



NATIONAL ASSEMBLY

FIRST SESSION

THIRTY-SIXTH LEGISLATURE

Bill 90

(1999, chapter 75)

An Act to amend the Environment Quality Act and other legislation as regards the management of residual materials

**Introduced 11 November 1999
Passage in principle 1 December 1999
Passage 15 December 1999
Assented to 16 December 1999**

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EXPLANATORY NOTES

The object of this bill is to establish new rules to regulate the management of residual materials in Québec, by introducing amendments to the Environment Quality Act and other legislative provisions.

The bill defines the objectives of the new provisions that govern the reclamation and elimination of residual materials, and specifies the responsibilities of the Government and the Minister of the Environment as regards the development and implementation of a policy on residual materials management.

The bill establishes a regional planning process that will require each urban community and regional county municipality to adopt a residual materials management plan, taking public concerns into account. The plan, which must be consistent with government policy, will be implemented by local municipalities, and both the Government and the Minister will be bound by the provisions of each management plan.

The bill recognizes the right of urban communities and regional county municipalities to restrict or prohibit the disposal or incineration in their territory of residual materials originating outside the territory, provided certain conditions are observed.

The regulatory powers of the Government are strengthened to enhance control over the production and elimination of residual materials, and to place greater emphasis on reclamation. The bill specifies the conditions subject to which the Commission municipale du Québec may continue to control the rates charged for certain services relating to residual materials elimination.

Lastly, the bill includes certain transitional measures, including provisions concerning existing intermunicipal agreements on waste management and agreements entered into by municipal bodies for the supply of waste elimination services.

LEGISLATION AMENDED BY THIS BILL :

- Municipal Code of Québec (R.S.Q., chapter C-27.1);
- Act respecting the Communauté urbaine de l'Outaouais (R.S.Q., chapter C-37.1);
- Act respecting the Communauté urbaine de Montréal (R.S.Q., chapter C-37.2);
- Act respecting the Communauté urbaine de Québec (R.S.Q., chapter C-37.3);
- Act respecting the Société québécoise de récupération et de recyclage (R.S.Q., chapter S-22.01);
- Act respecting the sale and distribution of beer and soft drinks in non-returnable containers (R.S.Q., chapter V-5.001);
- Act to amend the Environment Quality Act and other legislative provisions (1994, chapter 41).

Bill 90

AN ACT TO AMEND THE ENVIRONMENT QUALITY ACT AND OTHER LEGISLATION AS REGARDS THE MANAGEMENT OF RESIDUAL MATERIALS

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS :

1. Section 1 of the Environment Quality Act (R.S.Q., chapter Q-2) is amended by replacing paragraphs 11 and 12 by the following paragraph :

“(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;”.

2. Section 2 of the said Act is amended by replacing “or waste and” in the fourth line of paragraph *e* by “or residual materials and”.

3. Section 31 of the said Act is amended

(1) by replacing “waste materials” in paragraph *h.1* by “residual materials”;

(2) by striking out “59,” in paragraph *n*.

4. Section 31.7 of the said Act is amended by replacing “54” by “55”.

5. Section 31.12 of the said Act is amended by replacing “waste material” in the third line of paragraph 6 by “residual material”.

6. Section 31.13 of the said Act is amended by replacing “waste” in paragraph 2.1 by “residual materials”.

7. Section 31.15.2 of the said Act is amended

(1) by replacing “a management plan for the waste produced” in the first paragraph by “a residual materials management plan for the residual materials produced”;

(2) by replacing “waste” wherever it occurs in the second and third paragraphs by “residual materials”;

(3) by replacing “waste management”, “each waste” and “the waste” in the fourth paragraph by “residual materials management”, “each residual material” and “residual material”, respectively.

8. Section 31.29 of the said Act is amended by replacing “waste” in subparagraph 1.3 of the first paragraph by “residual materials”.

9. Section 31.34 of the said Act is amended by replacing “, subparagraphs *a*, *c* and *k* of the first paragraph of” in paragraph 4 by “and”.

10. Section 31.52 of the said Act is amended by adding the following paragraphs after paragraph *d*:

“(e) prescribe conditions or prohibitions to apply to the contaminated soil burial sites determined by the Government after their closure, in particular with regard to site maintenance and supervision, prescribe the period of time during which the conditions and prohibitions are to apply, and determine who is to be responsible for their application ;

“(f) require, as a condition for the operation of any contaminated soil burial site determined by the Government, 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.”

11. Section 46 of the said Act is amended by replacing “waste” in paragraph *j* by “residual materials”.

12. The heading of Division VII of Chapter I of the said Act is amended by replacing “WASTE” by “RESIDUAL MATERIALS”.

13. Division VII of Chapter I of the said Act is amended by inserting the following after the heading of the Division :

“§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, composting, regeneration or any other process that does not constitute elimination.

