

## Draft Regulations

### Draft Regulation

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

#### Hazardous materials Land protection and rehabilitation — Amendments

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

The shorter publication timeframe rather than the 60-day period referred to in section 124 of the Environment Quality Act is warranted by the necessity of implementing as soon as possible the measures that replace those existing in the Regulation respecting petroleum products and equipment made by Order in Council 753-91 dated 29 May 1991.

The proposed amendments to both regulations are consequential to the passage on 8 June 2005 of the Act to amend the Act respecting petroleum products and equipment, the Building Act and other legislative provisions (2005, c. 10), which came into force on 1 April 2007. That Act transferred the responsibilities for petroleum equipment to the Régie du bâtiment du Québec and the responsibilities for storage of used oil and response action in the event of petroleum product spills to the Ministère du Développement durable, de l'Environnement et des Parcs (MDDEP). Those responsibilities were previously assumed by the Minister of Natural Resources and Wildlife. It also amended the Environment Quality Act (R.S.Q., c. Q-2) so that the MDDEP has the authority to provide a regulatory framework for its new responsibilities.

The amendments to the Regulation respecting hazardous materials consist chiefly in incorporating the monitoring measures in section 70 of the Regulation respecting petroleum products and equipment concerning petroleum product leaks or spills. Those measures called for a written report and a characterization study. The other amendments exclude used oil tanks in service

stations and service centres from certain requirements of the Regulation respecting hazardous materials. Formerly governed by the Regulation respecting petroleum products and equipment, such tanks will now be governed by the standards in the Regulation respecting hazardous materials.

Since the monitoring measures drafted into the Regulation respecting hazardous materials already existed in the Regulation respecting petroleum products and equipment, the new provisions will have no additional impact on enterprises. As regards used oil tanks in service stations and service centres, maintaining the same standards as those previously in effect under the Regulation respecting petroleum products and equipment will preclude any appreciable economic impact for the enterprises concerned.

The amendments to the Land Protection and Rehabilitation Regulation propose to continue the existence of the monitoring and intervention measures in various sections of the Regulation respecting petroleum products and equipment that regulate how the presence of contamination is to be dealt with if detected at the time high-risk petroleum equipment is replaced, removed or abandoned. The amendments also define permanent cessation of operation as it applies to service stations and bulk plants, and adjustments have been made to accommodate the provisions of the Environment Quality Act.

Since the regulatory amendments repeat existing requirements in the Regulation respecting petroleum products and equipment and the Environment Quality Act, no significant economic impacts are involved. As well, the reduction in the number of government stakeholders and the integration of all intervention procedures into one department will enhance environmental protection and intervention monitoring.

For information on the draft Regulation to amend the Regulation respecting hazardous materials and the Land Protection and Rehabilitation Regulation, please contact Robert Bertrand, Direction des politiques du secteur industriel, Ministère du Développement durable, de l'Environnement et des Parcs, édifice Marie-Guyart, 9<sup>e</sup> étage, boîte 71, 675, boulevard René-Lévesque Est, Québec (Québec) G1R 5V7; telephone 418 521-3950, extension 4963; fax: 418 644-3386; e-mail: robert.bertrand@mddep.gouv.qc.ca

Any person wishing to comment on the draft Regulation is requested to submit comments in writing to the Direction des politiques du secteur industriel, Ministère du Développement durable, de l'Environnement et des Parcs at the above address, within the 30-day period.

LINE BEAUCHAMP,  
Minister of Sustainable Development,  
Environment and Parks

## Regulation to amend the Regulation respecting hazardous materials<sup>1</sup> and the Land Protection and Rehabilitation Regulation<sup>2</sup>

Environment Quality Act  
(R.S.Q., c. Q-2, s. 31.69, pars. 1 to 2.2 and s. 70.19;  
2005, c. 10, s. 71)

**1.** The Regulation respecting hazardous materials is amended in section 9

(1) by inserting “or is responsible for leaky equipment” in the part before subparagraph 1 of the first paragraph after “into the environment”;

(2) by inserting “leak or” in subparagraph 1 of the first paragraph after “stop the”;

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

“Contaminated materials that have been removed must be shipped to a site authorized to receive them under the Environment Quality Act.”.

**2.** The following is added after section 9:

“**9.1.** In addition to the requirements in section 9, the person responsible for high-risk petroleum equipment within the meaning of section 8.01 of the Construction Code approved by Order in Council 953-2000 dated 26 July 2000, or the person responsible for an under-

ground used oil tank shall, within 60 days of finding that the content of the equipment has leaked or spilled, send to the Minister a characterization study to ascertain whether the materials that have leaked or spilled have been recovered or treated in accordance with subparagraph 3 of the first paragraph of section 9.

The provisions of section 31.58 of the Environment Quality Act do not apply if the characterization study shows that the materials have been recovered or treated in accordance with subparagraph 3 of the first paragraph of section 9.

Despite the foregoing, section 31.58 of the Act applies if the characterization study reveals the presence of residual contamination exceeding the limit values set in the Land Protection and Rehabilitation Regulation made by Order in Council 216-2003 dated 26 February 2003. In such a case, the person responsible for contamination shall, as soon as possible, submit for the Minister's approval a rehabilitation plan together with an implementation schedule setting out the measures that will be implemented to remedy the situation.

