

Regulations and other acts

Gouvernement du Québec

O.C. 997-2000, 24 August 2000

An Act respecting the Ministère des Ressources naturelles
(R.S.Q., c. M-25.2)

Replacement of the Programme relatif à une délégation de gestion de terres du domaine public en faveur de municipalités régionales de comté de la région administrative du Saguenay–Lac-Saint-Jean and amendments to the experimental project regarding forest management

WHEREAS the Government approved, by Order in Council 891-96 dated 10 July 1996, the Programme relatif à une délégation de gestion de terres du domaine public en faveur de municipalités régionales de comté de la région administrative du Saguenay–Lac-Saint-Jean, in accordance with section 17.13 of the Act respecting the Ministère des ressources naturelles (R.S.Q., c. M-25.2);

WHEREAS, by Order in Council 362-97 dated 19 March 1997, the Government authorized the Minister of Natural Resources to sign an agreement respecting the transfer to the regional county municipalities in the Saguenay–Lac-Saint-Jean region, on an experimental basis, of responsibilities regarding public forest management and land regulations, in accordance with section 10.5 of the Municipal Code of Québec (R.S.Q., c. C-27.1);

WHEREAS the experimental project has a three-year term, subject to renewal, and it may be terminated in whole or in part to the extent that statutory amendments be made so as to provide therein for a permanent mechanism of delegation to municipalities;

WHEREAS, on 1 April 1997, the Minister of Natural Resources signed, in accordance with the Program and the agreement, territorial management agreements to entrust, for and on behalf of the Government, each of the four regional county municipalities of the administrative region of Saguenay–Lac-Saint-Jean with powers and responsibilities regarding planning, land management, land regulations and forest management;

WHEREAS, since the signing of the four territorial management agreements, section 17.14 of the Act respecting the Ministère des Ressources naturelles, as amended by section 189 of chapter 40 of the Statutes of

1999, stipulates that the Minister of Natural Resources may, to the extent and according to the terms and conditions set out in the Program, determine which powers under section 71 of the Act respecting the lands in the domain of the State (R.S.Q., c. T-8.1) may be exercised by the legal person by means of by-laws;

WHEREAS, since the signing of the four territorial management agreements, sections 14.12 to 14.12.2 of the Municipal Code of Québec (R.S.Q., c. C-27.1), amended by section 29 of chapter 31 of the Statutes of 1998 and by section 60 of chapter 40 of the Statutes of 1999, stipulate that every municipality that participates in a program may institute any penal proceedings for an offence committed in its territory, institute any proceeding and exercise any power assigned to the Minister of Natural Resources under sections 60 to 66 of the Act respecting the lands in the domain of the State, amended by section 317 of chapter 40 of the Statutes of 1999 and the power to adopt a by-law for the purpose of exercising any power under section 71 of the Act respecting the lands in the domain of the State as provided for in the program;

WHEREAS it is expedient to replace the Programme relatif à une délégation de gestion des terres du domaine public en faveur de municipalités régionales de comté de la région administrative du Saguenay–Lac-Saint-Jean to take into account those amendments and to enable the Minister of Natural Resources to entrust the municipalities with the powers provided therein;

WHEREAS the amendments had the effect of amending the agreement respecting the transfer to the regional county municipalities in the Saguenay–Lac-Saint-Jean region, on an experimental basis, of responsibilities regarding public forest management and land regulations made by Order in Council 362-97 dated 19 March 1997;

WHEREAS it is expedient that the agreement respecting the transfer to the regional county municipalities in the Saguenay–Lac-Saint-Jean region, on an experimental basis, of responsibilities regarding forest management have effect until 1 April 2002;

WHEREAS it is expedient to authorize the Minister of Natural Resources to sign with the regional county municipalities in the Saguenay–Lac-Saint-Jean region the amendments necessary to the territorial management agreements;

IT IS ORDERED, therefore, upon the recommendation of the Minister of Municipal Affairs and Greater Montréal, the Minister of Natural Resources and the Minister of Regions:

THAT the Program for the delegation of the management of lands in the domain of the State to regional county municipalities in the administrative region of Saguenay–Lac-Saint-Jean, attached to this Order in Council, which replaces that approved by Order in Council 891-96 dated 10 July 1996, be approved;

THAT the agreement respecting the transfer to the regional county municipalities in the Saguenay–Lac-Saint-Jean region, on an experimental basis, of responsibilities regarding forest management, covered by Order in Council 362-97 dated 19 March 1997 be in effect until 1 April 2002 and that the Order in Council be amended accordingly;

THAT the Minister of Natural Resources be authorized to sign the amendments to the appropriate territorial management agreements with the regional county municipalities in the Saguenay–Lac-Saint-Jean region.

