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# NATIONAL ASSEMBLY

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FIRST SESSION

THIRTY-NINTH LEGISLATURE

## **Bill 42**

(2009, chapter 33)

### **An Act to amend the Environment Quality Act and other legislative provisions in relation to climate change**

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**Introduced 12 May 2009  
Passed in principle 9 June 2009  
Passed 18 June 2009  
Assented to 19 June 2009**

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## EXPLANATORY NOTES

*The purpose of this Act is to reduce greenhouse gas emissions, which affect the quality of the atmosphere and contribute to global warming and climate change.*

*Under this Act, the Minister may require that emitters determined by regulation of the Minister report their greenhouse gas emissions for the purposes of a greenhouse gas emissions inventory. The information reported by emitters is to be kept in a public register.*

*This Act prescribes that the Minister prepare a climate change action plan and submit it to the Government. It also requires the yearly publication by the Minister of a greenhouse gas emissions inventory and of a report on the measures implemented to reduce greenhouse gas emissions and to fight climate change.*

*This Act provides that the Government is to set greenhouse gas reduction targets using 1990 emissions as the baseline.*

*It also contains various provisions allowing the Government to put in place, by regulation, all the mechanisms required to implement a cap-and-trade system.*

*In addition, it requires that certain emitters cover their greenhouse gas emissions with an equivalent number of emission allowances, whether emission units, offset credits or early reduction credits, which may be traded and banked under the cap-and-trade system. Caps on the number of emission units the Minister may grant are to be set by the Government.*

*This Act contains various other provisions relating to the management and operation of the cap-and-trade system—including delegation of its management to a third party—and to its harmonization and integration with similar systems implemented by other authorities.*

*Lastly, this Act provides that sums collected under the new provisions are to be used to finance various climate change measures.*

**LEGISLATION AMENDED BY THIS ACT:**

- Environment Quality Act (R.S.Q., chapter Q-2);
- Act respecting the Régie de l'énergie (R.S.Q., chapter R-6.01).



## Bill 42

### AN ACT TO AMEND THE ENVIRONMENT QUALITY ACT AND OTHER LEGISLATIVE PROVISIONS IN RELATION TO CLIMATE CHANGE

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

**1.** The Environment Quality Act (R.S.Q., chapter Q-2) is amended by inserting the following before section 47:

“§1. — *Climate change action plan and cap-and-trade system*

“**46.1.** This subdivision applies to a person or municipality (the “emitter”) who carries on or operates a business, facility or establishment that emits greenhouse gases, who distributes a product whose production or use entails the emission of greenhouse gases or who is considered to be such an emitter by regulation of the Government or, for the purposes of section 46.2, by regulation of the Minister.

The term “greenhouse gas” means carbon dioxide (CO<sub>2</sub>), methane (CH<sub>4</sub>), nitrous oxide (N<sub>2</sub>O), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), sulphur hexafluoride (SF<sub>6</sub>) or any other gas determined by regulation of the Government or, for the purposes of section 46.2, by regulation of the Minister.

“**46.2.** So that an inventory of greenhouse gas emissions may be taken and updated or so that measures aimed at reducing those emissions may be implemented, every emitter determined by regulation of the Minister must, subject to the conditions, within the time and at the intervals determined by regulation of the Minister,

(1) report greenhouse gas emissions to the Minister, whether they are attributable to the carrying on or operation of the emitter’s business, facility or establishment or to the production or use of a product distributed by the emitter;

(2) provide the Minister with any information or documents required by regulation of the Minister to determine the emissions referred to in subparagraph 1, which information and documents may vary according to the class of business, facility or establishment, the processes used and the type of greenhouse gas emitted; and

(3) pay the fee determined by regulation of the Minister for registration in the register maintained under the third paragraph.

A regulation made under this section is preceded by the publication of a draft regulation in the *Gazette officielle du Québec* for the purposes of a 60-day consultation.

The Minister maintains a public register of greenhouse gas emissions containing such information as the nature and reported quantity of each emitter's emissions.

**“46.3.** The Minister prepares a multiyear climate change action plan, including measures aimed at reducing greenhouse gas emissions, and submits it to the Government. The Minister is responsible for the implementation and coordination of the action plan.

**“46.4.** To fight global warming and climate change, the Government sets, by order, an overall greenhouse gas reduction target for Québec for each period it determines, using 1990 emissions as the baseline.

The Government may break that target down into specific reduction or limitation targets for the sectors of activity it determines.

