119, 120 and 120.1 in the performance of his duties.

The Minister may, furthermore, revoke all or part of a depollution attestation issued by him or on his behalf in cases where the holder of a depollution attestation does not take the necessary emergency measures when a contaminant occurs accidentally in the environment.

Before rendering his decision, the Minister shall, as prescribed by section 5 of the Act respecting administrative justice (chapter J-3), transmit to the holder of the depollution attestation a written notice informing him of his decision to suspend or revoke the attestation for the reasons he indicates, and give him the opportunity to present observations within 30 days after the date of transmission of the notice.

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.

31.30. No person may emit, deposit, release or discharge into the environment or allow the emission, deposit, release or discharge into the environment of a contaminant resulting from the operation of an industrial establishment if the depollution attestation issued for the establishment has been suspended or revoked.

1988, c. 49, s. 8; 1991, c. 30, s. 20.

31.31. Where the holder of a depollution attestation intends to cease permanently to operate the industrial establishment, he shall apply to the Minister, within the time prescribed by regulation, to revoke his depollution attestation.

Before revoking a depollution attestation, the Minister shall satisfy himself that the cessation of activities will not entail the emission, deposit, release or discharge of a contaminant into the environment.

1988, c. 49, s. 8; 1991, c. 30, s. 21.

§ 2. — *Municipal wastewater treatment works*

31.32. This subdivision applies to the classes of municipal wastewater treatment works determined by order of the Government.

Such order shall come into force on the date of its publication in the *Gazette officielle du Québec.*

1988, c. 49, s. 8.

31.33. The Minister shall issue a depollution attestation to every municipality which operates wastewater treatment works.

1988, c. 49, s. 8.

31.34. Every depollution attestation shall set out the following elements:

(1) the nature, quantity, quality and concentration of every contaminant emitted, deposited, released or discharged into the environment, which results from the operation of municipal wastewater treatment works;

(2) the nature, origin and quality of the wastewater treated by municipal wastewater treatment works;

(3) the contaminant discharge standards prescribed by regulation under paragraphs *c* and *d* of section 31 and paragraphs *c* and *f* of section 46, for every contaminant emitted, deposited, released or discharged into the environment, which results from the operation of municipal wastewater treatment works, except those standards which are incompatible with those set down by the Minister under section 31.37;

(4) the standards prescribed by regulation under paragraph *e* of section 31, paragraph *g* of section 46 and section 70, as well as those standards with respect to the operation of a sewer or water treatment system prescribed by regulation under paragraph *d* of section 46, to the extent that such standards apply to municipal wastewater treatment works;

(5) the elements contemplated by paragraphs 5 and 6 of section 31.12;

(6) any other element prescribed by regulation.

1988, c. 49, s. 8; 1999, c. 75, s. 9.

31.35. Where applicable, the depollution attestation shall set out the following elements:

(1) the contaminant discharge standards set down by the Minister under section 31.37;

(2) a corrective program determined by the Minister, the object of which is to oblige the holder of a depollution attestation to comply, in accordance with the requirements and time limits determined therein, with the contaminant discharge standards referred to in paragraph 3 of section 31.34 and paragraph 1 of this section;

(3) the measures required to prevent the accidental occurrence of a contaminant in the environment.

1988, c. 49, s. 8.

31.36. The Minister may determine, for each municipal wastewater treatment works, the standards and methods referred to in paragraph 5 of section 31.34 and the elements referred to in paragraphs 2 and 3 of section 31.35 and, for that purpose, he shall take into account the following factors:

(1) the class and geographical location of the municipal wastewater treatment works;

(2) the elements referred to in paragraphs 1 and 2 of section 31.34;

(3) the impact of the discharge of contaminants on environment quality, animal life, plant life and property and on human life, health, safety, comfort and well-being.

1988, c. 49, s. 8.

31.37. In the depollution attestation, the Minister may, for each municipal wastewater treatment works, set down contaminant discharge standards which differ from those referred to in paragraph 3 of section 31.34, if the latter standards do not adequately ensure that the environment affected by the municipal wastewater treatment works is suitable for the normal development of human beings and plant and animal life, or do not adequately protect human beings and animal and plant life from unacceptable risks imputable to the acute or chronic toxicity of any contaminant or to its carcinogenic, mutagenic, teratogenic or synergistic effects.

1988, c. 49, s. 8.

31.38. The holder of a depollution attestation shall

(1) comply with every element set out in its attestation;

(2) furnish, at the request of the Minister, any information necessary to ascertain compliance of the contaminant discharge with the standards referred to in paragraph 3 of section 31.34 and in paragraph 1 of section 31.35;

(3) comply with its obligations under paragraphs 3 to 5 and 7 and 8 of section 31.23.

1988, c. 49, s. 8.

31.39. In the following cases, the Minister may amend a depollution attestation issued by him or on his behalf:

(1) where the holder of the attestation submits an application for amendment to him;

(2) where the standards prescribed by the Minister with respect to the installation and operation of any apparatus or equipment utilized for the purposes of abating or eliminating the emission, deposit, release or discharge of any

contaminant must be amended in order to permit better control over the operation of municipal wastewater treatment works;

(3) where the methods or standards prescribed by the Minister with respect to the control and monitoring of the discharge of contaminants, including the procedure for transmitting the statements of the results obtained, must be amended to permit better control over the sources of contamination.

Where the Government amends any of the contaminant discharge standards referred to in paragraph 3 of section 31.34 and considers that failure to include any one of them in the depollution attestation could threaten public health and safety, the Minister shall include the discharge standards so amended in the attestation and adjust the corrective program accordingly.

Before rendering his decision, the Minister shall, as prescribed by section 5 of the Act respecting administrative justice (chapter J-3), transmit notice of the amendment to the holder of the depollution attestation and allow him the opportunity to present observations within a period of 30 days following reception of the amendment notice.

1988, c. 49, s. 8; 1997, c. 43, s. 517.

31.40. A depollution attestation shall be issued for a period of 5 years and must be renewed.

The municipality must continue to comply with the elements set out in the attestation issued to it and with its obligations under paragraphs 2 and 3 of section 31.38 until such time as the Minister renews its depollution attestation.

1988, c. 49, s. 8.

§ 3. — *Regulatory powers*

31.41. The Government may make regulations to

(1) prescribe any element other than those mentioned in paragraphs 1 to 6 of section 31.12 and other than those mentioned in section 31.13 which must be set out in a depollution attestation issued under subdivision 1 of this division;

(2) prescribe any element other than those mentioned in paragraphs 1 to 5 of section 31.34 and other than those mentioned in section 31.35 which must be set out in a depollution attestation issued under subdivision 2 of this division;

(3) prescribe the form of a depollution attestation;

(4) prescribe the manner and form in which every application or reapplication for a depollution attestation or every application to amend an attestation submitted to the Minister pursuant to subdivision 1 of this division must be made, as well as the documents to be included and the information to be set out therein;

(5) prescribe the time limits within which applications or reapplications for depollution attestations under subdivision 1 of this division must be made;

(6) *(paragraph repealed)*;

(6.1) prescribe, for the holder of a depollution attestation, annual duties which may vary depending on one or several of the following factors:

(a) one of the factors referred to in paragraph 6;

(b) the nature or extent of the discharge of contaminants resulting from the operation of the industrial establishment;

(c) the period during which the operator is the holder of a depollution attestation;

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

(7) determine which classes of natural persons must sign applications or reapplications for a depollution attestation or applications to amend a depollution attestation under subdivision 1 of this division, as well as the documents to be included therein and determine which classes of natural persons must sign the statements of results or reports furnished

to the Minister under subdivision 1 of this division;

(8) indicate the records that must be kept and preserved by every holder of a depollution attestation, 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 holder of a depollution attestation 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) determine the form and content of the technical report to be submitted by the holder of a depollution attestation in the cases provided for in the second paragraph of section 31.23 and determine the qualifications required of the natural persons who may prepare and sign such reports;

(10) prescribe, for every holder of a depollution attestation, the time within which and manner in which he must inform the Minister in the cases provided for in paragraph 8 of section 31.23;

(11) prescribe the documents which must be included in the application record and prescribe the duration of any consultation period exceeding the minimum period contemplated in section 31.21 during which the Minister shall make the application record available for public consultation;

(12) *(paragraph repealed);*

(13) determine the cases in which sections 31.18 to 31.21.1 apply to applications to amend a depollution attestation and the cases in which the second paragraph of section 31.19 and sections 31.20 to 31.21.1 apply to reapplications for a depollution attestation;

(14) *(paragraph repealed);*

(15) determine the time limits to be respected by the holder of a depollution attestation when applying to the Minister to revoke the attestation in the case of cessation of the operations of the industrial establishment;

(16) exempt from the application of part of this Act certain classes of constructions, works, activities and projects carried out on the site of an industrial establishment, or on part of such a site, for which a depollution attestation has been issued, and certain classes of industrial processes used in the operation of the establishment.

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.

DIVISION IV.2.1
LAND PROTECTION AND REHABILITATION

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*

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, 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, 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, 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.

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.

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

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.

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 human beings, the other living species and the environment in general, including 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.

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 human beings, the other living species and the environment in general, including 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.

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*

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 transmitted to the Minister, together with an implementation schedule, and set out the measures that will be implemented to protect human beings, the other living species and the environment in general, including property. The plan must also indicate any measures intended to render the projected land use consistent with the condition of the land.

2002, c. 11, s. 2.

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*

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 human beings, the other living species and the environment in general, including 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.

§ 5. — *Contamination and decontamination notices*

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*

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 environment or for human beings, and the effectiveness of the rehabilitation or protection measures.