MICHEL NOËL DE TILLY,
Clerk of the Conseil exécutif

SCHEDULE

PROGRAM FOR THE DELEGATION OF THE MANAGEMENT OF LANDS IN THE DOMAIN OF THE STATE TO REGIONAL COUNTY MUNICIPALITIES IN THE ADMINISTRATIVE REGION OF SAGUENAY–LAC-SAINT-JEAN

1. OBJECTIVE OF THE PROGRAM

To entrust the management of intramunicipal lands in the domain of the State to regional county municipalities in the administrative region of Saguenay–Lac-Saint-Jean to promote regional development and to carry out one of the principal measures provided for in the specific agreement on the management and development of intramunicipal lands in the public domain in that region.

2. DEFINITIONS

For the purposes of this Program, unless the context indicates otherwise,

2.1. “agreement” means the specific agreement on the management and development of intramunicipal lands in the public domain in the Saguenay–Lac-Saint-Jean

region entered into with the Minister of State for Natural Resources, the Minister responsible for Regional Development and Minister responsible for Native Affairs, the Minister for Mines, Lands and Forests, the Minister of the Environment and Wildlife, the Minister of Agriculture, Fisheries and Food, the Minister of Municipal Affairs and the Conseil régional de concertation et de développement du Saguenay–Lac-Saint-Jean; (*Entente*)

2.2. “Minister” means the Minister of Natural Resources; (*ministre*)

2.3. “municipality” means a local municipality in the administrative region of Saguenay–Lac-Saint-Jean, to the exclusion of a regional county municipality acting as a local municipality; (*municipalité*)

2.4. “Program” means this program, prepared under section 17.13 of the Act respecting the Ministère des Ressources naturelles (R.S.Q., c. M-25.2); (*programme*)

2.5. “Act” means the Act respecting the lands in the domain of the State (R.S.Q., c. T-8.1, amended by chapters 40 and 43 of the Statutes of 1999) as well as the regulations made thereunder and their amendments; (*Loi*)

2.6. “precarious occupation” means the occupation by a person of a land in the domain of the State under the authority of the Minister that makes that occupation eligible for the issue of a title under the Regulation respecting the regularization of certain kinds of occupation of lands in the public domain, made by Order in Council 233-89 dated 22 February 1989 and its amendments; (*occupation précaire*)

2.7. “parcelled intramunicipal lands in the public domain” means all the lots, parts of lots and any other part of the domain of the State situated in the administrative region of Saguenay–Lac-Saint-Jean and located inside the municipal boundaries, the whole limited by the parcelling line established by the Minister and appearing on the map entitled “Terres publiques intramunicipales (région Saguenay–Lac-Saint-Jean, 18 juin 1996)”; (*terres publiques intramunicipales morcelées*)

2.8. “territorial management agreement” means a multisectoral act of delegation whereby the Government transfers management powers and responsibilities provided for in the agreement to an MRC on certain conditions. The transfer of powers and responsibilities may be carried out in several stages by making amendments to the ratified agreement or by adding addenda. (*convention de gestion territoriale*)

3. CONDITIONS OF ELIGIBILITY

A regional county municipality in the administrative region of Saguenay–Lac-Saint-Jean shall be eligible for this Program if it meets the following conditions:

3.1. The regional county municipality in question has

3.1.1. sent the Minister a resolution whereby the MRC states its acceptance of the agreement and of all the terms and conditions under the agreement and the Program;

3.1.2. established, by by-law, a development fund under sections 688.7 et seq. of the Municipal Code of Québec (R.S.Q., c. C-27.1) and in accordance with the provisions in the agreement. The fund shall be used exclusively for the development of the territory (lands and resources) and mainly for the lands in the domain of the State covered by the Program;

3.1.3. created, by resolution, in accordance with the provisions in the agreement, a multiresource committee in charge of advising the MRC and representing all interests related to the territory covered by the Program. The principal mandate of the committee is to give advice, within the MRC, relating to the comprehensive planning of development and use referred to in clause 4.2, with the intervention and development plans in compliance with the said planning and use of the fund referred to in section 3.1.2.