“53.2. The provisions of this division do not apply to gaseous substances, mine tailings, or soils containing contaminants in quantities or concentrations exceeding those fixed by regulation under paragraph *a* of section 31.52.

“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.

“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 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.

“53.5. Urban communities, regional county 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.

“§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.

“53.7. Every urban community or regional county municipality must, within two years from (*insert here the date of coming into force of this subdivision*), establish a residual materials management plan. Where an application is made to the Minister before the sixth month preceding the expiry of that two-year period, the Minister may grant an extension of not more than one year for the establishment of the management plan.

Two or more regional county municipalities or urban communities 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 county municipality or urban community concerned, except that the commission established under section 53.13 may be a joint commission.

A local municipality may, with the consent of the urban community or regional county municipality of which it is a part, be excluded from the management plan of the urban community or regional county municipality and may, with its consent, be included in the management plan of another urban community or regional county municipality.

“53.8. The Communauté urbaine de Montréal is authorized to delegate to the Régie intermunicipale de gestion des déchets sur l'Île de Montréal the responsibilities incumbent upon it under this subdivision; the Régie is, in such a case, considered to be an urban community for the purposes of this subdivision.

Similarly, a regional county 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 the Environment.

“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 urban community, regional county municipality or local municipalities, as the case may be, covered by the plan.

Where an urban community or regional county 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.

“53.10. In preparing a management plan, an urban community or regional county municipality must take into account the residual materials elimination capacity needs of any neighbouring urban community or regional county municipality, or urban community or regional county municipality served by an elimination facility located in the territory covered by the plan.

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

A copy of the resolution must also be sent to the Minister and to any neighbouring urban community or regional county municipality, or urban community or regional county municipality served by an elimination facility located in the territory covered by the plan.

“53.12. Within 12 months after the plan preparation process has begun, the council of the urban community or regional county 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.

“53.13. The public consultation on the draft management plan shall be held by a commission established by the council of the urban community or regional county 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 a public meeting in at least two local municipalities in the territory of the urban community or regional county municipality concerned within the time specified in the resolution referred to in section 53.12; 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.

“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 urban community or regional county 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.

“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 urban community or regional county municipality. The report shall be made available to the public as soon as it is sent to the council.

“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 urban community or regional county municipality, or urban community or regional county municipality served by an elimination facility located in the territory covered by the draft plan, together with the commission’s report.

“53.17. The Minister may, within 60 days after receiving the draft plan, give an opinion to the urban community or regional county 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 urban community or regional county 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 urban community or regional county municipality, or urban community or regional county 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 urban community or regional county municipality, or urban community or regional county 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.

“53.18. On the expiry of the time provided in the first paragraph of section 53.17, the council of the urban community or regional county municipality shall, in accordance with the provisions of sections 201 to 203 of the Act respecting land use planning and development (chapter A-19.1), 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 urban community or regional county municipality, or urban community or regional county 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 urban community or regional county municipality, together with a summary of the plan.

“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.

“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 urban community or regional county 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 urban community or regional county municipality concerned before the plan comes into force. The notice must also be sent to each neighbouring urban community or regional county municipality, or urban community or regional county 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.

“53.21. If the urban community or regional county 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 urban community or regional county 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 urban community or regional county municipality. Notice of the coming into force of the regulation must be sent to the urban community or regional county municipality concerned and to any neighbouring urban community or regional county municipality, or urban community or regional county municipality served by an elimination facility located in the territory covered by the plan.

“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 urban community or regional county 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 urban community or regional county municipality concerned, together with a summary of the amendments made to the plan.

“53.23. The management plan may be amended at any time by the council of the urban community or regional county 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.

“53.24. The management plan in force in the territory of an urban community or regional county municipality is binding on the local municipalities 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.

“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 urban community or regional county municipality concerned may, in accordance with the provisions of sections 201 to 203 of the Act respecting land use planning and development, 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.

“53.26. An urban community or regional county 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 place of business 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.

“53.27. The powers of authorization granted by this Act to the Government or to the Minister of the Environment 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 urban community or regional county municipality concerned.

“§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.

“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.

“§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 ;

(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 composting 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 establishment, in particular 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 ;

(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 by agreement between the organization and the Minister ; and

(b) the name of which appears on a list drawn up by the Minister 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 Minister or 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 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 provisions of the agreement are public information.

“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.

“§5. — *Elimination of residual materials*”.

14. Sections 54 to 59 of the said Act are replaced by the following sections:

“54. The provisions of this subdivision, other than section 65, do not apply to hazardous materials.

“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.

“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.

“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.

“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.”

