

Draft Regulation

Act to establish a new development regime for the flood zones of lakes and watercourses, to temporarily grant municipalities powers enabling them to respond to certain needs and to amend various provisions (2021, chapter 7)

Pesticides Act
(chapter P-9.3)

Environment Quality Act
(chapter Q-2)

Temporary implementation of the amendments made by Chapter 7 of the Statutes of 2021 in connection with the management of flood risks — Amendment

Activities in wetlands, bodies of water and sensitive areas

Regulatory scheme applying to activities on the basis of their environmental impact

Agricultural operations

Pesticides management

Notice is hereby given, in accordance with sections 10, 12 and 13 of the Regulations Act (chapter R-18.1), that the Regulation respecting the temporary implementation of the amendments made by chapter 7 of the Statutes of 2021 in connection with the management of flood risks, appearing below, may be made by the Government on the expiry of 30 days from the date of publication.

The draft Regulation implements a temporary framework for the management of bodies of water to replace the Protection Policy for Lakeshores, Riverbanks, Littoral Zones and Floodplains (chapter Q-2, r. 35) and terminates the special planning zone defined by the government in Order in Council 817-2019 dated 12 July 2019, as amended by the Orders of the Minister of Municipal Affairs and Housing dated 2 August 2019, 23 August 2019, 25 September 2019, 23 December 2019 and 12 January 2021, and by Order in Council 1260-2019 dated 18 December 2019.

The draft Regulation makes certain activities subject to the issuance of an authorization by the relevant municipality for work, constructions or other interventions carried out in bodies of water, and sets the conditions that apply to an application for authorization. It also determines the flood zones subject to the new framework until the boundaries of flood zones are established in accordance with sections 46.0.2.1 to 46.0.2.3 of the Environment Quality Act (chapter Q-2), as introduced by section 88

of Chapter 7 of the Statutes of 2021, and specifies the obligation for municipalities of accounting for the authorizations they issue.

The draft Regulation includes amendments to the Regulation respecting activities in wetlands, bodies of water and sensitive areas, enacted by Order in Council 871-2020 dated 19 August 2020, the Regulation respecting the regulatory scheme applying to activities on the basis of their environmental impact, enacted by Order in Council 871-2020 dated 19 August 2020, the Agricultural Operations Regulation (chapter Q-2, r. 26) and the Pesticides Management Code (chapter P-9.3, r.1).

The Regulation respecting activities in wetlands, bodies of water and sensitive areas is amended with respect to certain standards applicable to work, constructions and other interventions carried out in bodies of water, and adds new standards. The Regulation respecting the regulatory scheme applying to activities on the basis of their environmental impact is amended to change some of the conditions that apply to activities carried out in bodies of water and adds new activities eligible for a declaration of compliance pursuant to section 31.0.6 of the Environment Quality Act as well as new activities exempted from ministerial authorization pursuant to section 31.0.11 of the Act. The Agricultural Operations Regulation and Pesticides Management Code are amended to allow the spreading of pesticides and fertilizer in certain bodies of water and to set conditions for such activities.

The draft Regulation includes interpretive provisions to ensure concordance in several regulations that use obsolete terminology, and adds measures to ensure the transition to the new framework for activities already under way. More specifically, it includes a rule that makes it possible to maintain the standards applicable to the special planning zone covering the territories of Municipalité de Sainte-Calumet, Ville de Deux-Montagnes and Ville de Sainte-Marthe-sur-le-Lac.

Study of the regulatory impacts shows that for the territories in the special planning zone, the draft Regulation relaxes the standards applicable to the activities of citizens, enterprises including SMEs, and municipalities in the flood zones of lakes and watercourses. In other territories, the rules introduced by the draft regulation will be slightly more restrictive than the rules in the Protection Policy for Lakeshores, Riverbanks, Littoral Zones and Floodplains. Given that the aim of the draft Regulation is to protect persons and property and the quality of the environment, its requirements are not specifically adapted to the needs of SMEs.

The draft Regulation may be enacted within a lesser time limit than the 45-day limit set in section 11 of the Regulations Act, more specifically within 30 days as mentioned above, pursuant to the second paragraph of section 135 of chapter 7 of the Statutes of 2021.

Further information on the draft Regulation may be obtained by contacting Nathalie Lafontaine, team leader for land use planning and the hydrous environment, Ministère de l'Environnement et de la Lutte contre les changements climatiques, édifice Marie-Guyart, 8^e étage, 675, boulevard René-Lévesque Est, Québec (Québec) G1R 5V7; telephone: 418 521-3885, extension 4881; email: nathalie.lafontaine@environnement.gouv.qc.ca.

Any person wishing to comment on the draft Regulation is requested to submit written comments within the 30-day period to Caroline Robert, Director, Direction de l'aménagement, du milieu hydrique et de l'agroenvironnement, Ministère de l'Environnement et de la Lutte contre les changements climatiques, édifice Marie-Guyart, 8^e étage, 675, boulevard René-Lévesque Est, Québec (Québec) G1R 5V7; email: caroline.robert@environnement.gouv.qc.ca.

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Regulation respecting the temporary implementation of the amendments made by chapter 7 of the Statutes of 2021 in connection with the management of flood risks

Act to establish a new development regime for the flood zones of lakes and watercourses, to temporarily grant municipalities powers enabling them to respond to certain needs and to amend various provisions (2021, chapter 7, s. 135)

Pesticides Act
(chapter P-9.3, ss. 101, 105 and 107)

Environment Quality Act
(chapter Q-2, ss. 31.0.6, 31.0.7, 31.0.11, 95.1, 115.27, 115.28, 115.34, 115.47, 118.3.5 and 124.1; 2021, chapter 7, ss. 87 and 90)

CHAPTER I MUNICIPAL AUTHORIZATION FOR ACTIVITIES CARRIED OUT IN BODIES OF WATER

1. The object of this Chapter is to temporarily establish measures to facilitate the coming into force of some of the provisions of the Act to establish a new development regime for the flood zones of lakes and watercourses, to temporarily grant municipalities powers enabling them to respond to certain needs and to amend various provisions (2021, chapter 7).

To complement the rules set out in the Regulation respecting activities in wetlands, bodies of water and sensitive areas, enacted by Order in Council 871-2020 dated 19 August 2020, this Chapter introduces a requirement, for some of the activities carried out in a body of water that are exempted pursuant to Chapter I of Title IV of Part II of the Regulation respecting the regulatory scheme applying to activities on the basis of their environmental, enacted by Order in Council 871-2020 dated 19 August 2020, to obtain prior authorization from the municipality concerned.

2. This Chapter applies to all lakes and watercourses and to their shores and banks.

It also applies to all flood zones of a lake or watercourse and all zones deemed to be flood zones pursuant to section 4 of the Regulation respecting activities in wetlands, bodies of water and sensitive areas, enacted by Order in Council 871-2020 dated 19 August 2020, the boundaries of which are, on 23 June 2021, shown by one of the following means, giving priority to the most recent map or most recent flood elevation, as the case may be:

(1) a map approved under an agreement on mapping and flood zone protection between the Québec government and the Government of Canada;

(2) a map published by the Québec government;

(3) a map included in a land use and development plan or interim control by-law;

(4) the 20 year or 100 year, or both, flood recurrence levels established by the Québec government;

(5) the 20 year or 100 year, or both, flood recurrence levels referred to in a land use and development plan or interim control by-law;

(6) any perimeter indicated on a map mentioned in Schedule 2 to Order in Council 817-2019 dated 12 July 2019, as amended by the orders made by the Minister of Municipal Affairs and Housing dated 2 August 2019, 23 August 2019, 25 September 2019, 23 December 2019 and 12 January 2021, and by Order in Council 1260-2019 dated 18 December 2019, excluding the territories listed in Schedule 4 to that Order in Council.

In the event of a conflict in the application of the various documents mentioned in the second paragraph, the most recent flood elevation must be used to delimit the area of a flood zone.

3. This Chapter applies, in particular, to a reserved area or agricultural zone established pursuant to the Act respecting the preservation of agricultural land and agricultural activities (chapter P-41.1).