4. NATURE OF DELEGATED POWERS AND RESPONSIBILITIES

For the purposes of the Program, the Minister may delegate to an MRC the powers and responsibilities in the field of land planning and management referred to in clauses 4.1 and 4.2 that it must exercise on the territory covered referred to in section 5 in accordance with the conditions provided for in this Program.

Subject to the specific provisions provided for in section 4.3, the powers and responsibilities delegated shall be exercised in compliance with the Act respecting the lands in the domain of the State (R.S.Q., c. T-8.1), amended by chapters 40 and 43 of the Statutes of 1999 and its regulations.

An MRC to which is entrusted the management of lands in the domain of the State under this Program, including buildings, improvements and movable property therein and that are part of the domain of the State, has the necessary powers to meet the commitments and assume the responsi-

bilities arising from the program or agreement in accordance with the provisions of sections 14.12 to 14.18 of the Municipal Code of Québec (R.S.Q., c. C-27.1), amended by section 60 of chapter 40 of the Statutes of 1999.

For those purposes, the MRC may do the following without restricting the preceding.

4.1. Land management

For the purposes of this Program, the Minister shall entrust the management of intramunicipal lands in the domain of the State to an MRC that exercises the following powers and responsibilities under the Act respecting the lands in the domain of the State (R.S.Q., c. T-8.1), amended by chapter 40 of the Statutes of 1999 and its regulations:

(1) manage the land rights already granted other than leases for the utilization of water powers. To that end, the MRC shall manage and respect the rights granted until they expire, renew them and cancel them if the beneficiary fails to meet his obligations;

(2) grant and manage new land rights other than leases for the utilization of water powers, renew them, ensure the follow-up, amend them with the consent of the parties involved and cancel them if the beneficiary fails to meet his obligations;

(3) manage the buildings, improvements and movable property located on the lands covered by the delegation and, if need be, dispose of them according to the regulatory provisions;

(4) sell land, grant rights under emphyteutic contracts, transfer land gratuitously for public utility in accordance with the regulations. However, the MRC shall first obtain the Minister's consent before granting those rights;

(5) grant servitudes and any other right;

(6) grant temporary occupation and visitor's licences;

(7) collect and keep all income, including the fees and duties arising from the management of lands covered by the delegation;

(8) renounce the right of ownership of the Minister of Natural Resources in favour of the occupant of the land in the course of a cadastral renovation in accordance with sections 40.1 and 40.2 of the Act respecting the lands in the domain of the State (R.S.Q., c. T-8.1) and according to the criteria established by the Minister for such matters;

(9) rectify any deed of alienation granted by the MRC and waive or amend the restrictive clauses in a deed of alienation granted by the MRC, in accordance with sections 35.1 and 40 of the Act respecting the lands in the domain of the State, or change the purposes therein;

(10) acquire by mutual agreement (gift, purchase, trade), for the benefit of the domain of the State, private lands, buildings, improvements and movable property. However, the MRC shall obtain the Minister's consent prior to such a transaction;

(11) publish a declaration stating that the land forms part of the domain of the State in accordance with sections 19 and 20 of the Act respecting the lands in the domain of the State;

(12) authorize the construction of roads other than forest and mining roads in accordance with sections 55 to 59 of the Act respecting the lands in the domain of the State;

(13) control the use and occupation of the territory

— by dealing with situations of illegal occupation and use, including in particular illegal dumping sites and gates within the meaning of the Act respecting the lands in the domain of the State, according to strict rules and methods in keeping with the Government's position that no privilege may be granted to anyone who illegally occupies or uses land in the domain of the State;

— by dealing with situations of precarious occupation according to the Regulation respecting the regularization of certain kinds of occupation of lands in the public domain, made by Order in Council 233-89 dated 22 February 1989;