15. Section 60 of the said Act is amended by replacing “require, on the conditions he determines, a municipality to establish, alter, extend or terminate a waste management system or part of it” by “require a municipality, on the conditions the Minister determines, to establish or alter a residual materials elimination facility or to close it”.

16. Section 61 of the said Act is amended

(1) by replacing “system of waste management or part of it” in the third line of the first paragraph by “residual materials elimination facility”;

(2) by replacing “included in a waste management system” in the fifth and sixth lines of that paragraph by “necessary for the elimination of residual materials”.

17. Section 64 of the said Act is repealed.

18. Section 64.1 of the said Act is replaced by the following section:

“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.”

19. Section 64.2 of the said Act is amended by replacing “waste elimination site” by “residual materials elimination facility”.

20. Section 64.3 of the said Act is amended

(1) by replacing “forty-five” in the second line of the first paragraph by “90” and by striking out “daily” in the second and fourth lines of that paragraph;

(2) by adding the following sentence at the end of the second paragraph: “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.”;

(3) by adding the following paragraph at the end:

“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 county municipality or urban community 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.”

21. Section 64.8 of the said Act is amended by replacing the first paragraph by the following paragraphs:

“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.”

22. Section 64.11 of the said Act is amended by replacing “waste elimination site” by “residual materials elimination facility”.

23. Section 64.12 of the said Act is amended

(1) by replacing the word “waste” in paragraph 1 by “residual materials” ;

(2) by replacing “waste”, wherever it occurs in paragraph 2, by “residual materials”.

24. Section 64.13 of the said Act is amended by replacing “waste”, wherever it occurs, by “residual materials”.

25. Section 65 of the said Act is amended by replacing “waste”, wherever it occurs, by “residual materials” and by striking out “or hazardous materials”.

26. Section 66 of the said Act is replaced by the following section :

“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.”

27. Section 68.1 of the said Act is replaced by the following section :

“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.”

28. Section 69 of the said Act is repealed.

29. Section 70 of the said Act is replaced by the following section :

“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.”

30. Section 70.19 of the said Act is amended by inserting the following subparagraph after subparagraph 16 of the first paragraph :

“(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 ;”.

31. Section 95.7 of the said Act is amended by replacing “54” by “55”.

32. Section 96 of the said Act is amended

(1) by replacing “57, 59” in the first paragraph by “58”;

(2) by striking out “fixes the term of the renewal of a permit under section 55 at less than five years,” in the second paragraph.

33. Section 104 of the said Act is amended

(1) by replacing “, water treatment or waste management system or any part of it” in subparagraph *b* of the first paragraph by “or water treatment system or any residual materials recovery, reclamation or elimination facility”;

(2) by replacing “waste management or water treatment system” in subparagraph *c* of the first paragraph by “water treatment system or residual materials recovery, reclamation or elimination facility”.

34. Section 118.5 of the said Act is amended

(1) by striking out “54,” in subparagraph *a* of the first paragraph;

(2) by adding the following subparagraph after subparagraph *o* of the first paragraph:

“(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.”

35. Section 122.3 of the said Act is amended by replacing the last sentence by the following sentence: “They also apply in the cases provided for in section 32.8, without, however, restricting the application of that section.”

36. Schedule A to the said Act is amended by replacing “solid waste” in paragraph *l* by “residual materials, except mine tailings and hazardous materials”.

AMENDING, TRANSITIONAL AND FINAL PROVISIONS

37. Article 678 of the Municipal Code of Québec (R.S.Q., chapter C-27.1) is amended by adding the following paragraph:

“The regional county municipality shall also exercise the competence conferred on it by sections 53.7 to 53.27 of the Environment Quality Act in connection with the management of residual materials.”

38. Section 84.1 of the Act respecting the Communauté urbaine de l'Outaouais (R.S.Q., chapter C-37.1) is amended by adding the following paragraph after paragraph 2:

“(3) the Environment Quality Act (chapter Q-2).”

39. Section 121.1 of the Act respecting the Communauté urbaine de Montréal (R.S.Q., chapter C-37.2) is amended by adding the following paragraph after paragraph 2:

“(3) the management of residual materials under the Environment Quality Act (chapter Q-2).”

40. Section 94.1 of the Act respecting the Communauté urbaine de Québec (R.S.Q., chapter C-37.3) is amended by adding, after paragraph 2, the following paragraph:

“(3) the Environment Quality Act (chapter Q-2).”

41. Section 20 of the Act respecting the Société québécoise de récupération et de recyclage (R.S.Q., chapter S-22.01) is amended by replacing “subparagraph *i, j, j.0.1, j.1* or *j.2* of the first paragraph of section 70” in the first paragraph by “section 53.30”.