2002, c. 11, s. 2.

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 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, 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.

Note *As of 1 January 2014, the fees payable under this section are as follows:*

— application for registration: $1,076;

— examination fees: $215;

— annual fees: $807.

See notice of indexation; (2013) 145 G.O. 1, 1286.

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.

§ 7. — *Regulatory powers*

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 relating to the sale or storage of petroleum products, 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.

Note *The following section is section 31.74.*

DIVISION V
WATER RESOURCE PROTECTION AND MANAGEMENT

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 sections 31.85 and 31.86 and 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.

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

31.75. Withdrawals are subject to the authorization of the Minister or, in the cases prescribed by a regulation made under section 31.9, of the Government.

However, the following withdrawals are exempted from authorization:

(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;

(2) a temporary, non-recurring withdrawal for emergency-response, humanitarian or civil protection purposes; and

(3) any other withdrawal determined by regulation of the Government.

2009, c. 21, s. 19.

31.76. The Minister's power of authorization under this subdivision 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 in the exercise of the Minister's 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.

2009, c. 21, s. 19.

31.77. When making a decision in the exercise of powers under this subdivision, the Minister shall take into account, in addition to specifically environmental impacts, the consequences of the withdrawal under consideration

(1) for the water use rights of other persons or municipalities in the short, medium and long terms;

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

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

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

The Minister shall also take into account any observations received from the public with respect to the water withdrawal under consideration.

2009, c. 21, s. 19.

31.78. Sections 31.76 and 31.77, with the necessary modifications, apply to the Government when it exercises its power of authorization under sections 31.5 and 31.6 with respect to a water withdrawal that is subject to the environmental assessment procedure provided for in Division IV.1.

In addition, if it considers it necessary for greater protection of the environment, including aquatic ecosystems and wetlands, the Government may, when authorizing such a water withdrawal, prescribe requirements different from those prescribed by regulation of the Government.

A water withdrawal authorized by the Government is exempted from the authorization of the Minister required under section 31.75.

2009, c. 21, s. 19.

31.79. When issuing, renewing or amending a water withdrawal authorization, the Minister may, after considering the elements listed in section 31.77, prescribe any condition, restriction or prohibition the Minister considers appropriate for the purposes mentioned in section 31.76. The condition, restriction or prohibition may be different from what is prescribed by regulation of the Government if the Minister considers it necessary for greater protection of the environment, including aquatic ecosystems and wetlands.

The Minister may also refuse to issue or renew an authorization, or, on the Minister's own initiative, modify the conditions to which it is subject, in order to serve the public interest.

However, the person concerned must be given prior notice of the Minister's intended decision under the first or second paragraph, including reasons, and an opportunity to present observations.

2009, c. 21, s. 19.

31.80. A condition, restriction or prohibition imposed under section 31.79 may concern

(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.

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. In addition to the information that must be sent to the Minister under a regulation of the Government, the Minister may require a person applying for the issue, renewal or amendment of a water withdrawal authorization to provide any additional study or expert evaluation the Minister considers necessary to make a decision.

2009, c. 21, s. 19.

31.83. The holder of a water withdrawal authorization must inform the Minister as soon as possible of any change that affects the information or documents provided when the authorization was issued, renewed or amended, rendering them inaccurate or incomplete.

The holder must similarly inform the Minister of the permanent cessation of a water withdrawal, and comply with any measures the Minister imposes to prevent or remedy environmental damage or interference with the rights of other users. Such a cessation entails the authorization's revocation by operation of law unless the Minister maintains the authorization in force at the holder's request for the period and on the conditions the Minister determines.

2009, c. 21, s. 19.

31.84. All water withdrawal authorizations are transferable. A transferee must, however, inform the Minister of the transfer within 30 days after it is made.

2009, c. 21, s. 19.

31.85. If, based on new or additional information that becomes available after a water withdrawal authorization is issued under this Act or any other Act or following a reassessment of existing information on the basis of new or additional scientific knowledge, the Minister is of the opinion that the water withdrawal presents a serious risk for public health or aquatic ecosystems, the Minister may order the cessation or limitation of the water withdrawal, on the conditions specified, for a period of not over 30 days.

However, in the case of a water withdrawal authorized by the Minister, the order may also permanently modify the conditions to which the authorization is subject or direct that the withdrawal cease permanently.

The person concerned must be given prior notice of the Minister's intended order, including reasons, and an opportunity to present observations. However, in urgent circumstances, the Minister is exempted from these prior obligations and the person concerned may, within the time specified, present observations for a review of the order.

The information on which the Minister's order is based must be made available to the public.

An order issued under this section entails no compensation from the State and prevails over any inconsistent provision of an Act, by-law, regulation or order in council.

2009, c. 21, s. 19.

31.86. On a recommendation of the Minister based on information described in the first paragraph of section 31.85, the Government may

(1) modify, for the period specified or permanently, the conditions under which a water withdrawal authorized under an Act or order is to be made; or

(2) direct that the withdrawal cease for the period specified or permanently.

An order of the Government under this section entails no compensation from the State.

2009, c. 21, s. 19.

31.87. The facilities, works and work required for water withdrawals authorized by the Government or the Minister under this subdivision are exempted from the application of section 22.

2009, c. 21, s. 19.

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

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 or certified 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.

31.100. A party to the Agreement may, in accordance with article 33 of the Code of Civil Procedure (chapter C-25), 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 proceeding 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 proceeding is dispensed from giving security as required by article 65 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.

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. The Government may, by regulation, prescribe any measure it considers necessary for the carrying out of this subdivision and the Agreement.

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.

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

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. — *Waterworks, sewers and water treatment*

32. No one may establish waterworks, install water purification appliances or carry out work respecting sewers or the installation of devices for the treatment of waste water before submitting the plans and specifications to the Minister and obtaining his authorization.

Such authorization shall also be required for work on reconstruction, extension of old installations and connections between the conduits of a public system and those of a private system.

The Minister may, where an application for authorization is referred to him, require any amendment he considers necessary to the plans and specifications submitted.

This section does not apply to the holder of a depollution attestation who installs wastewater treatment devices in any industrial establishment for which an attestation was issued to him.

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.

32.1. No one may operate a waterworks and sewer system unless he has obtained a permit of operation from the Minister. This permit and any authorization under this division may be issued in the name of a legal person or partnership.

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

32.2. A permit of operation is also required in the case of any municipality operating a waterworks or sewer system outside its territory for the benefit of users residing outside its territory.

1978, c. 64, s. 11.

32.3. In addition to the requirements prescribed by any regulation of the Government, any person applying for the permits contemplated in section 32.1 or 32.2 must submit, in support of his application, a certificate of the clerk or secretary-treasurer of the municipality in whose territory the waterworks and sewer system is situated, attesting that the municipality does not object to the issuing of the permit for the sector served by such system.

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

This section applies with the necessary modifications in the case of a person applying for an authorization under section 32 and in the case where such authorization is applied for by a municipality in relation to work to be carried out outside its territory to serve users.

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

32.4. In case of assignment of a waterworks and sewer system, the Minister may transfer to the acquirer the permit of operation of the assignor.

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

32.5. The Minister may order a municipality to operate temporarily the waterworks and sewer system of a person and carry out any work in respect of it, in accordance with the conditions fixed by him, where he considers it necessary to ensure an adequate service to the users. The order may also fix the apportionment of the cost related to the operation or work among the users or among the users and the person.

The Minister may also, where he considers it necessary for the protection of public health, order a municipality to acquire such a system, by agreement or by expropriation, or to instal a new waterworks and sewer system and, for that purpose, acquire by agreement or expropriation the immovables and real rights required for the installation.

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

32.6. When he authorizes a municipality to carry out work respecting a waterworks or sewer system in a sector served by a system operated by the holder of a permit, the Minister may impose such conditions as he may deem appropriate, including acquisition by agreement or by expropriation of the existing works.

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

32.7. No one may cease to operate, alienate or lease a waterworks and sewer system or dispose of it otherwise than by succession without obtaining the authorization of the Minister for that purpose.

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

32.8. The Minister may revoke a permit of operation where a waterworks and sewer system is not operated in conformity with the standards prescribed by regulation of the Government.

The Minister shall revoke the permit of operation in the cases of assignment of a waterworks and sewer system to a municipality and in the case where the permit holder ceases to operate the waterworks and sewer system.

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

32.9. In no case may the operator of a waterworks and sewer system contemplated in section 32.1 or 32.2, notwithstanding any particular agreement, impose rates or change then without previously submitting them to the Minister for approval; the Minister may then approve them with or without amendment and give them effect from the date of the application for approval or any later date the Minister indicates.

The rates contemplated in this section are those imposed on persons whose immovable is served by the waterworks and sewer systems.

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.

33. No one may set up or operate any amusement grounds, camping ground, trailer park, mobile home park, holiday camp or public beach, or undertake the sale of lots of a housing development defined by regulation of the Government, unless it is served by a waterworks system and sewer system authorized by the Minister in accordance with section 32 or he holds a permit issued under section 32.1 or 32.2, or unless the Minister, in accordance with the terms and conditions determined by regulation of the Government, has authorized another mode of water supply and of disposal of waste water.

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

34. The Minister may make with respect to a person operating a waterworks, sewer system or water treatment plant such orders as he considers appropriate respecting the quality of service, the extension of the system, the reports to be made, the mode of operation, the rates and any other matters under his power of supervision and control.

The Minister may, as regards a municipality, issue those orders he deems necessary in matters respecting the supplying of drinking water and the management of waste water.