When setting targets, the Government considers such factors as

- (1) the characteristics of greenhouse gases;
- (2) advances in climate change science and technology;
- (3) the economic, social and environmental consequences of climate change, and the likely impact of the emission reductions or limitations needed to achieve the targets; and
- (4) emission reduction goals under any program, policy or strategy to fight global warming and climate change or under any Canadian intergovernmental agreement or international agreement made for that purpose.

Target-setting under this section is subject to special consultations by the competent parliamentary committee of the National Assembly.

An order under this section comes into force on the date of its publication in the *Gazette officielle du Québec* or on any later date specified in the order.

**“46.5.** A cap-and-trade system is established by this subdivision to contribute to the achievement of the targets set under section 46.4 and mitigate the cost of reducing or limiting greenhouse gas emissions.

**“46.6.** Every emitter determined by regulation of the Government must, subject to the conditions and for each period determined by regulation of the Government, cover its greenhouse gas emissions with an equivalent number of emission allowances.

Emission allowances include emission units, offset credits, early reduction credits and any other emission allowance determined by regulation of the Government, each being equal to one metric ton of greenhouse gas expressed in CO<sub>2</sub> equivalents.

**“46.7.** In light of the targets set under section 46.4, the Government, by order, sets a cap on the emission units that may be granted by the Minister for each period referred to in the first paragraph of section 46.6.

The Government may break the cap down into specific caps for the sectors of activity or classes of businesses, facilities or establishments it determines.

The Government publishes in the *Gazette officielle du Québec* a notice of the caps it intends to set, stating that the order may not be made before 60 days have elapsed after publication of the notice and that interested persons may, during that 60-day period, send comments to the person specified in the notice.

An order under this section comes into force on the date of its publication in the *Gazette officielle du Québec* or on any later date specified in the order.

**“46.8.** Subject to the conditions determined by regulation of the Government, the Minister may grant

(1) the available emission units, either by allocating them without charge to emitters required to cover their greenhouse gas emissions, or by selling them at auction or by agreement to persons or municipalities determined by regulation of the Government;

(2) offset credits to emitters who have reduced their greenhouse gas emissions or to persons or municipalities who avoid causing emissions or who capture, store or eliminate greenhouse gases in the course of activities and during a period determined by regulation of the Government;

(3) early reduction credits to emitters who are required to cover their greenhouse gas emissions and have voluntarily, during a period determined by regulation of the Government, reduced their emissions before the date on which they were legally required to cover them; and

(4) any other type of emission allowance determined by regulation of the Government.

After each allocation of emission units without charge, the Minister publishes in the *Gazette officielle du Québec* a list of the emitters required to cover their greenhouse gas emissions and the number of emission units allocated to each of them.

**“46.9.** Emission allowances may be traded between the persons or municipalities determined by regulation of the Government subject to the conditions determined by regulation of the Government.

Emission allowances not used to cover greenhouse gas emissions by the end of a prescribed period may, subject to the conditions determined by regulation of the Government, be banked for use or trade during a later period.

**“46.10.** Any emitter who ceases to carry on or operate a business, facility or establishment must, subject to the conditions determined by regulation of the Government, surrender to the Minister the emission units allocated without charge to the emitter that are not needed to cover the emitter’s emissions.

**“46.11.** To provide for emission allowance accounting and tracking, the Minister maintains a public register of emission allowances containing the names of the holders of emission allowances, the number and type of emission allowances credited to their respective accounts and any other information determined by regulation of the Government.

**“46.12.** The Minister may suspend, withdraw or cancel any emission allowance granted by the Minister

(1) if the emission allowance was granted, traded or used to cover emissions on the basis of false or inaccurate information;

(2) if this subdivision or a regulation of the Government under this subdivision has been contravened; or

(3) for any other reason determined by regulation of the Government.

However, the emitter concerned must be given prior notice of the Minister’s decision, including reasons, and at least 10 days to submit observations.

**“46.13.** The Minister may, by regulation, delegate the administration of all or part of a regulation made under section 46.2 or the management of the register of greenhouse gas emissions established under that section to a person or a body.

The Government may, by regulation, delegate all or part of the cap-and-trade system established by this subdivision or the administration of all or part of a regulation of the Government concerning that system to a person or a body.



**“46.14.** The Minister may, in accordance with the Act respecting the Ministère des Relations internationales (chapter M-25.1.1) or the Act respecting the Ministère du Conseil exécutif (chapter M-30), enter into an agreement with a government other than that of Québec, with a department of such a government, with an international organization or with an agency of such a government or organization for the harmonization and integration of cap-and-trade systems.