4. For the purposes of this Chapter, unless the context indicates a different meaning,

“public body” means every body to which the government or a minister appoints the majority of the members, to which, by law, the personnel is appointed in accordance with the Public Service Act (chapter F-3.1.1), or at least half of whose capital stock is derived from the Consolidated Revenue Fund; (*organisme public*)

“flood zone” means an area likely to be occupied by a lake or watercourse during periods of flooding, the boundaries of which are established in accordance with section 2. (*zone inondable*)

5. Unless otherwise provided for, for the purposes of this Chapter,

(1) the expressions “watercourse”, “lakeshore” and “riverbank”, “body of water”, “public security establishment” and “public institution” have the meaning given in the Regulation respecting activities in wetlands, bodies of water and sensitive areas, enacted by Order in Council 871-2020 dated 19 August 2020;

(2) the expressions “boat shelter”, “professional” and “public road” have the meaning given in the Regulation respecting the regulatory scheme applying to activities on the basis of their environmental impact, enacted by Order in Council 871-2020 dated 19 August 2020;

(3) a reference to a flood zone excludes littoral zones, lakeshores and riverbanks;

(4) a reference to an area or length is a reference to the cumulative area or length for the type of environment affected by the activity;

(5) distances to or from a watercourse or lake are calculated horizontally from the boundary of the littoral zone;

(6) the construction of an infrastructure, works, building or equipment includes its siting, replacement, reconstruction, substantial modification and dismantling, and any initial tree-clearing work;

(7) a substantial modification includes a change to the structural or functional characteristics of an infrastructure, works, building or equipment; it also includes an enlargement, extension or prolongation;

(8) a stabilization works is a works to increase the mechanical resistance of the soil or an infrastructure and protect it against erosion and landslides, excluding the approaches and protection works for bridges and culverts which form an integral part of those structures, and retaining walls;

(9) a regional county municipality whose territory includes an unorganized territory is deemed to be a local municipality with respect to that territory.

DIVISION I

ACTIVITIES REQUIRING MUNICIPAL AUTHORIZATION

6. This Division does not apply to a municipality, government department or public body.

7. Every person who carries out one of the following activities in the littoral zone of a lake or watercourse must obtain prior authorization from the local municipality having jurisdiction in the territory in which the activity is to be carried out:

(1) the construction of a culvert with a total opening of no more than 4.5 m, on the conditions set out in section 327 of the Regulation respecting the regulatory scheme applying to activities on the basis of their environmental impact, enacted by Order in Council 871-2020 dated 19 August 2020;

(2) the construction of a stabilization works on an embankment, on the conditions set out in section 337 of the Regulation respecting the regulatory scheme applying to activities on the basis of their environmental impact;

(3) work to establish, modify or extend a pipe in a waterworks system, sewer system or storm water management system, or a ditch or outflow, on the conditions set out in section 338 of the Regulation respecting the regulatory scheme applying to activities on the basis of their environmental impact;

(4) the construction of a temporary, movable or ice bridge occupying a width of no more than 10 m on the bank or shore;

(5) the construction of a movable boat shelter, floating quay, open pile quay or wheeled quay with an area of no more than 20 m², excluding the anchor points for a floating quay;

(6) the laying out of a water crossing for fording with a width of not more than 7 m;

(7) the construction of a structure or no more than 5 m in width to cross a watercourse, with no support or stabilization in the littoral zone.

8. Every person who carries out one of the following activities on the shore or bank of a lake or watercourse must obtain prior authorization from the local municipality having jurisdiction over the territory in which the activity is to be carried out:

(1) the construction of a road, on the conditions set out in section 325 of the Regulation respecting the regulatory scheme applying to activities on the basis of their environmental impact, enacted by Order in Council 871-2020 dated 19 August 2020;

(2) the construction of a culvert with a total opening of no more than 4.5 m, on the conditions set out in section 327 of the Regulation respecting the regulatory scheme applying to activities on the basis of their environmental impact;

(3) the construction of a slope stabilization works, on the conditions set out in section 337 of the Regulation respecting the regulatory scheme applying to activities on the basis of their environmental impact;

(4) work to establish, modify or extend a pipe in a waterworks system, sewer system or storm water management system, or a ditch or outflow, on the conditions set out in section 338 of the Regulation respecting the regulatory scheme applying to activities on the basis of their environmental impact;

(5) the construction of a temporary, movable or ice bridge occupying no more than 10 m on the bank or shore;

(6) the construction of a structure or no more than 5 m in width to cross a watercourse, with no support or stabilization in the littoral zone;

(7) the reconstruction of a residential building that has sustained damage, with the exception of damage connected with flooding, submersion or a landslide or resulting from coastal, shoreline or riverbank erosion, on the conditions set out in subparagraph 1 of the first paragraph and the second paragraph of section 340.1 of the Regulation respecting the regulatory scheme applying to activities on the basis of their environmental impact;

(8) the construction of accessory buildings and works for a residential building, including the necessary access, on the conditions set out in subparagraph 2 of the first paragraph and the second paragraph of section 340.1 of the Regulation respecting the regulatory scheme applying to activities on the basis of their environmental impact;

(9) the enlargement of a main residential building on the conditions set out in subparagraph 3 of the first paragraph and the second paragraph of section 340.1 of the Regulation respecting the regulatory scheme applying to activities on the basis of their environmental impact.

9. Every person who carries out one of the following activities in the flood zone of a lake or watercourse must obtain prior authorization from the local municipality having jurisdiction over the territory in which the activity is to be carried out:

(1) the construction of a road on the conditions set out in section 325 of the Regulation respecting the regulatory scheme applying to activities on the basis of their environmental impact, enacted by Order in Council 871-2020 dated 19 August 2020;

(2) work to establish, modify or extend a pipe in a waterworks system, sewer system or storm water management system, or a ditch or outflow, on the conditions set out in section 338 of the Regulation respecting the regulatory scheme applying to activities on the basis of their environmental impact;

(3) the construction of any building, on the conditions set out in section 328 and paragraph 5 of section 341 of the Regulation respecting the regulatory scheme applying to activities on the basis of their environmental impact and, when carried out in a wetland located in a flood zone, the conditions set out in section 344 and paragraph 2 and 3 of section 345 of that Regulation.

DIVISION II

PROVISIONS RELATING TO MUNICIPAL AUTHORIZATION

10. Every application for authorization for an activity referred to in this Chapter must include, in addition to any document required by the local municipality having jurisdiction,

(1) the name and contact information of the person planning to carry out the activity and of that person's representative, if any;

(2) the cadastral designation of the lot on which the activity will be carried out or, if there is no cadastral designation, the most specific possible identification of the place where the activity will be carried out;

(3) a description of the planned activity;

(4) the location of the planned activity, including a delimitation of the bodies of water on the lot concerned and the area of land affected by the activity;

(5) a declaration by the applicant or the applicant's representative attesting to the compliance of the activity with the conditions applicable to the activity concerned, as set out in the Regulation respecting activities in wetlands, bodies of water and sensitive areas, enacted by Order in Council 871-2020 dated 19 August 2020, and the Regulation respecting the regulatory scheme applying to activities on the basis of their environmental impact, enacted by Order in Council 871-2020 dated 19 August 2020;

(6) an attestation by the applicant or the applicant's representative that all the information and documents provided are accurate and complete.