Failing agreement, the Commission municipale shall fix the rates of sale of water or of sewer service between municipalities or between a municipality and a person contemplated in section 32.1, or where a person sells water or

provides water treatment to a municipality.

Upon the application of anyone interested, the Municipal Commission may cancel or alter a contract or regulation relating to a waterworks, sewer system or water treatment plant, if the applicant establishes that the conditions are abusive.

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

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.

35. 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 a common waterworks, sewer system or water treatment plant, 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.

36. *(Repealed).*

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

37. The Minister may, after inquiry, oblige, to the extent that he considers necessary, any person to build, enlarge or renovate a system of waterworks, sewers, water treatment or pre-treatment, or to connect it with a municipal network.

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

38. *(Repealed).*

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

39. Where an authorization of rates has not been made in accordance with section 32.9, where an operator's permit has been revoked under section 32.8 or if the permit has not been issued in accordance with section 32.1 or 32.2, no tax, duty, or dues established for the purposes of the waterworks and sewer system shall be collected from the ratepayers or beneficiaries of the said system.

1972, c. 49, s. 39; 1978, c. 64, s. 16.

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 authorization of the Minister, acquire, by mutual agreement or by expropriation, the

sources of water supply and other immovables or real rights located outside its territory and required for the installation of a waterworks or sewer system or a water treatment plant or for the installation or protection of a water-supply intake.

1972, c. 49, s. 41; 1978, c. 64, s. 17.

42. Where the holder of a permit contemplated in section 32.1 cannot acquire by agreement a source of water supply or an immovable or other real rights required for his waterworks or sewer system, he may, with the authorization of the Minister, expropriate such source and the immovables or other real rights required.

1972, c. 49, s. 42; 1978, c. 64, s. 17.

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. 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.

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.

45.4. *(Repealed).*

2002, c. 53, s. 7.

45.5. *(Repealed).*

2002, c. 53, s. 7.

§ 5. — *Regulatory powers*

46. The Government may make regulations to:

(a) classify waters;

(b) define physical, chemical and biological water quality standards according to its different uses for all or part of the territory of Québec;

(c) determine, for every class of contaminant or source of contamination, the maximum quantity or concentration the discharge of which is allowed into water either for all the territory or for a region, constant or intermittent watercourse, lake, pond, marsh, swamp, bog or underground body of water;

(d) determine the standards of quality for any source of water supply and the standards of operation for any waterworks, sewer or water treatment service;

(e) (paragraph repealed);

(f) prohibit or limit the dumping into any sewer system of any matter that it considers harmful;

(g) determine the mode of discharging and treatment of waste water;

(h) (paragraph repealed);

(i) regulate the production, sale, distribution and use of any water purification device and any product or material for establishing or operating a waterworks, sewer or water treatment system;

(j) prescribe, as regards any motor boat, standards for the leakage of oil or gasoline, for the elimination of residual materials, and for toilets;

(k) prohibit or limit for purposes of pleasure the use of rivers or lakes by motor boats so as to protect the quality of the environment;

(l) determine construction standards for waterworks, sewer and water treatment systems;

(m) prohibit or regulate the distribution by volume of water intended for human consumption;

(n) establish procedures and methods for the application of sections 32.1 to 32.9 and define the meaning of the expression “housing development” mentioned in section 33;

(o) establish the duties, rights and obligations of users and of the operator relating to the running and operation of a waterworks or sewer system contemplated in section 32.1 or 32.2 and prohibit any act detrimental to the running and operation thereof;

(o.1) establish the duties, rights and obligations of the users and operators of a waterworks and sewer system operated by a municipality where required for the protection of public health;

(o.2) establish classes of users and operators;

(p) exempt certain categories of projects, apparatus or equipment from the application of section 32;

(q) (paragraph repealed);

(r) establish norms respecting the sinking and sealing off of wells;

(s) regulate withdrawals of surface water or groundwater, in particular on the basis of its different uses, including the collection of underground water the use or distribution of which is governed by the Food Products Act (chapter P-29). The regulations may, in particular,

(1) determine, for the purposes of paragraph 1 of section 31.75, the number of persons to whom water is supplied in excess of which the withdrawal for that purpose is subject to the authorization of the Minister despite the withdrawal's maximum flow rate of less than 75,000 litres per day;

(2) in the cases and under the conditions specified, exempt water withdrawals from the application of all or some of the provisions of subdivision 1 or the regulations under this paragraph;

(2.1) in the cases and under the conditions specified, subject water withdrawals that are exempted from the authorization of the Minister to the issue of a permit by the municipality in which the withdrawal site is located;

(2.2) prohibit, in all or part of Québec, water withdrawals intended to satisfy the water needs of one or more classes of use specified in the regulations and provide that such a prohibition has effect even with respect to applications for authorization made before the prohibition came into force and not yet decided by the Minister or the Government;

(2.3) determine, for the purposes of subdivisions 1 and 2, the cases in and conditions under which two or more existing or planned water withdrawals are deemed to constitute a single withdrawal owing to the hydrologic interconnection of the waters concerned, the distance between the withdrawal sites or the intended use of the water;

(2.4) prescribe standards respecting the quantity and quality of the surface water or groundwater that may be withdrawn or that must be returned to the environment after use and the conditions of such return, the use of the water withdrawn and the preservation of aquatic ecosystems and wetlands;

(2.5) prescribe standards respecting the installation and maintenance of equipment or devices for determining the quantity and quality of the water withdrawn or returned to the environment;

(2.6) determine the measures or plans that the holder of a water withdrawal authorization must implement to ensure the conservation and efficient use of the water withdrawn, and prescribe how such a holder must report to the Minister on the results obtained;

(2.7) prescribe water allocation rules that reconcile the needs or interests of the various classes of users;

(3) prescribe standards for water withdrawal facilities;

(3.1) prescribe, where a standard requires the delimitation of the supply area or a protection area of a water withdrawal facility, the requirement for the owner or any other custodian of land that may be subject to the delimitation to allow free access to the land for that purpose at any reasonable time, conditional, however, on prior notification of at least 24 hours of the intention to enter upon the land, restoration of the premises to their former state and compensation for any damage suffered by the owner or custodian;

(4) prescribe what documents and information a person making or planning to make a water withdrawal must send the Minister, including studies or reports on the actual or potential individual or cumulative impacts of the withdrawal or planned withdrawal on the environment, other users and public health, and how they are to be sent, and determine what documents or information is public and must be made available to the public;

(t) determine the qualifications of natural persons assigned to the operation of municipal wastewater 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.

DIVISION VI
DEPOLLUTION OF THE ATMOSPHERE

§ 1. — *Climate change action plan and cap-and-trade system*

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_2), methane (CH_4), nitrous oxide (N_2O), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), sulphur hexafluoride (SF_6) 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.

A regulation made under this section is preceded by the publication of a draft regulation in the *Gazette officielle du Québec* for the purposes of a 60-day consultation.

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.

46.3. The Minister prepares a multiyear climate change action plan, including measures aimed at reducing greenhouse gas emissions, and submits it to the Government. The Minister is responsible for the implementation and coordination of the action plan.

2009, c. 33, s. 1.

46.4. To fight global warming and climate change, the Government sets, by order, an overall greenhouse gas reduction target for Québec 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.

When setting targets, the Government considers such factors as

(1) the characteristics of greenhouse gases;

(2) advances in climate change science and technology;

(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 Canadian intergovernmental agreement or international agreement made for that purpose.

Target-setting under this section is subject to special consultations by the competent parliamentary committee of the National Assembly.

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.

46.5. 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_2 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 emitters who have reduced their greenhouse gas emissions or to persons or municipalities who avoid causing emissions or who capture, store or eliminate greenhouse gases in the course of activities and during a period determined by regulation of the Government;

(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 in the *Gazette officielle du Québec* a list of the emitters that have received an allocation and the total number of emission units allocated without charge to all emitters.

2009, c. 33, s. 1; 2013, c. 16, s. 172.

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 banked for use or trade during a later period.

2009, c. 33, s. 1.

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.

2009, c. 33, s. 1; 2013, c. 16, s. 174.

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;

(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.

46.16. All sums collected under this subdivision or regulations under this subdivision and all greenhouse gas emission charges collected in accordance with a regulation under subparagraph *e*.1 of the first paragraph of section 31 are credited to the Green Fund in accordance with section 15.4 of the Act respecting the Ministère du Développement durable, de l'Environnement et des Parcs (chapter M-30.001) and are to be used to finance greenhouse gas reduction, limitation or avoidance measures, the mitigation of the economic and social impact of emission reduction efforts, public awareness campaigns and adaptation to global warming and climate change, or to finance the development of and Québec's participation in related regional and international partnerships.

2009, c. 33, s. 1; 2011, c. 18, s. 270.

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.

In addition, not later than 31 July each year, the Minister submits a report to the Government on the use of the sums credited to the Green Fund under section 46.16.

2009, c. 33, s. 1; 2011, c. 18, s. 271.

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*

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. Whoever intends to install apparatus or equipment to prevent, reduce or cause the cessation of the issuance of contaminants into the atmosphere, must submit the plans and specifications to the Minister and obtain his authorization.

This section does not apply to motor vehicles or motor boats. Nor does it apply to the holder of a depollution attestation who intends to install, in an industrial establishment for which an attestation was issued to him, any apparatus or equipment for the purpose of preventing, abating or stopping the release of contaminants into the atmosphere.

1972, c. 49, s. 48; 1979, c. 49, s. 33; 1988, c. 49, s. 12.

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 25.

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 25.

1982, c. 25, s. 6; 1984, c. 29, s. 7.

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 motor-fuel and 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.

