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Draft Regulations

Draft Regulation

Environment Quality Act
(R.S.Q., c. Q-2)

Regulation respecting the application of the Act — Amendment

Notice is hereby given, in accordance with sections 10, 12 and 13 of the Regulations Act (R.S.Q., c. R-18.1) and section 124 of the Environment Quality Act, that the Regulation to amend the Regulation respecting the application of the Environment Quality Act, appearing below, may be made by the Government on the expiry of 30 days following this publication.

The shorter period for publication than the period provided for in section 124 of the Environment Quality Act is made necessary by the need to make amendments, as soon as possible, to the Regulation respecting the application of the Environment Quality Act in order to implement certain recommendations of the Bureau d'audiences publiques sur l'environnement in its report on the inquiry and public hearings concerning the sustainable development of the shale gas industry in Québec before the next drilling and rock fracturing campaign.

The purpose of the draft Regulation is to make all drilling work to explore for or produce petroleum or natural gas in shale, as well as fracturing operations to explore for or produce petroleum or natural gas, subject to the first paragraph of section 22 of the Environment Quality Act.

The draft Regulation also defines the special requirements that will apply to applications for a certificate of authorization for such work or operations, in connection with public information and consultation. The same requirements in connection with public information and consultation will apply to drilling work to explore for or produce natural gas in shale, where the work takes place in a watercourse, lake, pond, marsh, swamp or bog and is subject to the provisions of the second paragraph of section 22 of the Environment Quality Act.

The adoption of regulatory standards, and in particular the requirement to consult the public, will involve a minimum extra period of 30 days before a certificate of authorization is issued. In addition, the new requirement to consult the general public will entail, for enterprises, the cost of publishing a notice in a local newspaper and the cost of taking part in a public consultation.

Further information concerning this draft Regulation may be obtained by contacting Francine Audet, Direction des évaluations environnementales, Ministère du Développement durable, de l'Environnement et des Parcs, édifice Marie-Guyart, 675, boulevard René-Lévesque Est, 6^e étage, boîte 83, Québec (Québec) G1R 5V7; telephone: 418 521-3933, extension 7094; fax: 418 644-8222; email: francine.audet@mddep.gouv.qc.ca

Any interested person wishing to comment on the draft regulation is requested to submit written comments within the 30-day period to the same address.

PIERRE ARCAND,
*Minister of Sustainable Development, Environment
and Parks*

Regulation to amend the Regulation respecting the application of the Environment Quality Act*

Environment Quality Act
(R.S.Q., c. Q-2, s. 31, 1st par., subpars. *e, f* and *m*)

1. The Regulation respecting the application of the Environment Quality Act is amended by replacing paragraph 6 of section 2 by the following:

“(6) drilling authorized under the Mining Act (R.S.Q., c. M-13.1), except

(a) drilling to explore for, or produce, petroleum or natural gas in shale; and

(b) fracturing operations intended to explore for, or produce, petroleum or natural gas;”.

2. Section 3 is amended by replacing paragraph 3 by the following:

“(3) drilling to explore for mineral substances carried out in a bog, pond, marsh or swamp, except

* The Regulation respecting the application of the Environment Quality Act, made by Order in Council 1529-93 dated 3 November 1993 (1993, *G.O.* 2, 5996), was last amended by the regulation made by Order in Council 972-2008 dated 8 October 2008 (2008, *G.O.* 2, 5018). For previous amendments, refer to the *Tableau des modifications et Index sommaire*, Québec Official Publisher, 2010, updated to 1 October 2010.

(a) drilling to explore for petroleum or natural gas, including any fracturing operation;

(b) drilling to explore for brine; and”.

3. Section 7 is amended by adding the following paragraph:

“In addition, every application for a certificate of authorization for work mentioned in subparagraph *a* or *b* of paragraph 6 of section 2, whether the work is to be carried out in a constant or intermittent watercourse, lake, bog, pond, marsh or swamp or outside any such environment, must include a description of the geological, hydro-geological, geo-chemical or geo-physical data that the project will provide and information relating to the assessment or development of environmentally-secure drilling techniques and new drilling methods.”.