Such an agreement may provide for

- (1) the reciprocal recognition of the emission allowances granted under the different cap-and-trade systems and how they correspond to each other;
- (2) the consolidation of registers; and
- (3) the mutual recognition of decisions made by the competent authorities regarding the suspension, withdrawal or cancellation of emission allowances.

The Government may, by regulation, take the necessary measures to give effect to an agreement entered into under this section.

**“46.15.** The Government may, by regulation,

- (1) specify what information or documents a person or municipality acquiring or trading emission allowances must provide to the Minister for emission allowance accounting and tracking purposes;
- (2) prescribe administrative, monetary or other penalties for acts or omissions in contravention of this subdivision or of a regulation of the Government under this subdivision;
- (3) determine the fees payable by an emitter or another person or municipality for an entry in the register of emission allowances and on being granted offset credits or early reduction credits, and the interest and penalties payable if a fee is not paid; and
- (4) define any term or expression used in this subdivision.

**“46.16.** All sums collected under this subdivision or regulations under this subdivision and all greenhouse gas emission charges collected in accordance with a regulation under subparagraph *e.1* of the first paragraph of section 31 are paid into the Green Fund in accordance with section 15.4 of the Act respecting the Ministère du Développement durable, de l’Environnement et des Parcs (chapter M-30.001) and are to be used to finance greenhouse gas reduction, limitation or avoidance measures, the mitigation of the economic and social impact of emission reduction efforts, public awareness campaigns and adaptation to global warming and climate change, or to finance the development of and Québec’s participation in related regional and international partnerships.

**“46.17.** The Minister submits a report to the Government on the achievement of the greenhouse gas reduction targets set under section 46.4 not later than two years after the end of the period for which the targets were set.

In addition, not later than 31 July each year, the Minister submits a report to the Government on the use of the sums paid into the Green Fund under section 46.16.

**“46.18.** Every year, the Minister publishes

(1) the greenhouse gas emissions inventory for the year that occurs two years before the year of publication; and

(2) an exhaustive and, if applicable, quantitative report on the measures implemented to reduce greenhouse gas emissions and to fight climate change.

*“§2. — Other depollution measures”.*

**2.** Section 96 of the Act, amended by section 23 of chapter 21 of the statutes of 2009, is again amended by inserting “refuses to grant emission allowances under subdivision 1 of Division VI, disallows the use of such emission allowances to cover greenhouse gas emissions, suspends, withdraws or cancels such allowances or imposes any other penalty under that subdivision,” after “section 32.5 or 35,” in the second paragraph.

**3.** The heading of Chapter VI.3 of the Act respecting the Régie de l'énergie (R.S.Q., chapter R-6.01) is amended by replacing “ADAPT TO” by “FIGHT”.

**4.** Section 85.35 of the Act is replaced by the following section:

**“85.35.** The Government, for the period and subject to the conditions it determines, sets the overall financial investment toward reducing greenhouse gas emissions and fighting climate change that is to be funded by the distributors referred to in section 85.33.”

**5.** Section 85.36 of the Act is amended by replacing “objectives” in the portion before paragraph 1 by “greenhouse gas reduction targets set under section 46.4 of the Environment Quality Act (chapter Q-2)”.

**6.** Section 85.38 of the Act is amended by adding “, to be used for the purposes set out in section 46.16 of the Environment Quality Act (chapter Q-2)” at the end of the second paragraph.

**7.** Section 85.39 of the Act is amended by striking out “on the achievement of the objectives set, and”.

**8.** The climate change action plan entitled *Québec and Climate Change: A Challenge for the Future*, established under section 11 of the Act respecting the Ministère du Développement durable, de l'Environnement et des Parcs

(R.S.Q., chapter M-30.001) and approved by Orders in Council 543-2006 (2006, G.O. 2, 2941, in French only) and 1079-2007 (2007, G.O. 2, 5921, in French only), is deemed to have been established under section 46.3 of the Environment Quality Act (R.S.Q., chapter Q-2), enacted by section 1.

**9.** The greenhouse gas emission reduction objective set by Order in Council 407-2007 (2007, G.O. 2, 2286, in French only) under section 85.35 of the Act respecting the Régie de l'énergie (R.S.Q., chapter R-6.01) is deemed to be a target set under the first paragraph of section 46.4 of the Environment Quality Act (R.S.Q., chapter Q-2) enacted by section 1.

**10.** The provisions of this Act come into force on the date or dates to be set by the Government, except sections 46.1 to 46.4 and section 46.18 of the Environment Quality Act, enacted by section 1, and sections 3 to 5, 7, 8 and 9, which come into force on 19 June 2009.