(14) institute penal proceedings in its own name for an offence committed on the territory covered by the management delegation, provided for in the Act respecting the lands in the domain of the State and its regulations, or in the by-laws adopted by the MRC in accordance with clause 4.3;

(15) exercise all the recourses and powers conferred upon the Minister of Natural Resources under sections 60 to 66 of the Act respecting the lands in the domain of the State (R.S.Q., c. T-8.1), amended by section 317 of chapter 40 of the Statutes of 1999; and

(16) cause the boundary between the domain of the State and private property to be determined and the signature of the owner to be affixed to the documents pertaining to cadastral operations, boundary marking or any motion for the judicial recognition of the right over

property concerning the lands in the domain of the State covered by the management delegation, in accordance with land survey instructions issued by the Minister of Natural Resources, as provided for in sections 17 et seq. of the Act respecting the lands in the domain of the State to carry out those activities.

4.2. Planning

4.2.1. Within the first year of the signing of the territorial management agreement, the eligible MRC has the responsibility to carry out, on a concerted basis, a comprehensive planning of the development and use of the public territory covered by this Program for at least five years. The said planning must define

— the main vocations and terms and conditions for harmonizing and the general rules for integrating the uses with respect to those vocations;

— the lands of a special interest identified or to be identified by the Minister in the public lands use plan; and

— the lands to be alienated.

4.2.2. Before the adoption, revision of or modification to the comprehensive planning of development and use, the MRC will have to hold consultations in accordance with the process provided for in the agreement. In that context, the planning must be presented to the Minister who shall give notices, consider the taking charge of the territories of a special interest and approve the alienation of lands. Moreover, the MRC will be responsible for ensuring the follow-up of the said planning.

4.3. REGULATORY POWERS

For the purposes of this Program, the Minister shall determine that an MRC may exercise, by means of by-laws adopted under subparagraph 5 of the second paragraph of section 14.12 of the Municipal Code of Québec (R.S.Q., c. C-27.1), amended by section 60 of chapter 40 of the Statutes of 1999 and according to the conditions set out in section 4.3.1 of this Program, the powers referred to in subparagraphs 3 and 7 to 11 of the first paragraph and the second paragraph of section 71 of the Act respecting the lands in the domain of the State.

4.3.1. Conditions applicable to regulatory powers

The by-laws of the MRC, whose coming into force is governed by the Municipal Code of Québec, shall be first submitted to the Minister who may approve them, having ascertained that they are in keeping with the Government's principles and objectives and their re-

gional consistency. More specifically, the MRC shall comply with the following principles:

(1) it shall keep the delegated intramunicipal lands in the domain of the State open to the public, in particular by allowing the free movement of persons;

(2) it shall preserve public access to the State water domain;

(3) it shall impose a tariff based on the market value; and

(4) it shall grant no privilege to a person who illegally occupies or uses land in the domain of the State, except to regularize a precarious situation eligible for a title under the Regulation respecting the regularization of certain kinds of occupation of lands in the public domain, made under the Act respecting the lands in the domain of the State by Order in Council 233-89 dated 22 February 1989.

By-laws respecting administration expenses shall pertain only to the cases already provided for in the regulations made under the Act respecting the lands in the domain of the State.

5. TERRITORIAL JURISDICTION

5.1. The lands in the domain of the State on which the powers and responsibilities delegated to an MRC under this Program shall be exercised are the parcelled intramunicipal public lands situated within the parceling line indicated on the map entitled “Terres publiques intramunicipales (région Saguenay–Lac-Saint-Jean, 18 juin 1996)”, including the buildings, improvements and movable property therein and that are part of the domain of the State on the date of the signing of the territorial management agreement.

5.2. For the MRC’s in question, lands located within the parceling line established by the Minister and in the unorganized territories of Chute-des-Passes in Sainte-Élizabeth-de-Proulx, Rivière-Mistassini, Lac-Ministuk and Belle-Rivière are added to the lands referred to in section 5.1.

5.3. The following are expressly excluded from the territory covered:

— the water domain, that is, the beds of lakes and rivers up to the normal high water mark;

— lands flooded following the construction and maintenance of a dam or any work related to the dam;

— the site of the Normandin tree nursery, including the buildings, improvements and movable property therein and any other site as the Minister deems necessary for the activities of the Minister of Natural Resources;

— any right-of-way of a highway or autoroute under the management of the Minister of Transport, including in particular its infrastructure and all the works useful for its development or management.