42. The Act respecting the sale and distribution of beer and soft drinks in non-returnable containers (R.S.Q., chapter V-5.001) is amended by replacing “70” in the sixth line of section 3 and in the fourth line of section 4 by “53.30”.

43. For the purposes of sections 44 to 50, “new section” and “former section” mean, respectively, the section as enacted by this Act and the section as it read before being replaced by this Act.

44. Notwithstanding the repeal of former section 54 of the Environment Quality Act, certificates of conformity issued under that section before the date of coming into force of section 14 of this Act retain their effects until amended or replaced pursuant to section 22 of the Environment Quality Act, subject to any regulatory provision enacted by the Government.

45. New section 55 of the Environment Quality Act, enacted by section 13, applies to every application for a certificate made under former section 54 of that Act and pending on the date of coming into force of new section 55.

46. Orders made pursuant to former sections 57 and 59 of the Environment Quality Act, and any decision made under those sections, continue to have effect.

47. Except where it provides greater environmental protection, a standard established in a certificate of authorization pursuant to section 3 of the Act respecting the establishment and enlargement of certain waste elimination sites (R.S.Q., chapter E-13.1) ceases to have effect on the date on which the sanitary landfill site or dry materials disposal site to which the certificate applies becomes governed by a standard relating to the same matter prescribed under new section 70 of the Environment Quality Act.

48. The Government may, by regulation, notwithstanding any inconsistent provision of a certificate of conformity, certificate of authorization or permit issued under the Environment Quality Act, reduce on the conditions it determines the total or annual storage or disposal capacity, as the case may be, and the period of operation of

(1) any used tire storage site to which the Regulation respecting used tire storage, made by Order in Council 29-92 (1992, G.O. 2, 485), applies, and that exists at the time this section comes into force ;

(2) any dry materials disposal site or in-trench disposal site for solid waste to which the Regulation respecting solid waste (R.R.Q., 1981, chapter Q-2, r.14) applies, and that exists at the time this section comes into force.

49. When making a regulation under new section 56 of the Environment Quality Act, the Government may, notwithstanding any contrary stipulation in the constituting act of a trust, make any provision of the regulation applicable to a trust established pursuant to an order made before the coming into force of this section that authorizes the establishment or extension of a sanitary landfill or dry materials disposal site.

50. In every statute and statutory instrument made thereunder, any reference to former sections 54, 55 or 69, or to subparagraphs *i, j, j.0.1* and *j.1* of the first paragraph of former section 70 of the Environment Quality Act, becomes a reference, respectively, to new sections 55 and 53.29 and to new paragraphs 8, 9, 10 and 11 of section 53.30 of that Act.

Similarly, any reference to another subparagraph of the first paragraph of former section 70 becomes a reference to the corresponding paragraph of section 53.30 or of new section 70 of that Act.

51. Notwithstanding the provisions of section 53.24, every intermunicipal residual materials management agreement entered into before the date of coming into force of this section continues to have effect until its date of expiry, excepting any renewal.

52. Notwithstanding any inconsistent provision of a general or special Act, no agreement relating to residual materials elimination services entered into by a municipal body on or after 11 November 1999 may exceed five years.

The first paragraph also applies to any draft agreement agreed to by a municipal body before that date which, on that date, had yet to be authorized by the Minister of Municipal Affairs and Greater Montréal as required by law.

For the purposes of this section, “municipal body” means any local municipality, regional county municipality, urban community, intermunicipal board, mixed enterprise company established under the Act respecting mixed enterprise companies in the municipal sector (1997, chapter 41), and any body whose board of directors is composed, in the majority, of the members of municipal councils.

The time limit prescribed by the first paragraph ceases to apply to a municipal body from the date of coming into force of a residual materials management plan binding each local municipality covered by an agreement referred to in the first paragraph entered into by the municipal body.

53. The *Québec Action Plan for Waste Management, 1998-2008*, released in 1998 by the Minister of the Environment, together with any amendments made thereto to ensure compliance with the provisions of this Act, shall constitute the Government’s policy on residual materials management for the purposes of section 53.4 of the Environment Quality Act, enacted by section 13.

Once published in the *Gazette officielle du Québec*, the policy is deemed to satisfy the requirements of the said section 53.4 and shall remain in force until amended or replaced in accordance with the provisions of that section.

54. Sections 1 to 19 and 22 to 34 of the Act to amend the Environment Quality Act and other legislative provisions (1994, chapter 41) are repealed; section 20 of that Act will take effect on the date of coming into force of this section.

55. The provisions of this Act come into force on the date or dates to be fixed by the Government.

However, before fixing the date of coming into force of subdivision 2 of Division VII of Chapter I of the Environment Quality Act, enacted by section 13 of this Act, the Government shall consult the Union des municipalités du Québec and the Fédération québécoise des municipalités.