11. The application for authorization must include

(1) when it concerns the relocation of a main residential building, a notice signed by a professional attesting that the relocation does not increase the exposure to ice;

(2) when it concerns the construction, excepting the dismantling, of a main building or on a road offering the only evacuation route for the occupants of a building the structure or part of the structure of which is located below the 100 year flood recurrence level, a notice, signed by a professional, showing that the building or road will be able to resist such a flood once the work is completed;

(3) when it concerns work on an existing main building for which the floodproofing measures provided for in section 38.8 of the Regulation respecting activities in wetlands, bodies of water and sensitive areas, enacted by Order in Council 871-2020 dated 19 August 2020, cannot be respected, a notice signed by a professional attesting that backfilling is an appropriate floodproofing measure to replace the measures that cannot be applied and that the following conditions are met:

(a) the presence of backfill will not increase the exposure to flooding of any adjacent lots;

(b) the backfill ensures immediate protection for the building only and does not extend to the whole of the lot on which the building is located;

(c) the height of the backfill does not exceed the 100 year flood recurrence level;

(4) when the applicant wishes to benefit from the condition set out in the second paragraph of section 38.1 of the Regulation respecting activities in wetlands, bodies of water and sensitive areas for work on a road offering the only evacuation route for the occupants of a building, a notice signed by a professional showing that compliance

with the condition set out in the first paragraph of that section increases the exposure to flooding of lots adjacent to the road;

(5) when it concerns the reconstruction, substantial modification or relocation of a recognized or classified heritage immovable, including its protection area if any, of a declared heritage site under the Cultural Heritage Act (chapter P-9.002), or a building listed in an inventory carried out in accordance with section 120 of that Act,

(a) a copy of the authorization issued by the Minister of Culture and Communications, if applicable;

(b) the notice provided for in the second paragraph of section 38.10 of the Regulation respecting activities in wetlands, bodies of water and sensitive areas, if applicable;

(6) when it concerns work on a main residential building affected by a flood in a high-velocity zone, a notice, signed by a person with professional expertise in the field, showing that the damage sustained does not exceed one half of the new-build cost for the building, excluding accessory buildings and works that are detached, and improvements to the site. The cost must be established in accordance with Part 3E of the Manuel d'évaluation foncière du Québec, adjusted to 1 July of the year preceding the year in which the building was affected by the flood.

12. A local municipality issues authorization pursuant to this Regulation when the activity concerned meets the conditions applicable to it under the Regulation respecting activities in wetlands, bodies of water and sensitive areas, enacted by Order in Council 871-2020 dated 19 August 2020.

DIVISION III RENDERING OF ACCOUNT

13. Every local municipality must keep a register of the authorizations it issues pursuant to this Regulation, specifying for each authorization

(1) the activity authorized;

(2) the type of body of water affected by the authorized activity, including the class of flood zone, if applicable;

(3) the surface area, in m², of each type of body of water affected by the authorized activity.

The information in the register is public information and must be forwarded to the Minister on request, within the time and on the conditions the Minister specifies. The information must be kept for a period of at least 5 years.

14. Every local municipality must, not later than 31 January each year, forward to its regional county municipality the information recorded in its register of authorizations for the previous year.

15. Based on the information received pursuant to section 14, each regional county municipality must, not later than 31 March each year, publish a summary on its website setting out the following information for each local municipality in its territory and by type of body of water including the class of flood zone, if any,

(1) the number of authorizations issued pursuant to this Chapter;

(2) a list of the types of activities authorized;

(3) the total area of land, in m², covered by all the authorizations issued.

The summary must be posted on the website of the regional county municipality for a period of at least 5 years.

16. For the purposes of this Division, adapted as required, every local municipality whose territory is not included in the territory of a regional county municipality is deemed to be a regional county municipality.

However, where the territory of a local municipality referred to in the first paragraph is included in the territory of an agglomeration within the meaning of the Act respecting the exercise of certain municipal powers in certain urban agglomerations (chapter E-20.001), the functions allocated in this Division to a regional county municipality come under the jurisdiction of the agglomeration.

DIVISION IV **ADMINISTRATIVE AND PENAL PROVISIONS**

17. A monetary administrative penalty of \$1,000 may be imposed on any municipality that

(1) fails to provide information or a document required under this Regulation or to comply with the time limits and procedure for filing, if no other monetary administrative penalty is provided for such a case;

(2) fails to keep the information and documents it is required to prepare or obtain for the required time;

(3) fails to keep the register provided for in section 13;

(4) fails to post the summary of authorizations as provided for in section 15.

18. Every municipality that

(1) fails to provide information or a document required under this Regulation or to comply with the time limits and procedure for filing, if no other sanction is provided for such a case;

(2) fails to keep the information and documents it is required to prepare or obtain for the required time;

(3) fails to keep the register provided for in section 13;

(4) fails to post the summary of authorizations as provided for in section 15;

commits an offence and is liable to a fine of \$3,000 to \$600,000.

19. Every person who fails to comply with any standard, condition, restriction, prohibition or requirement connected with an authorization issued by a municipality pursuant to this Regulation commits an offence and is liable, in the case of a natural person, to a fine of \$2,500 to \$250,000 and, in other cases, to a fine of \$7,500 to \$1,500,000.

20. Every person who

(1) makes a declaration, provides information or files a document that is false or misleading;

(2) carries out an activity without obtaining prior authorization issued by a municipality pursuant to section 7, 8 or 9;

commits an offence and is liable, in the case of a natural person, to a fine of \$5,000 to \$500,000 or, despite article 231 of the Code of Penal Procedure (chapter C-25.1), to a maximum term of imprisonment of 18 months, or to both the fine and imprisonment, or, in other cases, to a fine of \$15,000 to \$3,000,000.

CHAPTER II **PROVISIONS AMENDING THE RULES** **APPLICABLE TO THE CARRYING OUT OF** **CERTAIN ACTIVITIES IN WETLANDS AND** **BODIES OF WATER**

REGULATION RESPECTING ACTIVITIES **IN WETLANDS, BODIES OF WATER AND** **SENSITIVE AREAS**

21. Section 1 of the Regulation respecting activities in wetlands, bodies of water and sensitive areas, enacted by Order in Council 871-2020 dated 19 August 2020, is

amended by striking out “, by the Protection Policy for Lakeshores, Riverbanks, Littoral Zones and Floodplains (chapter Q-2, r. 35) and by municipal by-laws”.

22. Section 2 is amended

(1) by replacing the first paragraph by the following:

“Excluding sections 8, 8.1, 33.1, 33.2, 33.4, 35.1, 35.2, 36, 38.1 to 38.3, 38.5 to 38.7, 38.9 to 38.13, 42, 43.1, 46, 47, 48, 49 and 49.1, which apply generally to all types of activities, this Regulation applies to activities that are not subject to ministerial authorization pursuant to subparagraph 4 of the first paragraph of section 22 of the Act nor to the amendment or renewal of such authorization.”;

(2) by striking out the third paragraph.

23. Section 3 is amended

(1) by replacing the first paragraph by the following:

“This Regulation does not apply

(1) to activities subject to the Regulation respecting the sustainable development of forests in the domain of the State (chapter A-18.1, r. 0.01);

(2) to the cultivation of non-aquatic plants or mushrooms, except the provisions of Chapter I, the provisions of Division VII of Chapter III and the provisions of sections 53 and 58;

(3) despite section 46.0.2 of the Act, to interventions carried out in

(a) the following man-made works:

- i. an irrigation pond;
- ii. a water management or treatment facility referred to in subparagraph 3 of the first paragraph of section 22 of the Act;
- iii. a body containing water pumped from a sand pit or quarry, if it has not been restored;
- iv. a commercial fishing pond;
- v. a pond for the production of aquatic organisms;
- vi. a basin reserved for firefighting purposes.

(b) a wetland in which the vegetation is dominated by reed phalaris (*Phalaris arundinacea L.*) or the introduced sub-species of common water reed (*Phragmites australis (Cav.) Trin. ex Steud. subsp. australis*), and when the soil is not hydromorphic.”;

(2) in the second paragraph :

(a) by replacing “subparagraph 1” in the part preceding subparagraph 1 by “subparagraph a of subparagraph 3”.