4. The following sections are inserted after section 7:

“**7.1.** A person who applies for a certificate of authorization for work mentioned in subparagraph *a* or *b* of paragraph 6 of section 2, whether the work is to be carried out in a constant or intermittent watercourse, lake, bog, pond, marsh or swamp or outside any such environment, must first inform and consult the general public. For this purpose, the person must publish a notice in a newspaper distributed in the municipality in which the work is to be carried out, including

(1) the cadastral designation of the lot or lots on which the project will be carried out;

(2) the description of the perimeter of the territory on which the project will be carried out or an illustration by means of a sketch of the site, using street names whenever possible and the address of the site, and the fact that the description or illustration is available for consultation at the office of the municipality;

(3) a summary of the project, providing at least the information required under subparagraphs 6 to 8 of the first paragraph and the second paragraph of section 7;

(4) the date, time and place of the public consultation to be held in the municipality, which cannot be held less than 20 days after the date of publication of the notice;

(5) a statement to the effect that any person may examine the full text of the document presenting the project mentioned in subparagraph 3 on the website of the project promoter whose address is indicated in the notice and at the office of the municipality or obtain a copy of the document at the office on payment of a fee.

The project promoter must send a copy of the notice referred to in the first paragraph, as soon as it is published, to the Minister of Sustainable Development, Environment and Parks, to the municipality and to the regional county municipality in whose territory the project is to be implemented.

When the Minister of Sustainable Development, Environment and Parks designates a person to observe the public consultation, that person must attend the public assembly and, if applicable, at the request of the Minister, act as the moderator of the assembly and intervene in any matter connected to the conduct of the assembly. Within 5 days after the end of the public consultation, the designated person must forward to the Minister and to the project promoter a factual report on the holding of the public consultation.

The project promoter must produce a report on the observations gathered during the public consultation and indicate the changes made to the project, if any, following the public consultation. The promoter must forward a copy of the report to the municipality. A copy of the report must be filed, at the same time, for consultation purposes, in the office of the municipality; any person may obtain a copy of the report on payment of a fee.

The report, accompanied by a copy of the notice published in a newspaper, must be included with the application for a certificate of authorization.

7.2. No more than 10 days after receiving the report mentioned in the fourth paragraph of section 7.1, the municipality must submit its observations on the project to the Minister.”.

5. This Regulation comes into force on the fifteenth day following the date of its publication in the *Gazette officielle du Québec*.

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Draft Regulation

Environment Quality Act
(R.S.Q., c. Q-2)

Filing of information on certain drilling and fracturing work on gas or petroleum wells

Notice is hereby given, in accordance with sections 10, 12 and 13 of the Regulations Act (R.S.Q., c. R-18.1) and section 2.2 of the Environment Quality Act, that the Regulation respecting the filing of information on certain drilling and fracturing work on gas or petroleum wells, appearing below, may be made by the Government of the expiry of 30 days following this publication.

The draft Regulation is intended, in particular, to implement certain recommendations made by the Bureau d'audiences publiques sur l'environnement in its report on the inquiry and public hearings concerning the sustainable development of the shale gas industry in Québec. It targets enterprises that carry out or have carried out drilling work to explore for or produce petroleum or natural gas in shale, or any fracturing operation to explore for or produce petroleum or natural gas. For strategic environmental assessment and increased and ongoing environmental monitoring purposes, the draft Regulation requires the enterprises concerned to file specific information on the work with the Minister of Sustainable Development, Environment and Parks.

The requirement to file information is intended, in particular, to allow the gathering of scientific and technical knowledge of a geological, hydro-geological, geo-chemical and geo-physical nature about the work and its possible consequences for human health or the environment. It is also intended to allow the assessment of the work and to promote the development of environmentally-secure techniques, methods and practices.

The shorter period for publication than the period provided for in section 2.2 of the Environment Quality Act is made necessary by the need to put into force rapidly the draft Regulation so that the information to be filed with the Minister be made available to the Minister as soon as possible to allow the Minister to carry out without delay the strategic environmental assessment process of the work done and its possible consequences for human health and the environment, in accordance with the recommendations of the Bureau d'audiences publiques sur l'environnement.

The adoption of the Regulation will entail extra costs for the enterprises concerned, since they will be required to provide information on, for example, the composition of fracturing fluids, the composition and management of residual materials, the characteristics of surface and ground water in proximity to drill-holes or fracturing operations, the monitoring of atmospheric emissions, and the geological horizons traversed by drill-holes.

Further information concerning this draft Regulation may be obtained by contacting Francine Audet, Direction des évaluations environnementales, Ministère du Développement durable, de l'Environnement et des Parcs, édifice Marie-Guyart, 675, boulevard René-Lévesque Est, 6^e étage, boîte 83, Québec (Québec) G1R 5V7; telephone: 418 521-3933, extension 7094; fax: 418 644-8222; email: francine.audet@mddep.gouv.qc.ca

Any interested person wishing to comment on the draft Regulation is requested to submit written comments within the 30-day period to the same address.