DIVISION VII
RESIDUAL MATERIALS MANAGEMENT

§ 1. — *General provisions*

53.1. For the purposes of this division,

"**elimination**" means any operation involving the final deposit or discharge of residual materials in or into the environment, in particular by dumping, storage or incineration, including operations involving the treatment or transfer of residual materials with a view to their elimination;

"**reclamation**" means any operation the purpose of which is to obtain usable substances or products, or energy, from residual materials through re-use, recycling, biological treatment, including composting and biomethanation, land farming, regeneration or any other process that does not constitute elimination.

1999, c. 75, s. 13; 2011, c. 14, s. 1.

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 and marketing 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.

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.

1999, c. 75, s. 13.

53.4.1. The policy described in section 53.4 and any plan or program prepared by the Minister 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.

2011, c. 14, s. 3.

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.

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 with the responsibilities relating to the regional planning of residual materials management. In particular, the Minister may transmit to the Société the management plans received from the municipalities so that the Société may analyze the plans and make recommendations to the Minister.

2002, c. 59, s. 1.

§ 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.

1999, c. 75, s. 13.

53.7. Subject to the provisions of section 237 of chapter 68 of the statutes of 2001, every regional municipality must, within three years from 1 January 2001, establish 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 commission established under section 53.13 may be a joint commission.

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.

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 53.12. The delegation must be authorized by the Minister of Sustainable Development, Environment and Parks.

1999, c. 75, s. 13; 2000, c. 34, s. 241; 2006, c. 3, s. 35.

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 third 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.

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. The management plan preparation process begins with a resolution passed for that purpose by the council of the regional municipality, notice of which must be published in a newspaper circulated in its territory.

A copy of the resolution must also be sent to the Minister and 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.

53.12. Within 12 months after the plan preparation process has begun, the council of the regional municipality must adopt a draft management plan by way of a resolution.

The resolution must state the time within which the draft plan is to be submitted for public consultation.

1999, c. 75, s. 13; 2000, c. 34, s. 245.

53.13. The public consultation on the draft management plan shall be held by a commission established by the council of the regional municipality and composed of not more than 10 members designated by the council, including at least one representative from the business sector, one representative from the organized labour sector, one representative from the social and community service sector, and one representative of environmental protection groups.

The commission must hold at least two public meetings in the territory covered by the draft plan within the time specified in the resolution referred to in section 53.12 ; where the territory covered by the draft plan includes the territory of several local municipalities, the two public meetings must be held in the territory of two of those local municipalities. The commission shall determine the date, time and place of each public meeting.

Subject to the provisions of this Act, the commission shall define its operating and consultation procedures.

1999, c. 75, s. 13; 2000, c. 34, s. 246; 2000, c. 56, s. 193.

53.14. At least 45 days before the public meetings are to be held, a summary of the draft plan must be published in a newspaper circulated in the territory of the regional municipality concerned, together with 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.

53.15. At the public meetings, the commission 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 commission shall make a report on the observations received from the public and the procedure for the public consultation, and send the report to the council of the regional municipality. The report shall be made available to the public as soon as it is sent to the council.

1999, c. 75, s. 13; 2000, c. 34, s. 248.

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 Minister 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 commission's report.

1999, c. 75, s. 13; 2000, c. 34, s. 249.

53.17. The Minister may, within 60 days after receiving the draft plan, give an opinion to the regional municipality on the compliance of the plan with the government policy adopted pursuant to section 53.4.

Where the draft management plan states that the regional municipality intends to restrict or prohibit the dumping or incineration in its territory of residual materials from outside the territory, the Minister shall indicate whether, in the Minister's opinion, the restriction or prohibition is likely to compromise public health or safety; if that is the case, the Minister shall call on the parties concerned to collaborate and to reassess the residual materials elimination capacity needs of each neighbouring regional municipality, or regional municipality served by an elimination facility located in the territory covered by the draft plan, so as to prevent adverse effects on public health or safety.

The Minister'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 Minister fails to give an opinion within the time provided in the first paragraph, the draft plan is deemed to comply with government policy.

1999, c. 75, s. 13; 2000, c. 34, s. 250.

53.18. On the expiry of the time provided in the first paragraph of section 53.17, the council of the regional municipality shall pass a by-law to adopt the management plan, with or without amendment.

A copy of the management plan shall be forwarded without delay to the Minister and to any neighbouring regional municipality or to any regional municipality served by an elimination facility located in the territory covered by the plan.

Notice of the adoption of the management plan shall be published in a newspaper circulated in the territory of the regional municipality, together with a summary of the plan.

1999, c. 75, s. 13; 2000, c. 34, s. 251.

53.19. The management plan shall come into force 120 days after the date on which it is sent to the Minister, subject to the following provisions.

1999, c. 75, s. 13.

53.20. Where the Minister considers that the 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 refusal must be notified by the Minister to the regional municipality concerned before the plan comes into force. 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 of refusal must state the grounds for the refusal and indicate the amendments to be made and sent to the Minister within the time specified. If no opinion on the amendments is given by the Minister within 45 days of receiving them, the Minister's opinion is deemed to be favourable.

1999, c. 75, s. 13; 2000, c. 34, s. 252.

53.21. If the regional municipality has not amended its management plan within the time specified in the notice of refusal or within any additional time granted by the Minister, or if the latter gives an unfavourable opinion within that time on the amendments made to the plan, the Minister may exercise the regulatory powers in the place and instead of the regional municipality in order to bring the management plan into compliance with government policy or to prevent adverse effects on public health or safety.

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.

53.22. No management plan in respect of which a notice of refusal has been issued by the Minister may come into force before

(1) the date of the expiry of the time available to the Minister under the second paragraph of section 53.20 to give an opinion on the amendments made by the regional municipality to its management plan, provided the Minister has not given an unfavourable opinion on the amendments within that time; or

(2) the date of coming into force of a regulation made by the Minister pursuant to section 53.21.

A notice of the coming into force of a management plan referred to in the first paragraph must be published in a newspaper circulated in the territory of the regional municipality concerned, together with a summary of the amendments made to the plan.

1999, c. 75, s. 13; 2000, c. 34, s. 254.

53.23. The management plan may be amended at any time by the council of the regional municipality.

The management plan must be revised every five years by the council.

The procedure provided for in sections 53.11 to 53.22 for the adoption of the management plan applies, with the necessary modifications, to any amendment to or revision of the plan, except that if the general scheme of the plan is not affected by the amendment or revision, the amended or revised plan need not be submitted for public consultation.

1999, c. 75, s. 13; 2000, c. 34, s. 255.

53.24. A management plan in force is binding on the local municipalities whose territory is situated within the territory covered by the plan.

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.

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, be exercised having regard to the provisions of 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.

§ 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 to recover and reclaim or to see to the recovery and reclamation of the designated classes of residual materials, on the conditions fixed;

(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 class of persons, in particular those operating industrial and commercial establishments, which manufacture, market or otherwise distribute containers, packaging or packaging materials, printed matter or other products, which market 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 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;

(b.1*)* to obtain from the Minister, on the conditions fixed, a certificate attesting to the conformity of every program or measure described in subparagraph *b* with the applicable regulatory prescriptions;

(c) to keep registers and furnish to the Minister, on the 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

(a) the function or one of the functions of which is to implement or to contribute financially towards the implementation of a system to recover or reclaim residual materials in accordance with the conditions determined in an agreement between the organization and the Société québécoise de récupération et de recyclage, which must be transmitted to the Minister; and

(b) the name of which appears on a list drawn up by the Société and published in the *Gazette officielle du Québec*;

(8) prescribe, in the cases and on the conditions it determines, any consignment system applicable to containers, packaging, materials or products;

(9) fix a deposit payable on the purchase of any reclaimable container, packaging, material or product which is refundable on return, either in full or, according to the provisions of paragraph 10, in part only;

(10) determine the proportion of the deposit paid pursuant to paragraph 9 that constitutes the charge payable for the management, promotion or development of reclamation and that will not be refundable on return;

(11) designate the classes of persons required to collect and refund, in the cases and on the conditions it determines, the deposits prescribed under paragraph 8;

(12) determine the indemnities payable to compensate for management costs, in particular for the handling and storage of containers, packaging, materials or products following their return, as well as the categories of persons who are entitled to receive indemnities, the categories of persons who are required to pay indemnities and the conditions for payment and, where applicable, for reimbursement;

(13) make the recovery of any returnable container, packaging, material or product subject to the making with the Société québécoise de récupération et de recyclage of an agreement establishing the conditions governing recovery and the territory in which recovery may be carried out.

The Minister may 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. If the delegation concerns the issuing of a certificate described in subparagraph *b*.1 of that subparagraph, the fees fixed under section 31.0.1 for obtaining such certificates are payable to the Société.

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.

53.31. 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 recovery or reclamation of the residual materials that are generated, delivered to a third person or taken in charge by the person or municipality.

1999, c. 75, s. 13.

§ 4.1. — *Compensation for municipal services*

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.

2002, c. 59, s. 4.

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 not later than 30 June each year, and the other conditions 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 1 September of a given year, 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.

53.31.5. The amount of the annual compensation owed to the municipalities under section 53.31.3 is divided among the materials or classes of materials subject to compensation, according to the share allotted to each by order of the Government.

However, 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.

53.31.6. After obtaining the opinion of the Société québécoise de récupération et de recyclage, the Government may review the share of the annual compensation owed to the municipalities that is attributed to one or more materials or classes of materials.

The opinion of the Société must take into account the data the Société collects on the nature, quantity and destination of the residual materials produced in Québec, and on the costs related to their recovery and reclamation. The Société must also consult the certified bodies established under sections 53.31.9 to 53.31.11 and the Union des municipalités du Québec, the Fédération québécoise des municipalités locales et régionales (FQM) or any other body it considers appropriate.