(b) by replacing “floodplain” in subparagraph 1 by “flood zone”;

(c) by inserting “or body of water” after “wetland” in subparagraph 4;

24. Section 4 is amended

(1) by adding the following definitions at the place determined by alphabetical order:

““public security establishment” means an ambulance garage, a 9-1-1 emergency centre or a secondary emergency call centre governed by the Civil Protection Act (chapter S-2.3) or any other establishment used in whole or in part to provide a public security service, including in particular a police service or fire safety service;

““public institution” means an institution covered by the definition in section 3 of the Regulation respecting the regulatory scheme applying to activities on the basis of their environmental impact, enacted by Order in Council 871-2020 dated 19 August 2020, with the exception of a tourist establishment;”;

(2) by replacing the definitions of “high-water mark” and “littoral zone” by the following:

““boundary of the littoral zone” means the boundary separating the littoral zone from the lakeshore or riverbank using the methods set out in Schedule I;”;

““littoral zone” means the part of a lake or watercourse that extends from the boundary separating the littoral zone from the lakeshore or riverbank, called the “boundary of the littoral zone”, towards the centre of the body of water;”;

(3) by inserting “meeting the criteria set out in section 46.0.2 of the Act and” after “area” in the definition of “body of water”;

(4) by replacing “floodplains” in the definition of “body of water” by “flood zones”;

(5) by striking out the definition of “floodplain”;

(6) by replacing the definition of “lakeshore” and “riverbank” by the following:

“lakeshore” and “riverbank” means the strip of land bordering a lake or watercourse and having the following width, measured inland and horizontally from the boundary of the littoral zone:

(1) 10 m where the slope is less than 30% or, if the slope is greater than 30%, having a bank no higher than 5 m;

(2) 15 m where the slope is greater than 30% and is continuous or has a bank higher than 5 m;”;

(7) by inserting the following definition at the place determined by alphabetical order:

“flooded land” means the area flooded during the spring floods of 2017 and 2019, lying within the perimeter delimited in accordance with subparagraph 6 of the second paragraph of section 2 of the Regulation respecting the temporary implementation of the amendments made by Chapter 7 of the statutes of 2021 in connection with the management of flood risks (*insert the reference to the Compilation of Québec Laws and Regulations*), and, where applicable, lying outside the boundaries of the low-velocity and high-velocity zones identified using one of the means set out in subparagraphs 1 to 3 of the second paragraph of section 2 of that Regulation;”;

(8) by inserting the following definitions at the place determined by alphabetical order, and by inserting the final paragraph at the end of the section:

“high-risk zone for ice jam flooding” means an area that is at high risk of being occupied by a lake or watercourse during flood periods because of the upstream impoundment of water blocked by the accumulation of ice or debris in a section of a watercourse, and that is identified as such on a map referred to in paragraph 3 of section 2 of the Regulation respecting the temporary implementation of the amendments made by Chapter 7 of the statutes of 2021 in connection with the management of flood risks; it is deemed to be a high-velocity flood zone;”;

“moderate-risk zone for ice jam flooding” means an area that is at moderate risk of being occupied by a lake or watercourse during flood periods because of the upstream impoundment of water blocked by the accumulation of ice or debris in a section of a watercourse, and that is identified as such on a map referred to in paragraph 3 of section 2 of the Regulation respecting the temporary implementation of the amendments made by Chapter 7 of the statutes of 2021 in connection with the management of flood risks; it is deemed to be a low-velocity flood zone;”;

“flood zone” means an area that is likely to be occupied by a lake or watercourse during flood periods, the boundaries of which are established in accordance with

sections 46.0.2.1 to 46.0.2.3 of the Act or, when the boundaries have not been established, is identified by one of the means listed in section 2 of the Regulation respecting the temporary implementation of the amendments made by Chapter 7 of the statutes of 2021 in connection with the management of flood risks;”;

“low-velocity flood zone” means the part of the flood zone, beyond the boundaries of the high-velocity zone, that is associated with a 100 year flood recurrence; flooded land is deemed to be such a zone;”;

“high-velocity flood zone” means the part of the flood zone associated with a 20 year flood recurrence; a flood zone in which high-velocity and low-velocity zones are not identified is deemed to be a high-velocity flood zone;”;

Despite section 118.3.3 of the Act, when a municipality passes a by-law delimiting a lakeshore or riverbank with a width exceeding the widths set out in paragraphs 1 and 2 of the definition of “lakeshore” and “riverbank”, the municipality may apply the former width.”.

25. Section 5 is amended, in the first paragraph,

(1) in subparagraph 2,

(a) by striking out “par l’effet même” in the French text;

(b) by replacing “floodplain” by “flood zone”;

(2) by replacing “floodplain” in subparagraph 3 by “flood zone”;

(3) by replacing subparagraph 5 by the following:

“(5) a reference to an area or length is a reference to the cumulative area or length for the type of environment affected by the activity;”;

(4) by replacing subparagraph 6 by the following:

“(6) a distance is calculated horizontally

(a) from the boundary of the littoral zone, for a watercourse or lake;

(b) from the boundary, for a wetland;

(c) from the top of the embankment, for a ditch;”.

(5) by inserting “reconstruction,” after “replacement” in subparagraph 7;

(6) by replacing subparagraph 9 by the following:

“(9) a substantial modification includes a change to the structural or functional characteristics of an infrastructure, works, building or equipment; it also includes an enlargement, extension or prolongation;”;

(7) by replacing subparagraph 15 by the following:

“(15) the expressions “invasive exotic plant species”, “ditch” and “public road” have the meaning given in the Regulation respecting the regulatory scheme applying to activities on the basis of their environmental impact, enacted by Order in Council 871-2020 dated 19 August 2020;

“(16) the floodproofing of a building, works or equipment involves applying various measures to protect against flood damage;

“(17) necessary access to a main building or accessory building does not include a road.”.

26. Section 7 is amended by replacing “or culvert” in the second paragraph by “, culvert, weir, baffle or stabilization works”.

27. The following is inserted after section 8:

“**8.1.** The activities involved in composting the carcasses of animals that die on a farm and storing the compost produced are prohibited in a wetland or body of water.”.

28. The Regulation is amended by replacing the word “floodplain” by the words “flood zone”, with the necessary modifications, in the following provisions:

- (1) paragraph 1 of section 9;
- (2) section 11, wherever it appears;
- (3) the second paragraph of section 12;
- (4) section 14;
- (5) subparagraph 4 of the second paragraph of section 25;
- (6) paragraph 2 of section 29;
- (7) the heading of Chapter V;
- (8) section 37.

29. The following is inserted after section 17:

“DIVISION VII DRILLING

17.1. Hydraulic fluids and drilling greases used for a drill in the littoral zone or in a lakeshore or riverbank must be degradable to more than 60% in 28 days.

The waste water generated by drilling work must be collected and reused by means of a water recirculation system and may not be discharged in the littoral zone, in a lakeshore or riverbank or in a non-dewatered wetland.

At the end of the work,

(1) the drill holes must be sealed in such a way as to prevent contaminants from migrating from the surface toward an aquifer;

(2) the tubing located in the littoral zone or a lakeshore or riverbank must be removed or cut off at ground level.”.

30. The Regulation is amended by striking out “solely” in the following provisions:

- (1) section 18;
- (2) section 34;
- (3) section 37;
- (4) section 41.

31. Section 19 is repealed.

32. Section 21 is amended by replacing “Construction of a permanent undertaking in a watercourse must not widen the watercourse beyond the high-water mark” in the first paragraph by “The construction and maintenance of a permanent undertaking in a watercourse must not widen the watercourse beyond the boundary of the littoral zone.”.

33. Section 22 is repealed.

34. Division III of Chapter III, comprising sections 23 and 24, is repealed.

35. The Regulation is amended by replacing “high-water mark” by “boundary of the littoral zone” in the following provisions:

- (1) subparagraph 2 of the second paragraph of section 25;
- (2) paragraph 3 of section 53.

36. Section 31 is amended

(1) in the first paragraph,

(a) by replacing “floodplain” by “flood zone”;

(b) by striking out “having a flood recurrence interval of 20 years”;

(2) by replacing “floodplain” in the second paragraph by “flood zone”.

37. Section 33 is repealed.**38.** The following is inserted after section 33:

**“DIVISION VII
CULTIVATION OF NON-AQUATIC PLANTS
AND MUSHROOMS**

33.1. The cultivation of non-aquatic plants and mushrooms is prohibited in the littoral zone and in a 3-metre-wide strip alongside the littoral zone, except if it is eligible for a declaration of compliance referred to in section 135.1 of the Regulation respecting the regulatory scheme applying to activities on the basis of their environmental impact, enacted by Order in Council 871-2020 dated 19 August 2020, and declared pursuant to section 31.0.6 of the Act, in which case the following conditions must be met:

(1) on 1 December each year, the soil of the areas cultivated in the littoral zone by an operator must be entirely covered by rooted vegetation;

(2) at least 10% of the area cultivated in the littoral zone by an operator must be planted with perennial plants;

(3) in the vegetation strip that must be preserved in accordance with paragraph 1 of section 135.1 of the Regulation respecting the regulatory scheme applying to activities on the basis of their environmental impact, only the following activities are permitted:

(a) picking and pruning;

(b) mowing, which may be performed only after 15 August each year and on condition that, by 1 November each year, the plants are at least 30 cm tall.