The requirement to perform a characterization study does not apply if the leak or spill has occurred on an impermeable surface and the soil and groundwater have not been contaminated.”.

**3.** Section 31 is amended by striking out paragraph 3.

**4.** The following is inserted after section 58:

“**58.1.** The requirements in sections 57 and 58 to equip tanks with an automatic continuous inventory device and a spill prevention device do not apply to used oil tanks installed in service stations and service centres within the meaning of section 8.01 of the Construction Code.”.

**5.** The following is inserted after section 148:

“**148.1.** Section 56 requiring an impermeable basin is applicable as of (*insert the date that occurs 6 months after the coming into force of this section*) to single-wall used oil tanks already installed on (*insert the date of coming into force of this section*) that were governed before 1 April 2007 by the Regulation respecting petroleum products and equipment.”.

**6.** The Land Protection and Rehabilitation Regulation is amended by inserting the following after section 2:

“**2.1.** For the purposes of sections 2.2 to 2.4, “owner” means an owner within the meaning of section 30 of the Building Act (R.S.Q., c. B-1.1).

<sup>1</sup> The Regulation respecting hazardous materials, made by Order in Council 1310-97 dated 8 October 1997 (1997, *G.O.* 2, 5199), was last amended by the regulations made by Orders in Council 451-2005 dated 11 May 2005 (2005, *G.O.* 2, 1182) and 808-2007 dated 18 September 2007 (2007, *G.O.* 2, 2581). For previous amendments, refer to the *Tableau des modifications et Index sommaire*, Québec Official Publisher, 2007, updated to 1 September 2007.

<sup>2</sup> The Land Protection and Rehabilitation Regulation, made by Order in Council 216-2003 dated 26 February 2003 (2003, *G.O.* 2, 1153), has never been amended.

**2.2.** For the purposes of section 31.51 of the Environment Quality Act, an industrial or commercial activity permanently ceases in respect of the sale or storage of petroleum products if,

(1) in the case of an owner of a service station or a motor fuel dispensing outlet, the owner decides to no longer sell motor fuel at retail, or has not sold motor fuel for six months; or

(2) in the case of an owner of a petroleum products bulk plant or terminal, the owner decides to no longer add petroleum products to or take petroleum products from a petroleum equipment installation, or has not added petroleum products to or taken petroleum products from such an installation for six months.

The owner must immediately notify the Minister in writing of a situation referred to in the first paragraph.

**2.3.** An owner of a petroleum equipment installation within the meaning of the Construction Code approved by Order in Council 953-2000 dated 26 July 2000 must, when repairing, replacing or removing a tank that is part of the installation, immediately notify the Minister of the presence of petroleum products in the ground. The owner must then perform a characterization study in the affected part. On completion and not later than within 60 days after the owner becomes aware of the presence of petroleum products in the ground, the study must be sent to the Minister and to the owner of the land.

If the characterization study reveals the presence of contaminants in a concentration exceeding the regulatory limit values, the owner of the installation is required to send for the Minister's approval, as soon as possible after being informed of the presence of the contaminants, a rehabilitation plan together with an implementation schedule setting out the measures that will be implemented to protect human beings, the other living species and the environment in general, as well as the measures taken to protect property.

**2.4.** Where an owner of a petroleum equipment installation abandons an underground tank on its site because removal would be impracticable for one of the reasons described in section 8.45 of the Construction Code, the owner must immediately notify the Minister of that fact and is subject to the provisions of section 31.51 of the Environment Quality Act. Despite the foregoing, the owner must perform a characterization study of the potentially affected part of the ground and send the study to the Minister within 60 days after sending the notice of abandonment to the Minister."

**7.** Section 14 is amended by replacing "section 3" in the second paragraph by "sections 2.2. to 3".

**8.** Schedule III is amended,

(1) in respect of the 41211 NAICS Code, by replacing "(Petroleum Products Station or Terminal governed by the Petroleum Products Regulation)" by "(Bulk Plant as defined in the Construction Code and governed by that Code)";

(2) by replacing "(Airport Outlets, Marine Outlets and User Outlets governed by section 274 of the Petroleum Products Regulation)" in the element that follows the 811199 NAICS Code by "(Self-Serve Facilities, Unattended Self-Serve Facilities, Airport Outlets, User Outlets, Marina Outlets and Service Stations) as defined in section 8.01 of the Construction Code and governed by that Code. In the case of user outlets, the only user outlets concerned are those where high-risk petroleum products are dispensed within the meaning of section 8.01 of that Code."

**9.** Schedule IV is amended, in respect of the 41211 NAICS Code, by replacing "(Petroleum Products Station or Terminal governed by the Petroleum Products Regulation)" by "(Bulk Plant as defined in the Construction Code and governed by that Code)".

**10.** This Regulation comes into force fifteen days after the date of its publication in the *Gazette officielle du Québec*.

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## Draft Regulation

Highway Safety Code  
(R.S.Q., c. C-24.2)

### Sums payable to the custodian of an impounded road vehicle — Revocation

Notice is hereby given, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), that the Regulation to revoke the Regulation respecting sums payable to the custodian of an impounded road vehicle, made by the Société de l'assurance automobile du Québec and appearing below, may be submitted to the Government for approval on the expiry of 45 days following this publication.