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Summary

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Gouvernement du Québec

O.C. 571-2011, 8 June 2011

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

Regulation respecting the application of the Act — Amendment

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

WHEREAS subparagraphs *e*, *f* and *m* of the first paragraph of section 31 of the Environment Quality Act (R.S.Q., c. Q-2); empower the Government to make regulations on the matters set forth therein;

WHEREAS, in accordance with sections 10, 12 and 13 of the Regulations Act (R.S.Q., c. R-18.1) and the first paragraph of section 124 of the Environment Quality Act, a draft of the Regulation to amend the Regulation respecting the application of the Environment Quality Act was published in the *Gazette officielle du Québec* of 6 May 2011 with a notice that it could be made by the Government on the expiry of 30 days following that publication, for the reasons indicated in that notice of publication;

WHEREAS, under section 17 of the Regulations Act, a regulation comes into force 15 days after the date of its publication in the *Gazette officielle du Québec* or on any later date indicated in the regulation or in the Act under which it is made or approved;

WHEREAS, under the first paragraph of section 18 of that Act, a regulation may come into force on the date of its publication in the *Gazette officielle du Québec* where the authority that makes it is of the opinion that the urgency of the situation requires it;

WHEREAS, under the second paragraph of section 18 of that Act, the reason justifying such coming into force must be published with the regulation;

WHEREAS the Government is of the opinion that the urgency due to the following circumstances justifies such coming into force of the Regulation attached to this Order in Council:

— the Minister of Sustainable Development, Environment and Parks has reason to believe that drilling work or fracturing operations to explore for, or produce,

natural gas in shale are likely to be carried out at any time as of the date of this Order in Council;

— during the time period required to apply section 17 of the Regulations Act, drilling work or fracturing operations may begin without the work being subject to the review procedure provided for in section 22 of the Environment Quality Act;

— it is urgent to establish as soon as possible the regulatory standards to make drilling work to explore for, or produce, natural gas in shale and fracturing operations to explore for, or produce, petroleum or natural gas subject to the application of the first paragraph of section 22 of the Environment Quality Act, before the next drilling and rock fracturing campaign;

WHEREAS it is expedient to make the Regulation with amendments;

IT IS ORDERED, therefore, on the recommendation of the Minister of Sustainable Development, Environment and Parks:

THAT the Regulation to amend the Regulation respecting the application of the Environment Quality Act, attached to this Order in Council, be made.

GÉRARD BIBEAU,
Clerk of the Conseil exécutif

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

* 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, 2011, updated to 1 April 2011.

(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

(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 referred to 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

(1) a description of the geological, hydrogeological, geochemical or geophysical data that the project will provide;

(2) a description of the data relating to the assessment or development of environmentally-secure drilling techniques and new drilling methods that the project will provide;

(3) an indication that the project must be carried out within or outside an urbanization perimeter provided for on the land use planning and development plan of a regional county municipality in the territory in which the project is located or in part of the territory involved, as the case may be, intended for vacation in the plan.”.

4. The following sections are inserted after section 7:

“**7.1.** A person who applies for a certificate of authorization for work referred to 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. To that end, 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 in 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 referred to 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 carried out.

Where 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 referred to in the fourth paragraph of section 7.1, the municipality must submit its observations on the project to the Minister, in particular as regards its effects within the urbanization perimeter and, as the case may be, in any other part of its territory intended for vacation.”

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

1488

M.O., 2011

Order of the Minister of Sustainable Development, Environment and Parks dated 7 June 2011

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

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

THE MINISTER OF SUSTAINABLE DEVELOPMENT, ENVIRONMENT AND PARKS,

CONSIDERING section 2.2 of the Environment Quality Act (R.S.Q., c. Q-2), which provides that the Minister of Sustainable Development, Environment and Parks 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;

CONSIDERING the publication in Part 2 of the *Gazette officielle du Québec* of 6 May 2011, in accordance with sections 10, 12 and 13 of the Regulations Act (R.S.Q., c. R-18.1), of a draft of the Regulation respecting the filing of information on certain drilling and fracturing work on gas or petroleum wells, with a notice that it could be made on the expiry of 30 days following that publication;

CONSIDERING section 17 of the Regulations Act, which provides that a regulation comes into force 15 days after the date of its publication in the *Gazette officielle du Québec* or on any later date indicated in the regulation or in the Act under which it is made or approved;

CONSIDERING the first paragraph of section 18 of that Act, which provides that a regulation may come into force on the date of its publication in the *Gazette officielle du Québec* where the authority that makes it is of the opinion that the urgency of the situation requires it;

CONSIDERING the second paragraph of section 18 of that Act, which provides that the reason justifying such coming into force must be published with the regulation;

CONSIDERING, in the opinion of the Minister of Sustainable Development, Environment and Parks, the need to put into force rapidly the attached 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;

CONSIDERING that it is expedient to make the Regulation with amendments;

ORDERS AS FOLLOWS:

The Regulation respecting the filing of information on certain drilling and fracturing work on gas or petroleum wells, attached hereto, is made.

Québec, 7 June 2011

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 radius of one-kilometre around the drill-hole or fracturing work, the radius being applicable to every horizontal extension of the drill-hole;

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

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

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

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

(9) 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, except in the case of a natural person, in which case the maximum fine may not exceed \$50,000.

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, since 10 June 2004, 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 11 July 2011.

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

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

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