For the purposes of this section, if there is an embankment, the distance must include a width of at least 1 m from the top of the embankment.

For the purposes of subparagraph 1 of the first paragraph, wide-row crops such as corn and soya are not deemed to be a form of vegetation that covers the soil entirely unless they are combined with intercropping.

For the purposes of subparagraph 2 of the first paragraph, the vegetation strip may be included as a cultivated area in the calculation of the area cultivated with perennial plants.

Starting on 1 January 2023, subparagraph 1 of the first paragraph must be applied to 30% of the areas cultivated by an operator. This percentage must increase by 10% each year until all cultivated areas are covered.

33.2. The cultivation of non-aquatic plants or mushrooms in the part of a lakeshore or riverbank not covered by the first paragraph of section 33.1 is prohibited unless carried out in accordance with section 137 of the Regulation respecting the regulatory scheme applying to activities on the basis of their environmental impact, enacted by Order in Council 871-2020 dated 19 August 2020.

**CHAPTER III.1
SPECIAL STANDARDS APPLICABLE
TO THE LITTORAL ZONE**

**DIVISION I
GENERAL PROVISIONS**

33.3. This Chapter applies to the littoral zone.

**DIVISION II
CONSTRUCTION OF WORKS AND BUILDINGS**

33.4. The construction, in the littoral zone, of a main residential building, including its accessory buildings and works and the necessary access, is prohibited.

For the purposes of this section, “construction” does not include dismantling.

33.5. Construction of a deflector in the littoral zone must be carried out at a point where the littoral zone is no wider than 4.5 m.

The same applies for the construction of a weir, unless it is associated with a culvert installed by the Minister responsible for the Act respecting roads (chapter V-9) and is aimed at permitting the free circulation of fish, in which case 2 weirs may be installed within a distance corresponding to 4 times the opening of the culvert.

A weir must be equipped with a notch and, once installed, may not cause the water level between the areas upstream and downstream of the undertaking to vary by more than 20 cm from the water line.

DIVISION III VEHICLES AND MACHINERY

33.6. Construction or maintenance work carried out in the littoral zone requiring the use of machinery must be carried out solely if the littoral zone is dewatered, except for the carrying out of drilling work.

33.7. Where there is no ford or undertaking available for crossing a watercourse, a vehicle or machinery may circulate in the littoral zone of a watercourse for only one back-and-forth crossing, provided the crossing point chosen minimizes the impacts on the watercourse.

A vehicle or machinery may be used in the littoral zone if it is required for constructing a temporary undertaking, making preliminary technical surveys, taking samples or taking measurements.”

39. The following is inserted after section 35:

“DIVISION I.1 CONSTRUCTION OF WORKS AND BUILDINGS

35.1. The following activities are prohibited on a lakeshore or riverbank:

(1) the reconstruction of a main residential building, except if the conditions set out in subparagraph 1 of the first paragraph and in the second paragraph of section 340.1 of the Regulation respecting the regulatory scheme applying to activities on the basis of their environmental impact, enacted by Order in Council 871-2020 dated 19 August 2020, are met;

(2) the construction of an accessory building or works for a main residential building including the necessary access, except if the conditions set out in subparagraph 2 of the first paragraph and in the second paragraph of section 340.1 of the Regulation respecting the regulatory scheme applying to activities on the basis of their environmental impact are met;

(3) the enlargement of a main residential building, except if the conditions set out in subparagraph 3 of the first paragraph and in the second paragraph of section 340.1 of the Regulation respecting the regulatory scheme applying to activities on the basis of their environmental impact are met;

(4) the siting of a main residential building.

For the purposes of the first paragraph, “construction” does not include dismantling.

35.2. The floodproofing measures set out in sections 38.8 and 38.9, adapted as required, apply to work on a works or building carried out on a lakeshore or riverbank that is also in a flood zone.

Sections 38.1 to 38.3, adapted as required, apply to such work when carried out in a wetland that is also in a flood zone.”

40. The heading of Division I of Chapter V is amended by replacing “PROVISION” by “PROVISIONS”.

41. The following is inserted after section 37:

“**37.1.** For the purposes of this Chapter, where flood zones are determined without the 100 year flood recurrence level having been established, a reference to that level is a reference to the highest flood water level used to determine the boundaries of the flood zone, to which 30 cm is added for safety purposes.”

42. The following is inserted after the heading of Division II of Chapter V:

“§1. *All flood zones*”.

43. Section 38 is amended

(1) by replacing “area concerned” in the first paragraph by “flood zone”;

(2) by replacing the second paragraph by the following:

“Work on a road, culvert, bridge or stabilization undertaking for a road must not increase its surface area exposed to flooding by more than 25%.”;

(3) by striking out the third paragraph.

44. The following is inserted after section 38:

“**38.1.** All work on a public road or any other road offering the only evacuation route for the occupants of a building must be carried out in such a way that the road surface is at least 30 cm above the 100 year flood recurrence level.

If compliance with the condition in the first paragraph increases the exposure to flooding of lots adjacent to the road, the road surface must be at the 100 year flood recurrence level.

38.2. All work on a structure or guardrail must allow flood water to dissipate.

The erection of a fence is prohibited in a zone at risk of ice jam flooding.

38.3. Stabilization works must not result in an increase in the ground level.

38.4. Work to construct an artificial basin, pond or lake must not include an intake channel or discharge point in a wetland or body of water. Work to backfill such an area may not be carried out until it has been dewatered.

38.5. A service entrance for an underground linear public utility infrastructure in a flood zone is prohibited, except to connect works or buildings already present in the zone.

38.6. The following activities are prohibited in a flood zone:

- (1) work on a flood protection works, except
 - (a) maintenance work on an existing flood protection works;
 - (b) construction work on a flood protection works carried out by a government department, a municipality or a public body, on the following conditions:
 - i. there is no other suitable way to provide adequate protection for persons and property;
 - ii. it is in the public interest;
 - iii. the flood protection works will protect an area in which 75% of the lots are already occupied by a building or works;

(2) when it concerns a public institution or public security establishment,

- (a) the construction of a main building;
 - (b) work to change the intended use of building to house a public security establishment or public institution;
- (3) work for the construction of an underground parking garage.

Subparagraphs *a* and *b* of subparagraph 2 of the first paragraph do not apply when the urbanization perimeter of a municipality lies entirely within a flood zone.

For the purposes of subparagraphs 2 and 3 of the first paragraph, “construction” does not include dismantling.

38.7. Work on a works or a residential building must meet the following conditions in addition to the other conditions set out in this Chapter:

(1) the reconstruction of a main building must have the same dimensions as the initial building and, unless it is combined with a relocation, must use the same location;

(2) the relocation of a main building must

(a) be to a new site at a higher elevation;

(b) be at a greater distance from a lakeshore or riverbank;

(c) be to a site that does not increase the exposure to ice;

(3) the construction of the necessary access must be associated with a main building or works; it cannot be carried out above the 100 year flood recurrence level, except as necessary to ensure evacuation, and the surfacing must allow water to infiltrate into the soil;

(4) work on the necessary access that includes grading and the replacement of a superficial layer of unconsolidated deposit must respect the original topography of the site as far as possible;

(5) the construction of an accessory building or works for a main building, including the necessary access, must meet the following conditions:

(a) if for a building, it involves neither foundations nor anchoring;

(b) the encroachment into the flood zone does not exceed 30 m² or, if the encroachment is into an agricultural zone ordered by the government or under the Act respecting the preservation of agricultural land and agricultural activities (chapter P-41.1), 40 m²;

(c) where applicable, the area must be laid out to allow the infiltration of water into the soil.

Works intended for bathing are excluded from the application of subparagraph *b* of subparagraph 5 of the first paragraph.

38.8. Work on a main building must, where applicable, comply with the following floodproofing measures:

(1) openings such as windows, basement windows and access doors, as well as the main floor, must be at least 30 cm above the 100 year flood recurrence level, with the exception of air vents located under the crawl space of an existing building;

(2) drains must be equipped with check valves;

(3) rooms that are occupied by one or more persons, in particular to sleep, eat or prepare meals, must be elsewhere than in the basement;

(4) a major component in the building's mechanical system, such as an electrical system, plumbing system, heating system or ventilation system, must not be installed in the basement, unless the nature of the system makes that location mandatory;

(5) the basement, if finished, must be finished using water-resistant materials.