5.4. In any part of the territory in the domain of the State that it designates, the Minister may, after notification, recover powers and responsibilities that he has delegated to an MRC under the Program where

— the Government requires lands for public use or for any other purpose by order of the Government;

— land was incorrectly designated as being part of the real estate on which powers and responsibilities provided for in this Program may be exercised.

That recovery is subject, where applicable, to the payment of a fair compensation for any improvement made on the lands by the MRC since the signing of the territorial management agreement, as well as for any actual damage, without further compensation or indemnity for any loss of expected profits or revenues.

6. GENERAL

6.1. The effective transfer of powers and responsibilities, provided for in this Program, to an eligible MRC shall be made under the territorial management agreement that comes into force on the date it is signed by the parties involved, subject to specific provisions therein concerning their exercise.

6.2. The MRC shall assume the management of lands covered by the Program, as they are designated or surveyed and for which no guarantee is given by the Minister as to their state or content. Any land surveying or designation according to the cadastre and the publication of the rights required by any transaction conducted by the MRC shall be under its responsibility and the expenses shall be charged, as the case may be, to the delegatee MRC, the acquirer or beneficiary of or the applicant for the right.

6.3. The lands shall be administered and managed by the MRC without financial compensation from the Government.

6.4. The MRC shall collect and keep the income from the management of the lands, including administration expenses, from the date the territorial management agreement is signed. However, with respect to the renewal of leases, the MRC may collect and keep the income on the date of the next annual payment entered on the lease, following the date of the signing of the territorial management agreement. However, any amount collected by the Gouvernement du Québec or owed to it on the date of the signing of the territorial management agreement remains its property without adjustment.

6.5. The Minister shall register in the Terrier or in any other register designated by him all alienations and rights granted by the MRC on the lands in question and shall issue attestations in writing of the information entered therein; the MRC shall collect all exigible expenses, including interest income, and shall remit them entirely to the Minister, according to the terms and conditions defined in the territorial management agreement.

6.6. An MRC that exercises the powers and responsibilities provided for in this Program acts in its own name and any action it takes is in no way binding on the Government.

7. OBLIGATIONS

An MRC to which the Minister has entrusted the management of lands in the domain of the State under the Program shall

— keep up-to-date all the books and records necessary to ensure a sound management of the lands. The documents must state all the transactions conducted, including all the rights granted and must enable the Minister to effect the verifications he deems appropriate. The MRC shall be responsible for the safeguard of the documents and of the quality of the information that appears therein, including the records that are entrusted to it by the Minister;

— alienate, lease and grant any other right on the basis of the market value or any other value determined by the regulations made under the law, or in the case provided for in section 4.3, by by-laws of the MRC approved by the Minister;

— respect the rights granted by the State, in accordance with the titles issued, until they expire, and ensure, in the exercise of the powers and responsibilities delegated under this Program, that no right that was granted or will be granted by the State be limited in any way whatsoever; with respect to the land rights granted

by the Minister to third parties, the MRC must, besides respecting them, administer them on the same conditions until they expire;

— respect the temporary rights that may be granted by the Minister to the Mashteuiatsh Montagnais community to engage in cultural and hunting activities on a dozen of the islands located at the mouth of the Rivière Mistassini as identified in the agreement. The Maria-Chapdelaine and Le Domaine-du-Roy MRC's may not impose any condition on the Minister with respect to the granting of those rights, institute any proceeding against him or apply to him for a compensation relating to any consequence arising from the said rights;

— pay into the development fund that it has established all the income from the alienation, management and development of the lands covered by this Program; the MRC may however subtract costs related to the acquisition, administration or utilization of the lands from the income that it must pay into the fund;

— comply with the acts and regulations in force and their amendments, unless, in the case of the Act respecting the lands in the domain of the State, the MRC is exempted therefrom pursuant to section 4.3;

— adopt operating rules and administrative procedures that will ensure that the rights to be granted and the lands to be alienated in the territory in question, will be granted or alienated with fairness for all the interested parties and in compliance with the principles in the agreement or with particular objectives defined in the territorial management agreement;

— maintain public access to the domain of the State and its water domain;

— provide the Minister, free of charge, with all the information or documents that the MRC holds and that the Minister could claim from it within the application of this Program, for its evaluation or to supply government systems for the knowledge of the territory and registers of the Minister, including the Terrier, with information according to the terms and conditions provided for in the territorial management agreement;

— draw up and present a report on the management of the lands covered by this Program to the Minister within the scope of the report provided for in the agreement that it must present to the population. The content of the said report on management must also be made public by the MRC.

