

Q-2 : ENVIRONMENT QUALITY ACT (abstracts)

(updated on September 3, 2003)

CHAPTER I: PROVISIONS OF GENERAL APPLICATION

DIVISION I: DEFINITIONS

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

- 1o “water”: surface water and underground water wherever located;
- 2o “atmosphere”: the ambient air surrounding the earth, excluding the air within any structure or underground space;
- 3o “soil ”: any land or underground space even if submerged in water, including an area of land covered by a structure;
- 4o “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;
- 5o “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;
- 6o “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;
- 7o “pollution”: the condition of the environment when a pollutant is present;
- 8o “source of contamination”: any activity or condition causing the emission of a contaminant into the environment;
- 9o “person”: a natural person, partnership, cooperative or a legal person other than a municipality;
- 10o “municipality”: any municipality, the Communauté métropolitaine de Montréal, the Communauté métropolitaine de Québec, as well as an intermunicipal management board;

11o “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;

12o [paragraph replaced]

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

14o “material wave”: a line or surface propagated by shock or vibration of gaseous, liquid or solid matter including infrasounds (0 to 16 Hertz), sounds (16 Hz to 16 KHz) including shock waves, ultrasounds (16 KHz to MHz), and any mechanical oscillation;

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

16o “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;

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

18o “Minister”: the Minister of the Environment;

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

20o “tailings” [NOT YET IN FORCE]

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

21o “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;

22o [Provision repealed.]

DIVISION II: FUNCTIONS AND POWERS OF THE MINISTER**2. Powers.** The Minister may:

- a) coordinate research carried out by Government departments and bodies on the problems of the quality of the environment;
- b) [Provision repealed.]
- c) prepare plans and programmes 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 programmes;
- d) grant, on the conditions determined by regulation of the Government, loans or subsidies to bodies or individuals to promote the training of experts in the fields contemplated by this Act;
- e) acquire, make, instal and operate in any part of the territory of Québec, all apparatus necessary for the supervision of the quality of the environment and implement any experimental project respecting the quality of water, the management of waste water or residual materials and, for such purposes, acquire by agreement or expropriation any necessary servitude or immovable;
- f) [Provision 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) [Provision repealed.]
- i) [Provision repealed.]
- j) devise and implement a programme 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.

2.0.1 [NOT YET IN FORCE]

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).

Transmission of information.

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.

Applicability.

The provisions of the first and second paragraphs apply notwithstanding sections 23 and 24 of the Act respecting Access to documents held by public bodies and the Protection of personal information (chapter A-2.1) and, in the case of the first paragraph, notwithstanding subparagraphs 5 and 9 of the first paragraph of section 28 of that Act.

2.1 Lakeshore protection. 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.

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

3. [Provision repealed.]

4. [Provision repealed.]

5. [Provision repealed.]

6. [Provision repealed.]

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

6.1 Establishment. A body hereinafter called the "Bureau" is established under the name of "Bureau d'audiences publiques sur l'environnement".

6.2 Composition. 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.

Additional members. 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.

6.3 Function. 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.

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

Exception. 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.

Notice of inquiry. 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.

6.4 Simultaneous hearings. The Bureau may hold several public hearings simultaneously.

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

6.5 Immunity. 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.

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

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

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

6.8 Appointment. 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).

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

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

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

6.11 Report of activities. Not later than 30 June each year, the Bureau shall transmit a report of its

activities for the preceding fiscal year to the Minister.

6.12 Tabling. 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.

Provisions omitted

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

31.1 Authorization certificate. No person may undertake any construction, work, activity or operation, or carry out work according to a plan or programme, 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.

31.2 Impact assessment statement. 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.

31.3 Public consultation. 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.

Public hearing. 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.

Report. 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.

31.4 Information to Minister. 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.

31.5 Decision. 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.

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

31.6 Exemptions. 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.

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

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

Urgent projects. 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.

Conditions. 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.

Decision void. 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.

Provision not applicable. 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.

31.7 Minister bound. 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.

31.8 Confidentiality. 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.

31.8.1 Unified assessment procedure. 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.

Agreement. 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.

Applications. 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.

Tabling. 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.

31.9 Regulations. The Government may make regulations to:

- a) determine the classes of construction, works, plans, programmes, 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 and historical sites and cultural 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.

Regulations. 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).

Amendment. 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.

Extension. 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.

Provisions omitted

SECTION XIV : GENERAL PROVISIONS

117 – 122 [Provisions omitted.]

122.1 Amendment or cancellation of certificate.

The Government or the Minister may amend or cancel any authorization certificate issued by it or him or issued in its or his name in the cases where:

- a) the authorization certificate has been issued on the basis of erroneous or fraudulent information;
- b) the holder of the authorization certificate does not comply with the provisions contained in it or uses it for purposes other than those provided for under this Act;
- c) the holder of the authorization certificate does not comply with the provisions contained in it or uses it for purposes other than those provided for under this Act; or
- d) the holder of the authorization certificate does not avail himself of it within a period of one year from its issue.

Applicability. Subparagraph d of the first paragraph does not apply in the case where the Government makes a regulation under paragraph k of section 31.

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

122.3 Applicability. Sections 122.1 and 122.2 apply, with the necessary modifications, to all certificates, authorizations, approvals, permissions or permits issued under this Act or a regulation thereunder. They also apply in the cases provided for in section 32.8, without,

however, restricting the application of that section.

122.4 Observations. Before making a decision under section 122.1, the Government shall allow the holder of an authorization certificate issued by the Government or on its behalf at least 10 days to present observations in writing.

Notification. Before making a decision under section 122.1 or 122.3, the Minister shall notify the holder of the authorization certificate, certificate, authorization, approval, permission or permit in writing as prescribed by section 5 of the Act respecting administrative justice (chapter J-3) and allow him at least 10 days to present observations.

Decision. The Government or the Minister may, where urgent action is required or there is a danger of irreparable damage being caused, make a decision under section 122.1 or 122.3 without being bound by such prior obligations.

Review. In such a case, the holder may, within the time specified, present observations for review of the decision.

123. [Section non reproduite.]

123.1 Conditions. 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.

Applicability. 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.

Provisions omitted

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- This administrative compilation makes the consultation of this legal document easier but has no official value. If need be, the texts published by Québec Official Publisher should be consulted.
 - This compilation is updated on September 3, 2003; it doesn't include the amendments (not in force) of L.Q. 1992, c. 56.