38.9. In no case may a works or building be flood-proofed by erecting a permanent protective wall.

The floodproofing of a main building by backfilling is also prohibited unless, in the case of an existing building, the measures set out in section 38.8 cannot be complied with and backfilling is considered by a professional to be an appropriate floodproofing measure.

38.10. Despite any contrary provision in this Chapter, when work on a recognized or classified heritage immovable, including its protection area if applicable, a declared heritage site under the Cultural Heritage Act (chapter P-9.002) or an immovable listed in an inventory carried out in accordance with section 120 of that Act has been authorized by the Minister of Culture and Communications or by the municipality having jurisdiction, as the case may be, pursuant to that Act, reconstruction is permitted following a flood. Relocation and substantial modification work are also permitted, with a maximum encroachment of 30 m² into the flood zone, if authorized by the Minister of Culture and Communications or the municipality having jurisdiction.

The floodproofing measures provided for in this Division apply in the case of any work referred to in the first paragraph unless the owner has a notice, signed by a professional, showing that the prescribed measures affect the heritage value of the immovable, if the measures proposed offer equivalent protection for persons and property.

§2. High-velocity flood zones

38.11. The following activities are prohibited when carried out in a high-velocity flood zone:

(1) the laying out of a public road, except if used to cross a lake or watercourse;

(2) work to establish, modify or extend a waterworks system, sewer system or storm water management system except when the work is intended to connect a building constructed before 23 June 2021 or when the work is intended to serve a building, construction, facility or sector outside the high-velocity zone;

(3) all other excavation work for the establishment of a linear public utility infrastructure that includes a service entrance, except work to serve an existing works or construction;

(4) the construction of any residential building and the necessary access, except work to provide access to an existing main building and its accessory buildings or works;

(5) the reconstruction of a main residential building that has sustained flood damage when the damage sustained exceeds one half of the new-build cost for the building, excluding accessory buildings and works that are detached, and improvements to the site, established in accordance with Part 3E of the Manuel d'évaluation foncière du Québec and adjusted to 1 July of the year preceding the year in which the building was affected by the flood;

(6) work to enlarge a main building, whether above or below ground.

The first paragraph does not apply to buildings or accessory works erected temporarily or seasonally.

For the purposes of this section, "construction" does not include dismantling.

§3. Low-velocity flood zones

38.12. The construction of a main residential building on land that has become vacant following a flood or has been backfilled is prohibited in a low-velocity flood zone.

For the purposes of first paragraph, "construction" does not include dismantling.

38.13. Work on a works or building must meet the following conditions in addition to the other conditions applicable set out in this Chapter:

(1) the construction of a main residential building must be carried out on a lot

(a) located with the urbanization perimeter shown on a land use and development plan;

(b) served by a municipal waterworks and sewer system;

(c) that has not been backfilled;

(d) on which the main building has not been demolished following a flood;

(e) located between two other lots on which a main building is situated;

(f) that does not result from the subdivision of a lot carried out after 23 June 2021;

(2) the enlargement of a main building must be carried out at least 30 cm above the 100 year flood recurrence level.

The first paragraph does not apply to buildings or accessory works affected temporarily or seasonally.”

45. Sections 39 and 40 are repealed.

46. The following is inserted after section 43:

“**43.1.** The floodproofing measures set out in sections 38.8 and 38.9, adapted as required, apply to work on a works or building carried out in a wetland that is also in a flood zone.

Sections 38 to 38.3, 38.6 to 38.7 and 38.10 to 38.13, adapted as required, apply to such work when carried out in a wetland that is also in a flood zone.”

47. The following is inserted after section 49:

**“DIVISION III
ENVIRONMENTS NEAR A WETLAND OR
BODY OF WATER**

49.1. The activities involved in composting the carcasses of animals that die on a farm and storing the compost produced are prohibited within 60 m of a watercourse or lake and within 30 m of a wetland.”

48. Section 51 is amended

(1) by replacing “22” in paragraph by “33.5”;

(2) by replacing “24” in paragraph 10 by “33.7”;

(3) by replacing “33” in paragraph 13 by “17.1”;

(4) by replacing “third paragraph of section 38” in paragraph 17 by “first paragraph of section 35.2, section 38.8 or 38.9, the second paragraph of section 38.10 or the first paragraph of section 43.1”;

(5) by replacing “39” in paragraph 18 by “38.4”;

(6) by replacing “40” in paragraph 19 by “38.5”.

49. Section 53 is amended

(1) by replacing “19, 42, 46, 47, 48 and 49” in paragraph 2 by “8.1, 33.1, 33.2, 33.4, 33.5 and 35.1, the second paragraph of section 38.2, and sections 38.6, 38.11, 38.12, 42, 46, 47, 48, 49 and 49.1”;

(2) by replacing “high-water mark” in paragraph 3 by “boundary of the littoral zone”;

(3) by replacing “23” in paragraph 5 by “33.7”;

(4) by striking out “the first and second paragraphs of” in paragraph 8;

(5) by adding the following at the end:

“(9) carries out work on a works or building in contravention of the requirements of the second paragraph of section 35.2, sections 38.1 to 38.3, section 38.7, the first paragraph of section 38.10, section 38.13 or the second paragraph of section 43.1.”

50. Section 56 is amended by replacing “20, 22, 24, 31, 32, 33, 35 or 36, the third paragraph of section 38, section 39 or 40, the first paragraph of section 43 or section 44 or 45” by “17.1, 20, 31, 32, 33.6, 35, 35.2 or 36, the second paragraph of section 38.2, section 38.4, 38.5, 38.6, 38.8 or 38.9, the second paragraph of section 38.10, the first paragraph of section 43, the first paragraph of section 43.1, or section 44 or 45”.

51. Section 58 is amended by replacing “16, 19, 21, 23, 25, 26, 28, 29 or 30, the first and second paragraphs of section 38 or section 42, 46, 47, 48 or 49” by “8.1, 16, 21, 25, 26, 28, 29 or 30, 33.1, 33.2, 33.4, 33.5, 33.7, 35.1, 38 to 38.3 or 38.7, the first paragraph of section 38.10, sections 38.11 to 38.13, section 42, the second paragraph of section 43.1 or section 46, 47, 48, 49 or 49.1”.

52. The following is inserted in Chapter X before section 60:

“**59.1.** Local municipalities are responsible for the application of the provisions of Division II of Chapter III, Divisions I and II of Chapter III.1, Division I.1 of Chapter IV and Division II of Chapter V of this Regulation

if an activity requires the filing of an application for authorization pursuant to Chapter I of the Regulation respecting the temporary implementation of the amendments made by Chapter 7 of the statutes of 2021 in connection with the management of flood risks (*insert the reference to the Compilation of Québec Laws and Regulations*) in the area of flood risk management and if it is carried out in a territory under the jurisdiction of the municipality concerned.

For the purposes of the responsibility mentioned in the first paragraph, Chapter VIII of this Regulation does not apply.

59.2. In accordance with the first paragraph of section 118.3.3 of the Act and unless otherwise provided for, this Regulation takes precedence over any municipal by-law having the same object.”

53. The following schedule is added at the end of the Regulation:

“SCHEDULE I
(Section 4)

DETERMINATION OF THE LITTORAL ZONE

The boundary of the littoral zone is determined using one of the following methods:

(1) if there is a water retaining structure, the boundary of the littoral zone is located at the maximum operating level of the water retaining structure for the part of the body of water upstream from the structure and within its zone of influence;

(2) if a retaining wall has been erected with all the required authorizations, the boundary of the littoral zone is located at the top of the wall;

(3) for coasts and islands in the portion of the St. Lawrence lying downstream from the cities of Québec and Lévis, for the Gulf of St. Lawrence and for the Baie des Chaleurs, the boundary of the littoral zone is determined using the eco-geomorphological method to take into account local variations in waves, tides and water levels;

(4) in cases other than those mentioned in paragraphs 1 to 3, the boundary of the littoral zone is determined using the expert botanical method or the biophysical method, based on the plant species and physical marks present;

(5) if none of the above methods is applicable, the boundary of the littoral zone is the level associated with the 2 year flood recurrence level.”