2002, c. 59, s. 4; 2011, c. 14, s. 5.

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.

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.

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. The schedule may cover a maximum of three years.

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 Government, which may approve it with or without modification.

2002, c. 59, s. 4; 2011, c. 14, s. 10.

53.31.15. A certified body must send to the Société québécoise de récupération et de recyclage its proposal for a schedule of contributions, together with a report on the consultations prescribed under section 53.31.14,

(1) within the time set by the Government in the regulation designating the material or class of materials subject to compensation, if it is the first time a schedule is proposed; or

(2) not later than 31 December of the year in which the schedule in force expires, in all other cases.

The Société must give the Government an opinion on the proposed schedule.

If a certified body fails to send its proposed schedule and the consultation report within the time prescribed, the Société must submit to the Government, within 45 days after the deadline, a proposed schedule for the contributions payable for the current year. The proposed schedule is approved by the Government, 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.

Note *Approval of Éco Entreprises Québec's 2014 schedule of contributions for the "containers and packaging" and "printed matter" classes; see Order in Council 542-2014 dated 18 June 2014, (2014) 146 G.O. 2, 1357.*

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 section 65, 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.

55. No residual materials elimination facility may be established or altered without the authorization of the Minister required pursuant to section 22, except where the facility must also have the authorization of the Government under Division IV.1 of Chapter I as regards environmental assessment.

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.

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 certificate of 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.

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 944 to 944.10, 945.1 to 945.8 and 946 to 946.6 of the Code of Civil Procedure (chapter C-25) 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.

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. No land formerly used as a site for elimination of residual materials may be used for construction purposes without the written permission of the Minister.

The Minister may impose conditions, in particular, the deposit of a guarantee, when giving his permission pursuant to this section.

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.

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

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.

The order shall set out the Minister's reasons, and shall take effect on the date on which it is notified, or on the date indicated therein.

1991, c. 80, s. 6; 1997, c. 43, s. 530.

70.2. At least 15 days before issuing an order, the Minister shall, as prescribed by section 5 of the Act respecting administrative justice (chapter J-3), notify the person having possession or custody of the hazardous material, indicating the grounds which appear to justify the order and the proposed effective date and stating that the person may present observations within the period indicated.

The prior notice shall be accompanied with a copy of any analysis or research report or any other technical report taken into account by the Minister.

The Minister shall transmit a copy of the prior notice to the Minister of Health and Social Services and to the secretary-treasurer or clerk of the municipality on whose territory the hazardous material is located.

1991, c. 80, s. 6; 1997, c. 43, s. 531.

70.3. The Minister shall transmit a copy of the order to the Minister of Health and Social Services and to the secretary-treasurer or clerk of the municipality on whose territory the hazardous material is located, and the secretary-treasurer or clerk shall make the order available to the public. The Minister shall also transmit a copy to any person having submitted a sworn complaint to him in respect of the subject of the order.

The Minister shall publish a notice of the order in a daily newspaper distributed in the region in which the hazardous material is located, as well as in a daily newspaper in Montréal and a daily newspaper in Québec. The notice must contain at least the following information relating to the order: the legislative provision under which it is rendered, its object, the date of notification, the name and address of the person or municipality concerned, and the address of the place where the public may consult the order other than the website of the Ministère du Développement durable, de l'Environnement et des Parcs.

1991, c. 80, s. 6; 2011, c. 20, s. 8.

70.4. The Minister may, without prior notice, issue an order under section 70.1 effective for a period of not more than 30 days if he is of the opinion that a hazardous material is in a situation that is causing immediate danger to the health of humans or other living species or an immediate risk of serious or irreparable damage to property.

1991, c. 80, s. 6.

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.

70.6. Every person who has possession of

(1) a hazardous material that he has produced or used but has discarded;

(2) a hazardous material that he has used and no longer uses for the same purpose or a purpose resembling its initial use;

(3) a hazardous material that he has produced or taken possession of with a view to utilization, but which is outdated; or

(4) a hazardous material that he has produced or used and that appears on a list established for that purpose by regulation or belongs to a class mentioned on the list,

is required to keep a register containing the information prescribed by regulation in respect of the hazardous material.

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.

70.7. Every person or municipality subject to section 70.6 who or which carries on an activity determined by regulation shall, at the time 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 shall contain an attestation of the accuracy of the information furnished and shall bear the signature of the person carrying on the activity or, in the case of a legal person or partnership, the signature of a person authorized by a resolution of the board or of the partners, which resolution shall accompany the annual management report.

1991, c. 80, s. 6; 1999, c. 40, s. 239.

70.8. No person may have possession for more than 12 months of a hazardous material referred to in any of subparagraphs 1 to 4 of the first paragraph of section 70.6, except where he is authorized to do so by the Minister and satisfies the conditions fixed by him.

An application for authorization must contain the information determined by regulation and be submitted with a management plan for the hazardous material prepared in accordance with the regulations. The Minister may require from the applicant any other information or document which he considers necessary for the purpose of making his decision.

The management plan shall contain an attestation of the accuracy of the information furnished and shall bear the signature of the person having possession of the hazardous material or, in the case of a legal person or partnership, the signature of a person authorized by a resolution of the board or of the partners, which resolution shall accompany the

management plan.

1991, c. 80, s. 6; 1999, c. 40, s. 239.

70.9. A permit issued by the Minister must be held by every person who

(1) operates a site for the elimination of hazardous materials for his own purposes or for another person, or offers a hazardous materials elimination service;

(2) operates for commercial purposes a treatment process for hazardous materials that are used, spent or outdated, or that appear on a list established for that purpose by regulation or belong to a class mentioned on the list;

(3) stores any hazardous material described in paragraph 2 after having taken possession thereof for that purpose;

(4) uses for energy generation purposes any hazardous material described in paragraph 2 after having taken possession thereof for that purpose;

(5) carries on an activity determined by regulation involving a hazardous material.

1991, c. 80, s. 6.

70.10. An application for a permit shall be made in writing to the Minister; it shall contain the information and be accompanied with the documents prescribed by regulation.

The Minister may require any information or document in connection with the impact of the project on the environment.

1991, c. 80, s. 6.

70.11. The Minister shall issue a permit to every person who furnishes the information and documents required by regulation and by the Minister, who satisfies the other conditions prescribed by regulation and who pays the fees prescribed by an order made under section 31.0.1.

As prescribed by section 5 of the Act respecting administrative justice (chapter J-3), the Minister may, however, after notifying the applicant and allowing him to present observations, refuse to issue a permit where he is of the opinion that the project constitutes an inacceptable risk for health or for the environment.

1991, c. 80, s. 6; 1997, c. 43, s. 532; 2002, c. 53, s. 9.

70.12. The Minister may subject the issue or renewal of a permit to any condition, restriction or prohibition he determines.

1991, c. 80, s. 6; 2011, c. 20, s. 9.

70.13. The permit shall set out, in addition to the name and address of the holder, the activity he is authorized to carry on, the hazardous materials or category thereof that the activity he is authorized to carry on may involve and any condition, restriction or prohibition determined under section 70.12.

1991, c. 80, s. 6.

70.14. A permit is valid for not more than five years. It is renewed provided its holder satisfies the conditions prescribed by regulation and pays the fees prescribed by an order made under section 31.0.1.

1991, c. 80, s. 6; 2002, c. 53, s. 10.

70.15. The Minister may modify, revoke or refuse to renew a permit where the permit holder

(1) does not comply with a condition, restriction or prohibition mentioned in the permit;

(2) does not satisfy the conditions prescribed by regulation for the issue of the permit;

(3) does not comply with this Act or the regulations;

(3.1) fails to pay the fees prescribed by an order made under section 31.0.1; or

(4) has ceased all or some of the activities mentioned in the permit.

Before making his decision, the Minister shall transmit a written notice to the permit holder informing him of his decision to modify, revoke or refuse to renew the permit, on the grounds indicated, and shall allow the permit holder 15 days to submit observations, unless the Minister deems that, under the circumstances, it is necessary to grant more time.

1991, c. 80, s. 6; 1997, c. 43, s. 533; 2002, c. 53, s. 11; 2011, c. 20, s. 10.

70.16. The Minister may, on request, modify the permit of a holder who satisfies the conditions determined by regulation and pays the fees prescribed by an order made under section 31.0.1. He may, for that purpose, exercise the powers provided for in the second paragraph of section 70.10 and of section 70.11 and in section 70.12.

To obtain a modification of the activities or hazardous materials mentioned in the permit, the permit holder must satisfy the conditions for the issue of a permit which apply to the new activities and hazardous materials requested by him.

1991, c. 80, s. 6; 2002, c. 53, s. 12.

70.17. No permit may be transferred, except with the written authorization of the Minister.

1991, c. 80, s. 6.

70.18. Every permit holder shall notify the Minister of any change which renders the information furnished for the issue or renewal of the permit inaccurate or incomplete.

The holder shall also notify the Minister, within the time prescribed by regulation, of the cessation of all or some of his activities. Where the holder ceases his activities permanently, he shall comply with the decontamination measures indicated by the Minister.

Any legal person or partnership which is a permit holder shall inform the Minister of any merger, sale or transfer of the legal person or partnership, and of any change in its name.

1991, c. 80, s. 6; 1999, c. 40, s. 239.