PIERRE ARCAND,
Minister of Sustainable Development, Environment and Parks

Regulation respecting the filing of information on certain drilling and fracturing work on gas or petroleum wells

Environment Quality Act
(R.S.Q., c. Q-2, ss. 2.2 and 109.1)

1. This Regulation applies to all holders of a certificate of authorization issued by the Government or by the Minister pursuant to the Environment Quality Act (R.S.Q., c. Q-2) for carrying out

(1) drilling work to explore for or produce petroleum or natural gas in shale; and

(2) fracturing operations intended to explore for or produce petroleum or natural gas.

This Regulation applies to every natural person or legal person to whom section 9 or 13 applies, to the extent and on the conditions provided for in that section.

2. This Regulation applies in a reserved area and an agricultural zone established under the Act respecting the preservation of agricultural land and agricultural activities (R.S.Q., c. P-41.1).

3. For strategic environmental assessment and ongoing environmental monitoring purposes, this Regulation requires the holder of a certificate of authorization to periodically file information on authorized work with the Minister.

The requirement to file information is intended, in particular, to allow the gathering of scientific and technical knowledge of a geological, hydro-geological, geo-chemical and geo-physical nature about the work and its possible consequences for human health or the environment. It is also intended to allow the assessment of the work and to promote the development of environmentally-secure techniques, methods and practices.

4. The holder of a certificate of authorization must file with the Minister, in connection with the authorized work, and even if the information is confidential, information relating to

(1) drilling and well completion methods and technologies;

(2) complete water management, including water catchment and the optimum re-use of water;

(3) the volume of the fluids and the detailed composition and characteristics of the additives used for drilling and fracturing;

(4) knowledge and monitoring of surface and ground water within a perimeter of one-kilometre around the drill-hole or fracturing work, the perimeter being applicable to every horizontal extension of the drill-hole;

(5) the identification of zones sensitive to or at risk of contamination;

(6) the geo-chemistry and contamination of rock formations by waste fracturing water and the injection of waste water at depth;

(7) the characterization, quantity and destination of the residual solids and liquids intended for recovery, treatment or elimination;

(8) the monitoring of emissions and contaminants in the atmosphere;

(9) knowledge of the geological horizons traversed by the well;

(10) all technical data relating to the design and drilling of authorized wells and the results of well integrity tests.

5. Subject to any other requirements that may be imposed by the Government or the Minister when a certificate of authorization is issued, its holder must file all the required information every three months, beginning on the date on which the work commences.

6. The information filed must be based on the best data and best information available to, reasonably available to, or available following appropriate data processing to the holder of the certificate of authorization in connection with the work.

7. The information, when filed, must be accompanied by a statement by the holder of the certificate of authorization, or a person duly authorized by the holder, to the effect that the information is complete and established in compliance with generally accepted standards. Information that is scientific or technical in nature must, where applicable, be certified by a person or enterprise that is competent or accredited for that purpose by a recognized authority.

8. The holder of a certificate of authorization must keep the information required, along with the calculations, assessments, measurements and other data used to supply the information, for a minimum period of 7 years from the date on which it was filed, even if the work covered by the certificate has been completed or suspended or if the holder has ceased to carry out the work.

9. The holder of a certificate of authorization must obtain the information prescribed by section 4 from any natural person or legal person to whom the holder entrusts all or part of the work covered by the certificate. The person is bound to make the information available to the holder and to keep it in accordance with the requirements of sections 5 to 8, with the necessary modifications.

10. A person is guilty of an offence and liable to a fine of \$1,000 to \$25,000, in the case of a natural person, and \$3,000 to \$500,000, in the case of a legal person, if that person

(1) fails to file with the Minister or, if applicable, the holder of a certificate of authorization, any information prescribed by section 4;

(2) fails to respect the frequency and other procedures for filing the information;

(3) files incomplete, false or inaccurate information;

(4) fails to keep the information and the data on which it is based for the period of time specified in section 8;

(5) fails to comply with section 9.

11. For a second offence, the fines specified in section 10 are doubled. For any subsequent offence, they are tripled.

12. In this Regulation, the word “Minister” means the Minister of Sustainable Development, Environment and Parks.

13. This Regulation, with the necessary modifications, applies to any natural person or legal person who, before (*insert the date occurring 7 years before the date of coming into force of this Regulation*), carried out work referred to in section 1, even if no certificate of authorization was issued to that person for that work under the Environment Quality Act.

14. Despite section 5, the first filing with the Minister of the information prescribed by this Regulation must be carried out not later than (*insert the date occurring 15 days after the date of coming into force of this Regulation*).

15. This Regulation comes into force on the fifteenth day following the date of its publication in the *Gazette officielle du Québec*.

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IndexAbbreviations: **A**: Abrogated, **N**: New, **M**: Modified

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