REGULATION RESPECTING THE REGULATORY SCHEME APPLYING TO ACTIVITIES ON THE BASIS OF THEIR ENVIRONMENTAL IMPACT

54. Section 2 of the Regulation respecting the regulatory scheme applying to activities on the basis of their environmental impact, enacted by Order in Council 871-2020 dated 19 August 2020, is amended

(1) by replacing the first paragraph by the following:

“Despite section 46.0.2 of the Act, the authorization provided for in subparagraph 4 of the first paragraph of section 22 of the Act is not required for activities carried out in

(1) the following man-made works:

(a) an irrigation pond;

(b) a water management or treatment facility referred to in subparagraph 3 of the first paragraph of section 22 of the Act;

(c) a body containing water pumped from a sand pit or quarry, if it has not been restored;

(d) a commercial fishing pond;

(e) a pond for the production of aquatic organisms;

(f) a basin reserved for fire-fighting purposes;

(2) a wetland in which the vegetation is dominated by reed phalaris (*Phalaris arundinacea L.*) or the introduced sub-species of common water reed (*Phragmites australis (Cav.) Trin. ex Steud. subsp. australis*), and when the soil is not hydromorphic.”;

(2) in the second paragraph:

(a) by replacing “floodplain” in subparagraph 1 by “flood zone”;

(b) by inserting “or body of water” after “wetland in subparagraph 4.

55. Section 3 is amended

(1) by inserting “also” after “is” in the definition of “professional”;

(2) by replacing “exercised by a member” in the definition of “professional” by “reserved for the members”.

56. Section 4 is amended

(1) by inserting “and unless otherwise provided for” after “Regulation” in the part preceding paragraph 1;

(2) by replacing paragraph 13 by the following:

“(13) a distance is calculated horizontally

(a) from the boundary of the littoral zone, for a watercourse or lake;

(b) from the boundary, for a wetland;

(c) from the top of the embankment, for a ditch;”.

57. The Regulation is amended

(1) by replacing “or on a riverbank, lakeshore or floodplain” in subparagraph *d* of subparagraph 1 of the first paragraph of section 24 by “, on a riverbank or lakeshore on in a flood zone”;

(2) by replacing “floodplain” in subparagraph *c* of paragraph 2 of section 54 by “flood zone”;

(3) by replacing “floodplain” in section 134 and section 138 by “flood zone”;

(4) by replacing “floodplain” in the second paragraph of section 320 by “flood zone”.

58. The following is inserted after section 135:

“**135.1.** The cultivation of non-aquatic plants or mushrooms in the littoral zone of a lake or watercourse on an area that was cultivated at least once during the last six seasons prior to 1 January 2022 is eligible for a declaration of compliance, on the following conditions:

(1) a vegetation strip consisting of perennial plants is laid out over a width of 5 m along each side of a watercourse and 3 m wide along each side of a ditch;

(2) no trees are cleared.

For the purposes of subparagraph 1 of the first paragraph, the distance is calculated from the top of any embankment.

In addition to the elements provided for in section 41, a declaration of compliance referred to in the first paragraph must include the following additional information and documents:

(1) the date of signing by an agronomist of a document showing that the area was cultivated at least once during the last six seasons prior to 1 January 2022;

(2) a declaration by an agronomist that the cultivation complies with this Regulation and the provisions of the Regulation respecting activities in wetlands, bodies of water and sensitive areas, enacted by Order in Council 871-2020 dated 19 August 2020, the Agricultural Operations Regulation (chapter Q-2, r. 26) and the Water Withdrawal and Protection Regulation (chapter Q-2, r. 35.2).”.

59. Section 137 is amended by adding the following paragraph at the end:

“The conditions in subparagraphs 2 and 3 of the first paragraph do not apply when the cultivation is also eligible for a declaration of compliance under section 135.1 and declared under section 31.0.6 of the Act.”.

60. Section 313 is amended

(1) in paragraph 2,

(a) by striking out “par l’effet même” in the French text;

(b) by replacing “floodplain” by “flood zone”;

(2) by replacing “floodplain” in paragraph 3 by “flood zone”;

(3) by replacing paragraph 5 by the following:

“(5) a reference to an area or length is a reference to the cumulative area or length for the type of environment affected by the activity;”;

(4) by inserting “, reconstruction” after “replacement” in subparagraph 6;

(5) by replacing paragraph 8 by the following:

“(8) a substantial modification includes a change to the structural or functional characteristics of an infrastructure, works, building or equipment; it also includes an enlargement, extension or prolongation;”.

(6) by inserting the following after paragraph 11:

“(11.1) necessary access to a main building or accessory building does not include a road;”;

(7) by adding the following at the end:

“(15) a boat shelter is an open-plan works, other than a boat shed or garage, that may have a roof and is used to temporarily store a watercraft or boat during the season in which it is used.”

61. Section 324 is amended

(1) by replacing “floodplain” in paragraph 2 by “flood zone”;

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

“The first paragraph does not apply to scenic look-outs, tree stands and observatories located in flood zones, including the littoral zone, lakeshore and riverbank and any wetland found there.”

62. Section 325 is amended

(1) by adding the following at the end of the first paragraph:

“(8) unless the road offers the only evacuation route for the occupants of a building, the road surface must be below the 100 year flood recurrence level.”;

(2) by replacing “floodplain” in the second paragraph by “flood zone”.

63. Section 328 is amended

(1) by replacing subparagraphs *a* and *b* of subparagraph 3 of the first paragraph by the following:

“(a) 40 m² in a flood zone when the work is carried out on a raising site, spreading site, fishing pond site or aquaculture site, and 30 m² in other cases;

“(b) 30 m² in a wooded wetland;

“(c) 4 m² in an open wetland other than a peat bog.”;

(2) by replacing “, if applicable” in the second paragraph by “and a reference to a flood zone includes any wetland in that flood zone”.

64. Section 331 is amended

(1) by replacing subparagraph 4 of the first paragraph by the following:

“(4) for the construction, in a flood zone, of a crib-work or rock ballast wharf, a road, a port infrastructure, a weir or a retaining works or, when not covered by section 341, the laying out of land for recreational purposes or heritage sites,

(a) an opinion assessing the impact on ice flows, signed by an engineer;

(b) a hydraulic and hydrological study assessing flood routing capacity, and erosion and flooding risks, signed by an engineer;

(c) a detailed opinion, signed by an engineer, about measures to protect persons and property, including in particular

i. a demonstration of the ability of the structure to resist floods, for any structure or part of a structure located below the 100 year flood recurrence level;

ii. when the applicant wishes to benefit from the condition set out in the second paragraph of section 38.1 of the Regulation respecting activities in wetlands, bodies of water and sensitive areas, enacted by Order in Council 871-2020 dated 19 August 2020, for work on a public road, a demonstration that compliance with the condition set out in the first paragraph of that section increases the exposure to flooding of lots adjacent to the road;

iii. the means taken to ensure the sustainability of the measures to protect persons and property;

“(5) for the construction of a flood protection works,

(a) a characterization of the vulnerability of persons and property;

(b) a demonstration that other options to protect against flooding have been assessed and the reasons why they were rejected;

(c) a demonstration that the work is in the public interest;

(d) an opinion, signed by an engineer, concerning the residual impact of the work on persons and property in the event of failure;

“(6) when the application concerns work authorized by the Minister of Culture and Communications and the applicant wishes to depart from the floodproofing measures set out in the Regulation respecting activities in wetlands, bodies of water and sensitive areas, the notice provided for in the second paragraph of section 38.10 of that Regulation.”;

(2) in the second paragraph:

(a) by replacing “floodplain” by “flood zone”;

(b) by replacing “and any riverbanks or lakeshores, where applicable” by “and any riverbank, lakeshore or wetland located therein”.

65. Section 332 is amended

- (1) by striking out “Rebuilding and”;
- (2) by striking out “if the work does not increase the encroachment on the environment”.

66. Section 333 is amended, in the first paragraph,

(1) by replacing “Construction work for the following works” in the portion before subparagraph 1 of the first paragraph by “The following work”;

(2) by replacing subparagraphs 1 and 2 by the following:

“(1) concerning a single-span bridge in the littoral zone,

- (a) the construction when there is no flood zone;
- (b) the dismantling when there is a flood zone;

“(2) the construction of a culvert other than a culvert referred to in section 327, except if the effect of the work is to increase by more than 25% the surface area of the road or related infrastructures exposed to flooding;”;

(3) by replacing “a permanent” in subparagraph 3 by “the construction of a temporary”.