70.19. The Government may, by regulation,

(1) define the properties of the materials referred to in paragraph 21 of section 1;

(2) determine any material or object classed as a hazardous material within the meaning of paragraph 21 of section 1;

(3) establish classes of hazardous materials and activities involving hazardous materials;

(4) establish the list of hazardous materials or classes of hazardous materials referred to in section 70.6;

(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 times 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 an application for authorization under section 70.8, 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) establish the list of hazardous materials or classes of hazardous materials referred to in paragraph 2 of section 70.9;

(9) determine for the purposes of paragraph 5 of section 70.9, the activities involving a hazardous material for which a permit is required;

(10) determine the conditions for the issue, renewal and modification of a permit, including the information and documents to be furnished, and the qualities required of the applicant or its management;

(11) *(paragraph repealed)*;

(12) determine the cases in which security or a guarantee must be furnished for the issue, renewal or modification of a permit, establish the object, nature, duration and amount thereof, the rules governing use of the security or guarantee by the Minister in cases of default, and the rules governing remittance thereof;

(13) as a condition prior to issue of a permit, require a person or a municipality to take out civil liability insurance, and determine the nature, scope, term and amount of the insurance, and the other conditions applicable to it;

(14) prescribe the preparation of registers, reports or other documents and the period for which registers must be kept;

(15) prescribe communication of the information and documents to the Minister at the time he fixes;

(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.

1991, c. 80, s. 6; 1999, c. 75, s. 30; 2002, c. 53, s. 13.

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. 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 124. 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.

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, organ and tissue conservation and the disposal of human bodies (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.

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
ATTESTATION OF ENVIRONMENTAL CONFORMITY

95.1. No person may undertake to carry out a project contemplated by regulation of the Government without first filing with the Minister the plans and specifications for the execution of the project and a declaration attesting to their conformity with the norms provided by regulation of the Government.

The attestation must also be signed by any professional within the meaning of the Professional Code (chapter C-26) and any consultant who participated in the preparation of the project in the case where his participation deals with a matter contemplated in the regulatory norms applicable to the project.

1982, c. 25, s. 8; 1988, c. 49, s. 38.

95.2. In the cases contemplated by regulation of the Government, the attestation must be accompanied with the security prescribed by regulation of the Government and a certificate issued by the municipality indicating that the project conforms to the municipal by-laws.

1982, c. 25, s. 8.

95.3. In no case may the proponent of a project undertake to carry it out before the lapse of fifteen days after the date of filing of the attestation of environmental conformity and the documents contemplated in sections 95.1 and 95.2.

1982, c. 25, s. 8.

95.4. In the case where the Minister is of opinion that a project does not conform to the norms provided by regulation of the Government or that the proponent of the project has not observed all the formalities contemplated in sections 95.1 and 95.2, he may, at all times, notify a denial of conformity to the proponent of the project.

The denial of conformity must be preceded by 15 days' prior notice to the proponent of the project unless the Minister deems that, under the circumstances, it is necessary to grant more time. However, the denial of conformity may be notified immediately if the Minister deems it necessary to prevent environmental damage.

1982, c. 25, s. 8; 1988, c. 49, s. 38; 1997, c. 43, s. 534; 2011, c. 20, s. 11.

95.5. Every denial of conformity cancels every attestation filed under section 95.1 and obliges the proponent of the project to postpone its carrying out immediately. It may contemplate part only of the attestation of environmental conformity.

1982, c. 25, s. 8.

95.6. In the cases contemplated in sections 95.2 and 95.4, the Minister may confiscate the security given by the proponent of the project and use it to repair the environmental damage incurred.

Where a denial of conformity is quashed by the Administrative Tribunal of Québec, the Minister shall return the unused portion of the security.

1982, c. 25, s. 8; 1988, c. 49, s. 38; 1997, c. 43, s. 535.

95.7. Sections 22, 32, 33, 48 and 55 do not apply to a project that is subject to the attestation of environmental conformity under this division.

1982, c. 25, s. 8; 1999, c. 75, s. 31.

95.8. The Minister shall forward to the trustee of the professional order, for investigation, the case of a member of that order whom he considers to have signed a false attestation of conformity if it leads to a denial of conformity or to penal proceedings against the member of that order.

1982, c. 25, s. 8; 1988, c. 49, s. 38; 1994, c. 40, s. 457.

95.9. The Government may make regulations

(a) to determine the classes of projects for which an attestation of environmental conformity, the plans and specifications of the project, and a certificate of municipal conformity must be filed with the Minister under this division; and

(b) to identify the categories of persons that are qualified to sign an attestation of environmental conformity as “consultant”.

1982, c. 25, s. 8; 1988, c. 49, s. 38.

DIVISION XI
PROCEEDING BEFORE THE ADMINISTRATIVE TRIBUNAL OF QUÉBEC

96. Any order issued by the Minister, except those contemplated in sections 29 and 32.5, in the second paragraph of

section 34 and in sections 35, 49.1, 58, 61 and 120 may be contested by the municipality or person concerned before the Administrative Tribunal of Québec.

The same applies in all cases where the Minister refuses to grant, suspends or revokes an authorization certificate, a certificate, an authorization, an approval, a permission, an attestation or a permit, refuses to renew a permit, approves, with amendments, a rehabilitation plan submitted to the Minister under Division IV.2.1, refuses an amendment requested under section 31.60, requires a change in an application made to him, fixes or apportions costs and expenses other than those contemplated in section 32.5 or 35, refuses to grant emission allowances under subdivision 1 of Division VI, disallows the use of such emission allowances to cover greenhouse gas emissions, suspends, withdraws or cancels such allowances or imposes any other penalty under that subdivision, determines compensation under section 61, notifies a denial of conformity to the proponent of a project, refuses to issue or amends, suspends or revokes a depollution attestation or refuses to amend or to revoke a depollution attestation upon application from the holder thereof.

An operator of an industrial establishment may, where the Minister approves rates with amendments pursuant to section 32.9, contest such decision before the Tribunal.

Any condition, restriction or prohibition imposed by the Minister under section 31.79, 31.80 or 31.81 when issuing, renewing or amending a water withdrawal authorization may also be contested by the municipality or person concerned before the Tribunal.

However, when assessing the facts or the law, the Tribunal may not substitute its assessment of the public interest for that made by the Minister in making a decision under section 31.79 or 31.81.

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.

96.1. 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. However, sections 98.1 and 98.2 do not apply to such a proceeding.

2011, c. 20, s. 13.

97. The Minister and the person designated by the Minister shall, on making a decision under section 96 or 96.1, 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.

98. A proceeding, except one provided for under section 115.49, 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.

98.1. The applicant shall, within 15 days after filing his motion at the secretariat of the Tribunal, publish a notice in two consecutive issues of a daily newspaper circulated in the region contemplated by the contested decision.

Proof of the publication of such notice shall be furnished to the Tribunal.

1978, c. 64, s. 32; 1997, c. 43, s. 540.

98.2. The Minister shall, upon receiving copy of the motion, forward a copy to every person or municipality having transmitted to him observations in writing pertaining to the contested decision.

In the case where more than one municipality or more than 25 persons have transmitted observations in writing to him, the Minister, instead of transmitting copy of the motion to them, may cause a notice respecting the motion to be published in a daily newspaper circulated in the territory of the region concerned by the contested decision.

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.

99. 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 96.1 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.

100. 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.

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.

DIVISION XII
FINANCIAL PROVISIONS

104. 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.

104.1. 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.

105. 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.

DIVISION XIII
ADMINISTRATIVE MEASURES

§ 1. — *Miscellaneous measures*

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.

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 work is done or constructions or works are erected in contravention of this Act or the regulations or of an order, approval, authorization, permission, attestation, certificate or permit, the Minister may order one or more of the following measures, granting priority, after evaluation, to those which the Minister deems best for the protection of the environment:

(1) the demolition of the work, constructions or works;

(2) the restoration of the site to the state it was in before the work began or the constructions or works were erected or to a state approaching its original state;

(3) the implementation of compensatory measures.

In the event of non-compliance with an order issued under the first paragraph, the costs that the Minister, when exercising the powers granted under section 113, incurs to demolish a work or construction, restore a site or implement compensatory measures, constitute a prior claim on the immovable, of the same nature and with the same rank as the claims described in paragraph 5 of article 2651 of the Civil Code.

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.

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 dumped, emitted, issued or discharged into the water or onto the soil, accidentally or contrary to the provisions of this Act or the regulations of the Government, 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.

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 applies to more than one person or municipality, the debtors are solidarily liable.

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.

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 emitted, deposited, discharged or ejected into the environment, the Minister may claim from a person or municipality the costs of any intervention by the Minister to avert or diminish the risk of damage to public or private property, human beings, wildlife, vegetation or the general environment.

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 emission, deposit, discharge or issuance 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. If there is more than one debtor, they are solidarily liable.

2004, c. 24, s. 10; 2011, c. 20, s. 24.

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 emitted, deposited, discharged or ejected into the environment or to prevent their being emitted, deposited, discharged or ejected into the environment, where he considers such measures necessary to avert or diminish the risk of damage to public or private property, human beings, wildlife, vegetation or the general environment.

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 emission, deposit, discharge or issuance of the contaminants, as the case may be, whether or not the latter has been prosecuted for infringement of this Act. Liability is solidary where there are several debtors involved.

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.

115.2. If a person or municipality is doing work, erecting constructions or works or carrying on activities in contravention of this Act or the regulations or an order, approval, authorization, permission, attestation, certificate or permit, the Minister may order that such operations cease or be limited to the extent determined by the Minister for a maximum period of 30 days, if the Minister believes that they cause serious harm or damage, or create a risk of serious harm or damage, to human health or the environment, including vegetation and wildlife.