8. FINAL

8.1. This Program shall cease to apply to an MRC on the date the part respecting land in the territorial management agreement expires or is revoked, that is, following an agreement between the parties or the decision of the Minister. The Minister shall then be fully responsible again for the management of the lands in question and shall recover all the powers and responsibilities that he had delegated to the MRC.

8.2. From that time, the territory covered by this Program shall again be subject to the application of the law. Consequently, the MRC must, within 30 days of the end of application of this Program, revoke all the by-laws it has adopted and that were in force in the territory covered by this Program under the approval by the National Assembly of the amendments enabling an MRC to adopt its own by-laws on that matter and to apply them.

8.3. The MRC shall send the Minister all the information required, including, in particular, the up-to-date books and records kept by the MRC for managing the lands. The MRC shall also give the Minister all the records that the Minister entrusted to it.

8.4. The MRC shall remain responsible for any action it has taken in the exercise of the powers and responsibilities that were delegated to it by this Program. However, any contestation by the holder of a right that was granted by the MRC and that results from differences in the management methods applied by the MRC and the Minister shall be submitted to the Minister for decision.

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Gouvernement du Québec

O.C. 1004-2000, 24 August 2000

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

**Reduction of pollution from agricultural sources
— Amendments**

Regulation to amend the Regulation respecting the reduction of pollution from agricultural sources

WHEREAS, under paragraphs *a, c to f, h, h.1, h.2* and *l* of section 31 and sections 53.30, 70 and 109.1 of the Environment Quality Act (R.S.Q., c. Q-2), amended by section 239 of chapter 40 of the Statutes of 1999 and by sections 3, 13 and 29 of chapter 75 of the Statutes of

1999, the Government may make regulations on the matters set forth therein;

WHEREAS, by Order in Council 742-97 dated 4 June 1997, the Government made the Regulation respecting the reduction of pollution from agricultural sources;

WHEREAS it is expedient to amend again the Regulation respecting the reduction of pollution from agricultural sources;

WHEREAS, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1) and with section 124 of the Environment Quality Act, a draft of the Regulation to amend the Regulation respecting the reduction of pollution from agricultural sources was published in Part 2 of the *Gazette officielle du Québec* of 17 November 1999 with a notice that it could be made by the Government upon the expiry of 60 days following that publication;

WHEREAS it is expedient to make the Regulation with amendments considering the comments received following the publication in the *Gazette officielle du Québec*;

IT IS ORDERED, therefore, upon the recommendation of the Minister of the Environment:

THAT the Regulation to amend the Regulation respecting the reduction of pollution from agricultural sources, attached to this Order in Council, be made.

MICHEL NOËL DE TILLY,
Clerk of the Conseil exécutif

**Regulation to amend the Regulation
respecting the reduction of pollution
from agricultural sources***

Environment Quality Act
(R.S.Q., c. Q-2, s. 31, pars. *a, c, d, e, f, h, h.1, h.2* and *l*, ss. 53.30, 70 and 109.1; 1999, c. 40, s. 239; 1999, c. 75, ss. 3, 13 and 29)

1. Section 3 of the Regulation respecting the reduction of pollution from agricultural sources is amended by inserting the following after the definition of the expression “livestock waste”:

* The Regulation respecting the reduction of pollution from agricultural sources, made by Order in Council 742-97 dated 4 June 1997 (1997, *G.O.* 2, 2607), was last amended by the Regulation made by Order in Council 247-99 dated 24 March 1999 (1999, *G.O.* 2, 415). For previous amendments, refer to the *Tableau des modifications et Index sommaire*, Éditeur officiel du Québec, 2000, updated to 1 February 2000.