The Minister may also, on that occasion, order the person or municipality concerned to take, within the time period determined by the Minister, the measures required to prevent or reduce the harm or damage or risk of harm or damage.

The Minister may delegate the power to make an order given the Minister under this section. An order made by the delegatee is deemed to be an order of the Minister for the purposes of this Act or the regulations.

2011, c. 20, s. 26.

115.3. The Minister may extend for a maximum period of 60 days an order made under section 115.2 if the Minister believes that the reasons that gave rise to the order remain valid.

2011, c. 20, s. 26.

115.4. An order made under section 115.2 or 115.3 must include reasons. It takes effect on the date of notification to the offender or on any later date specified in the order. A copy of the order is sent to the clerk of the municipality on whose territory the work, constructions, works or activities concerned are located.

2011, c. 20, s. 26.

§ 2. — *Refusal, modification, suspension and revocation of authorization*

115.5. The Government or the Minister may refuse to issue or renew an authorization certificate, or may amend, suspend or revoke such a certificate 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 certificate 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 a material fact to have the certificate issued, maintained 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 certificate 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.

115.6. The Government or the Minister may refuse to issue or renew an authorization certificate, or may amend, suspend or revoke such a certificate 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 certificate, 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 certificate 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.

115.7. The Government or the Minister may refuse to issue or renew an authorization certificate, or may amend, suspend or revoke such a certificate, 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 certificate 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.

115.8. For the purposes of sections 115.5 to 115.7, the applicant or holder must file, as a condition for the issue, maintenance or renewal of an authorization certificate, any declaration, information or documents required by the Government or the Minister to that end and concerning, among other things, penal or indictable offences of which the applicant or holder or one of their money lenders or, in the case of a legal person, one of its directors, officers or shareholders, has been convicted.

In the case of an offence under a fiscal law or an indictable offence, the offender's declaration must state whether the offence was connected with activities covered by the certificate.

2011, c. 20, s. 26.

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 Act respecting insurance (chapter A-32), 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 Act respecting trust companies and savings companies (chapter S-

29.01) 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.

115.10. The Government or the Minister may amend, suspend, revoke or refuse to renew an authorization certificate in the following cases:

(1) the holder does not comply with its provisions or conditions or uses it for purposes other than those specified;

(2) the holder does not comply with this Act or the regulations;

(3) the holder does not make use of it within one year from the date it was issued.

2011, c. 20, s. 26.

115.11. Before making a decision under any of sections 115.5 to 115.10, the Government shall allow the applicant or holder of the certificate of authorization 15 days to submit observations in writing.

Before making a decision under any of those sections, the Minister shall notify the applicant or holder in writing as prescribed by section 5 of the Act respecting administrative justice (chapter J-3) and allow the applicant or holder 15 days to submit observations.

However, the Government or the Minister may grant more time if this is judged necessary under the circumstances. The Government or the Minister may also, where urgent action is required or there is a danger of irreparable damage being caused, make a decision without being bound by those prior obligations. In such cases, the applicant or holder may, within the time specified, submit observations for a review of the decision.

2011, c. 20, s. 26.

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 authorizations, approvals, permissions, attestations, certificates and permits granted under this Act or the regulations.

2011, c. 20, s. 26.

§ 3. — *Monetary administrative penalties*

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 a penal proceeding is deemed to have priority;

(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.

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 for a failure to comply with the same provision on the same day, based on the same facts.

2011, c. 20, s. 26.

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 being notified of the notice of claim.

2011, c. 20, s. 26.

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 that the applicant has the right to contest the decision before the Administrative Tribunal of Québec within the time prescribed for that purpose.

If the review decision is not rendered within 30 days after receipt of the application or, if applicable, within the time prescribed for the applicant to submit observations or documents, the interest provided for in the third paragraph of section 115.48 on the amount owed ceases to accrue until the decision is rendered.

2011, c. 20, s. 26.

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,

(1) refuses or neglects to give a notice or furnish information, studies, research findings, expert evaluations, reports, plans or other documents, 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) fails to establish, maintain or, if applicable, update a list or register; or

(3) fails 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

(2) removes, defaces or allows to be defaced a notice posted under section 120.

2011, c. 20, s. 26; 2013, c. 16, s. 199.

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 respect any condition, restriction or prohibition relating to an approval, authorization, permission, attestation, certificate or permit granted under this Act, in particular when carrying out a project, during the construction, use or operation of works, or upon ceasing an activity;

(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 transmit an expert's certificate to the Minister under section 31.48;

(2) has custody of land but does not allow free access to a person requiring such access for the purposes of section 31.63;

(3) fails to form a committee for the purposes of the first paragraph of section 57; or

(4) prevents or hinders a person referred to in section 119 from exercising the powers conferred by that section.

2011, c. 20, s. 26; 2013, c. 16, s. 199.

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 advise the Minister without delay, in accordance with section 21, of the accidental presence in the environment of a contaminant;

(2) does something or carries on an activity without first obtaining the required approval, authorization, permission, attestation, permit or certificate, including the certificate of authorization required under section 22 or 31.1;

(3) fails to comply with the contaminant discharge standards or the implementation requirements or schedule referred to in subparagraph 1 of the first paragraph of section 31.13, in accordance with subparagraph 1 of the first paragraph of section 31.23;

(4) fails to inform the Minister, as soon as possible, of the permanent cessation of a water withdrawal or to comply with the measures the Minister imposes to prevent or remedy environmental damage or interference with the rights of other users, in accordance with the second paragraph of section 31.83;

(5) imposes or changes water or sewage rates without first submitting them to the Minister for approval, in accordance with section 32.9, or collects taxes, duties or dues for the purposes of a waterworks or sewer system in contravention of section 39;

(6) fails to carry out a site characterization study or submit or file a land rehabilitation plan and an implementation schedule, plans and specifications or an attestation of environmental conformity as required by this Act;

(7) fails to fulfill the obligations set out in section 66 with respect to the deposit or discharge of residual materials;

(8) fails to notify the Minister, within the time prescribed, of the cessation of all or some of the person's or the municipality's activities or to comply with the decontamination measures indicated by the Minister, in accordance with the second paragraph of section 70.18;

(9) begins work on a project requiring an attestation of environmental conformity before the time period specified in section 95.3 has expired;

(10) fails to comply with the decontamination measures required under this Act.

2011, c. 20, s. 26; 2013, c. 16, s. 199.

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) contravenes the prohibition in the second paragraph of section 20 against the emission, deposit, issuance or discharge of any contaminant whose presence in the environment is likely to affect the life, health, safety, welfare or comfort of human beings, or to cause damage to or otherwise impair the quality of the soil, vegetation, wildlife or property;

(2) fails to advise the Minister, in the prescribed time, of the accidental occurrence in the environment of a contaminant or to take all necessary measures to minimize the effects and eliminate or prevent the causes, in accordance with subparagraph 3 of the first paragraph of section 31.23;

(3) has custody of land in which contaminants are found and fails to notify the owner of the neighbouring land and the Minister of the presence of contaminants, in the cases and under the conditions set out in section 31.52;

(4) makes a water withdrawal in contravention of an order under subparagraph 2 of the first paragraph of section 31.86;

(5) contravenes the prohibition to transfer water set out in section 31.90 or 31.105;

(6) fails to take water samples as prescribed by section 45.1 and to forward them to an accredited laboratory;

(7) fails to take the measures prescribed by an emergency plan formulated by the Minister under section 49 in case of air pollution;

(8) does something or carries on an activity that contravenes a decision rendered by the Government or the Minister under this Act;

(9) refuses or fails to comply with an order imposed under this Act or in any way prevents or hinders its execution;

(10) does something or carries on or pursues an activity or operation when the approval, authorization, permission, attestation, certificate or permit required under this Act or the regulations has been refused, suspended or revoked, or has been the object of a denial of conformity by the Government or the Minister 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.

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.

DIVISION XIII.1
PENAL PROVISIONS

115.29. Whoever

(1) contravenes subparagraph 4, 5 or 6 of the first paragraph of section 31.23, the second paragraph of section 31.24 or 31.55, the third paragraph of section 31.59, section 31.68, 31.84, 50, 51, 52, 53.31, 64.3, 64.11, 68.1, 70.5, 70.6 or 70.7, the first or third paragraph of section 70.18, or section 116.3,

(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 give a notice or furnish information, studies, research findings, expert evaluations, reports,

plans 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.

115.30. Whoever

(1) contravenes subparagraph 1.1, 2 or 8 of the first paragraph of section 31.23, the first paragraph of section 31.31, paragraph 1 of section 31.38, section 31.47, 31.48 or 31.58, the third paragraph of section 31.60, section 31.63, the first paragraph of section 31.83, subparagraph 1 or 2 of the first paragraph of section 46.2, section 46.10, 53.31.12 or 56, the first paragraph of section 57, or section 64.2, 64.10 or 123.1,

(2) fails to comply with a condition imposed under section 31.5 or 31.6, the third paragraph of section 31.15.1 or section 31.15.2, section 31.15.3, 31.40 or 31.79, subparagraph 1 of the first paragraph of section 31.86, the second paragraph of section 65 or 164, section 167, the first paragraph of section 201, or section 203,

(3) fails to comply with a rehabilitation plan approved by the Minister under Division IV.2.1,

(4) fails to comply with a condition, restriction or prohibition imposed by the Minister under the first paragraph of section 70.8 or section 70.12,

(5) fails to comply with a depollution program approved by the Minister under section 116.2,

(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 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) fails to comply with any other condition, restriction or prohibition relating to an approval, authorization, permission, certificate, attestation or permit granted under this Act or the regulations, in particular when carrying out a project or during the construction, use or operation of works, or upon ceasing an activity,

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.

115.31. Whoever

(1) contravenes section 21, 22 or 31.1, the first paragraph of section 31.16, subparagraph 1 of the first paragraph of section 31.23, section 31.25, the first paragraph of section 31.28, section 31.51 or 31.51.1, the first paragraph of section 31.53, 31.54 or 31.57, the second paragraph of section 31.83, section 32, 32.1, 32.2, 32.7, 32.9, 33, 39, 41 or 43, the first paragraph of section 46.6, section 48 or 55, the first paragraph of section 65, section 66, section 70.9, the second paragraph of section 70.18, or section 95.1, 95.3, 154 or 189,

(2) files or signs a false declaration of environmental conformity,

(3) does something without first obtaining any other approval, authorization, permission, attestation, certificate or permit required under this Act or the regulations,

(4) knowingly makes a false or misleading declaration in order to obtain an approval, authorization, permission, attestation, certificate or permit required under this Act or the regulations,

(5) makes water withdrawals without the authorization of the Government or the Minister, as applicable, in contravention

of Division IV.1 or section 31.75,

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.

2011, c. 20, s. 26; 2013, c. 16, s. 199.

115.32. Whoever

(1) contravenes section 20 or 31.11, subparagraph 3 of the first paragraph of section 31.23, or section 31.30, 31.52, 45, 45.1 or 83,

(2) makes a withdrawal of water in violation of a decision under subparagraph 2 of the first paragraph of section 31.86,

(3) contravenes the prohibition against transferring water prescribed by section 31.90 or 31.105,

(4) fails to take the measures prescribed by an emergency plan formulated by the Minister under section 49 in case of air pollution,

(5) continues a project for which a denial of conformity was notified under section 95.4,

(6) refuses or neglects to comply with an order imposed under this Act, or in any manner hinders or prevents the enforcement of such an order,

(7) does something or carries on or pursues an activity or operation when the approval, authorization, permission, attestation, certificate or permit required under this Act or the regulations has been denied, suspended or revoked,

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.

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 Green 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);

(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.

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 Green Fund 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.

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.

DIVISION XIV
GENERAL PROVISIONS

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 and the notice of claim must mention the right to obtain a review of the decision within the time period specified in the notice.

A notice of claim must state the amount of the claim, the reasons for it, the time from which it bears interest, the right to contest the claim or, if applicable, the review decision before the Administrative Tribunal of Québec and the time within which such a proceeding must be brought. 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.

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.

115.49. A notice of claim or, if applicable, a review decision that confirms the imposition of a monetary administrative penalty, may be contested before the Administrative Tribunal of Québec by the person or municipality concerned, within 60 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.

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 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. In all civil or penal proceedings instituted pursuant to this Act and in any proceeding brought in accordance with Division XI, 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 sworn statement 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.

116.1.1. 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.

A regulation made under the first paragraph is preceded by the publication of a draft regulation in the *Gazette officielle du Québec* for the purposes of a 60-day consultation.

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.

116.2. 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.

116.3. If the person responsible for the source of contamination requests the approval of a depollution program

contemplated in section 116.2, he shall publish a notice in two consecutive issues of a daily newspaper circulated in the region where the source of contamination is situated.

Proof of the publication of such notice 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.

116.4. Every person, group or municipality may present observations to the Minister until the expiry of the period of 15 days contemplated in section 116.3 and the period of 15 days following the publication of the second notice published under section 116.3; 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.

117. If a person believes that he can attribute to the presence of a contaminant in the environment or to the emission, deposit, issuance or discharge 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.

118. The Minister must furnish a report of the results of any inquiry which he considers necessary to undertake under section 117 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.

118.0.1. The Minister shall inform the Minister of Health and Social Services that a contaminant present in the environment is likely to affect the life, health, safety, welfare or comfort of human beings.

He shall also give notice to the same effect to the Minister of Public Security and the Minister of Agriculture, Fisheries and Food if he deems it expedient.

1990, c. 26, s. 14.

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. A person or a municipality having been notified of such an order without prior notice because, in the Minister's opinion, urgent action is required or there is a danger of irreparable damage being caused may, within the time specified in the order, present observations to the Minister so that the order may be reviewed.

1997, c. 43, s. 548.

118.2. Every order made regarding the owner of an immovable shall 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.

1978, c. 64, s. 44; 1990, c. 26, s. 16.

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. 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.

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.

118.4. Every person has the right to obtain from the Ministère du Développement durable, de l'Environnement et des Parcs copy of any available information concerning the quantity, quality or concentration of contaminants emitted, issued, discharged or deposited by a source of contamination or concerning the presence of a contaminant in the environment.

This section applies subject to the restrictions to the right of access provided in section 28 of the Act respecting Access to documents held by public bodies and the Protection of personal information (chapter A-2.1).

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.

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.

118.5.1. 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. The information contained in the registers provided for in sections 118.5 to 118.5.2 is public. The Minister promptly posts the information on the website of the Ministère du Développement durable, de l'Environnement et des Parcs. The Minister also posts on that website the text of any order rendered under this Act and, if applicable, that of the notice of such an order, published in accordance with this Act.

2011, c. 20, s. 32.

118.6. The Minister may, in the cases and on the conditions he determines, accredit a laboratory to make any analyses that may be required for the administration of this Act and the regulations thereunder.

1985, c. 30, s. 82.

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.

119.1. 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 damage or serious harm to the quality of the soil, to vegetation, to wildlife 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.

120. The Minister and the functionaries designated by him for that purpose may require, of any person 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.

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 damage or serious harm to the quality of the soil, to vegetation or to wildlife.

1978, c. 64, s. 47; 1988, c. 49, s. 32; 1990, c. 4, s. 745.

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 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.

122. 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.

122.1. *(Repealed).*

1982, c. 25, s. 17; 1988, c. 49, s. 33; 2002, c. 53, s. 18; 2011, c. 20, s. 39.

122.2. The authority who issued an authorization certificate may also amend, suspend or cancel it upon the application of the holder.

This section applies, with the necessary modifications, to any authorization, approval, permission, attestation, certificate or permit granted under this Act or the regulations. It also applies in the cases provided for in section 32.8, without, however, restricting the application of that section.

1982, c. 25, s. 17; 1987, c. 25, s. 10; 2011, c. 20, s. 40.

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.

Note *See section 121.2.*

123.1. The holder of an authorization issued pursuant to this Act is required to comply with the conditions thereof while the project is being carried out or during the construction, utilization or operation of the works.

This section applies to all the authorizations issued under this Act since 21 December 1972. It also applies, with the necessary modifications, to the works commenced, used or operated under an attestation of environmental conformity.

1978, c. 64, s. 49; 1979, c. 49, s. 33; 1982, c. 25, s. 18; 1984, c. 29, s. 23.

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 and every denial of conformity made under section 95.4 are executory notwithstanding any proceeding brought under Division XI of this chapter 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.

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.

124. The Minister shall publish in the *Gazette officielle du Québec* any draft regulation prepared under this Act, with a notice stating that it may be adopted by the Government, with or without amendment, at the expiry of 60 days following the publication.

The Minister shall hear every written objection made to him before the expiry of the delay of 60 days.

Every regulation made by the Government under this Act comes into force upon its publication in the *Gazette officielle du Québec* or on a later date indicated in the regulation, or by order of the Government.

Such regulation, and the standards established under the second paragraph of section 31.5, shall prevail over any municipal by-law relating to the same object, unless the municipal by-law has been approved by the Minister, in which case the latter prevails to the extent determined by the Minister. Notice of the approval shall 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 cancel any approval granted under the fourth paragraph in the case where the Government makes a new regulation relating to a matter contemplated by a municipal by-law already approved. Notice of the decision of the Minister shall be published without delay in the *Gazette officielle du Québec.*

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.

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. A municipal by-law approved under the fourth paragraph of section 124 may be used for the application of section 19.1.

1978, c. 64, s. 50; 1984, c. 29, s. 25.

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 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.*

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. Any provision of an authorization certificate, certificate, authorization and depollution program issued or approved pursuant to sections 22, 32, 48, 54 and 116.2 shall continue to have force insofar as it is not incompatible with the elements set out in a depollution attestation.

1988, c. 49, s. 37.

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.

CHAPTER II
PROVISIONS APPLICABLE TO THE JAMES BAY AND NORTHERN QUÉBEC REGION

DIVISION I
DEFINITIONS

131. In this chapter, 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 constitued 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.

132. In this chapter, 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.

DIVISION II
PARTICULAR PROVISIONS APPLICABLE TO THE JAMES BAY REGION LOCATED SOUTH OF THE 55TH PARALLEL

133. This division 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.

§ 1. — *James Bay Advisory Committee on the Environment*

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.

§ 2. — *Evaluating Committee and Review Committee*

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.

§ 3. — *Environmental and social impact assessment and review procedure*

153. The projects automatically subject to the assessment and review procedure contemplated by this subdivision are listed in Schedule A and the project 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.

DIVISION III
PARTICULAR PROVISIONS APPLICABLE TO THE TERRITORY LOCATED NORTH OF THE 55TH PARALLEL

168. This division 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.

§ 1. — *Kativik Environmental Advisory Committee*

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 Inuttituut, of “Kativik Nunamut Isumasaliuriyingita 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.

§ 2. — *Kativik Environmental Quality Commission*

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 Inuttituut, 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.

§ 3. — *Environmental and social impact assessment and review procedure*

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 is 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.

DIVISION IV
REGULATIONS

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.

DIVISION V
MISCELLANEOUS PROVISIONS

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. Division IV.1 of Chapter 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.

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^2;

(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.

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.

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.

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.