67. Section 334 is amended by adding the following at the end of the first paragraph:

“(3) the effect of the work is not to increase by more than 25% the surface area of the road or related infrastructures exposed to flooding.”.

68. Section 336 is amended

(1) by inserting “in the littoral zone” after “temporary works” in subparagraph 2;

(2) by replacing “floodplain” in subparagraph 3 by “flood zone”.

69. Section 339 is amended

(1) by replacing “occupying no more than 10 m on the bank or shore” in paragraph 2 by “occupying a width of no more than 10 m on the bank or shore”;

(2) in paragraph 3:

(a) by replacing “de” in the French text by “à”;

(b) by replacing “with an area of no more than 20 m²” by “with a total area of no more than 20 m² excluding the anchor points for a floating quay”;

(3) by striking out paragraph 7.

70. The following is inserted after section 340:

“**340.1.** The following are exempted from authorization pursuant to this Division when carried out solely on a riverbank or lakeshore:

(1) the reconstruction of a main residential building that has sustained damage, with the exception of damage connected with flooding, submersion or a landslide or resulting from coastal or shoreline erosion, when the damage sustained exceeds one half of the new-build cost for the building, excluding accessory buildings and works that are detached, established in accordance with Part 3E of the Manuel d'évaluation foncière du Québec and adjusted to 1 July of the year preceding the year in which the building was affected by the flood, on the following conditions:

(a) the area of the encroachment of the reconstructed main building into the riverbank or lakeshore is equal to or lesser than the encroachment of the initial building;

(b) the work cannot be carried out elsewhere on the lot without encroaching onto a lakeshore or riverbank or onto the vegetation strip provided for in the second paragraph;

(c) the lot was created prior to (*insert the date of publication of this Regulation*);

(d) the lot is not in a high-risk zone for erosion or landslides shown on the land use and development plan or subject to an interim control by-law made pursuant to the Act respecting land use planning and development (chapter A-19.1);

(2) the construction of accessory buildings or works for a residential building including the necessary access, on the following conditions:

(a) the area of the encroachment of the buildings and accessory works onto a lakeshore or riverbank does not exceed 30 m²;

(b) the work does not require backfilling or excavation;

(c) the conditions set out in subparagraphs *b*, *c* and *d* of subparagraph 1 are met;

(3) the enlargement of a main residential building, above the ground and without further encroachment on the ground, when the conditions of subparagraphs *c* and *d* of subparagraph 1 are met.

For the purposes of first paragraph,

(1) a vegetation strip at least 5 m wide, measured inland on the lot from the boundary of the littoral zone, must be preserved in a natural or restored state in order to re-establish at least two strata of herbaceous, arbustive or arborescent vegetation;

(2) the reconstruction of a building includes the dismantling of the initial building and its reconstruction in the same location.”

71. Section 341 is amended

(1) by replacing “floodplain” in the part preceding paragraph 1 by “flood zone”;

(2) by replacing paragraph 2 by the following:

“(2) work for underground linear public utility infrastructures, including excavation work, and the laying out of a service entrance to connect works or buildings already present in the zone, except work for hydrocarbon transportation purposes;”;

(3) by adding “, when the works or equipment involved have no impact on flood routing” at the end of paragraph 3;

(4) by replacing paragraph 5 by the following:

“(5) work to construct a residential building or a works relating to such a building, including accessory buildings and works and the necessary access;

“(6) the laying out of a recognized, classified or declared site the Cultural Heritage Act (chapter P-9.002) when it has no impact on flood routing.”

72. Section 344 is by adding the following paragraph at the end:

“For the purposes of first paragraph, activities carried out in a wetland that is located in a flood zone are not exempted when they are not eligible for a declaration of compliance or are exempted from ministerial authorization pursuant to Division III of I of Title IV of Part II.”

73. Section 345 is amended by adding the following paragraph at the end:

“For the purposes of subparagraphs 2 and 3 of the first paragraph, activities carried out in a wetland that is located in a flood zone are not exempted when they are not eligible for a declaration of compliance or exempted from ministerial authorization pursuant to Division III of Chapter I of Title IV of Part II.”

AGRICULTURAL OPERATIONS REGULATION

74. Section 2 of the Agricultural Operations Regulation (chapter Q-2, r. 26) is amended by striking out the second paragraph.

75. The following is inserted after section 2:

“2.1. This Regulation does not apply to

(1) dog and cat raising facilities, fish farms, zoos, and zoological parks and gardens;

(2) despite section 46.0.2 of the Environment Quality Act (chapter Q-2), hereinafter referred to as the “Act”, interventions carried out in

(a) the following man-made works:

i. an irrigation pond;

ii. a water management or treatment facility referred to in subparagraph 3 of the first paragraph of section 22 of the Act;

iii. a body containing water pumped from a sand pit or quarry, if it has not been restored;

iv. a commercial fishing pond;

v. a pond for the production of aquatic organisms;

vi. a basin reserved for firefighting purposes.

(b) a wetland in which the vegetation is dominated by reed phalaris (*Phalaris arundinacea L.*) or the introduced sub-species of common water reed (*Phragmites australis (Cav.) Trin. ex Steud. subsp. australis*), and when the soil is not hydromorphic.

For the purposes of subparagraph *a* of subparagraph 2 of the first paragraph,

(1) a site must be located on land or in a flood zone, excluding the littoral zone, lakeshores and riverbanks, and any wetlands present;

(2) a site must be in use or, if not in use, must have been unused for at least 10 years;

(3) an environment restored or created by work under a program to promote the restoration and creation of wetlands and bodies of water developed pursuant to the Act to affirm the collective nature of water resources and to promote better governance of water and associated environments (chapter C-6.2) or in accordance with the Regulation respecting compensation for adverse effects on wetlands and bodies of water (chapter Q-2, r. 9.1) cannot be deemed to be a man-made site;

(4) a wetland or body of water into which storm water is discharged cannot be deemed to be a water management or treatment facility.”

76. Section 3 is amended by adding the following paragraphs at the end:

“In addition, unless otherwise provided for,

(1) the terms “boundary”, “watercourse”, “pond”, “boundary of the littoral zone”, “marsh”, “swamp”, “wetland”, “riverbank or lakeshore” and “open peat bog” have the meaning given in the Regulation respecting activities in wetlands, bodies of water and sensitive areas (chapter Q-2, r. 0.1);

(2) the term “ditch” has the meaning given in the Regulation respecting the regulatory scheme applying to activities on the basis of their environmental impact, enacted by Order in Council 871-2020 dated 19 August 2020;

(3) a distance is calculated horizontally:

(a) from the boundary of the littoral zone, for a watercourse lake;

(b) from the boundary, for a wetland;

(c) from the top of the embankment, for a ditch.

For the purposes of subparagraph 3 of the second paragraph, if there is an embankment, the distance must include a width of at least 1 m from the top of the embankment.”

77. Section 4 is amended by replacing the second paragraph by the following:

“Except where a ford crosses a watercourse, it is prohibited to give animals access to a watercourse, lake or pond or to a strip 3 m wide along or around them.

The second paragraph does not apply to a part of a wetland cultivated in accordance with sections 137 and 139 of the Regulation respecting the regulatory scheme applying to activities on the basis of their environmental impact, enacted by Order in Council 871-2020 dated 19 August 2020, or, where applicable, in accordance with an authorization for cultivation issued pursuant to subparagraph 4 of the first paragraph of section 22 of the Act.”

78. Section 6 is amended

(1) by replacing “; swamp, natural marsh or pond and the 15 m area on each side or around those areas, measured from the high-water mark, if any” in the first paragraph by “or wetland and the 15 m strip along or around them”;

(2) by replacing the second and third paragraphs by the following:

“It is also prohibited to erect or lay out a raising or storage facility in a high-velocity flood zone.

The first paragraph does not apply to a part of a wetland cultivated in accordance with sections 137 and 139 of the Regulation respecting the regulatory scheme applying to activities on the basis of their environmental impact, enacted by Order in Council 871-2020 dated 19 August 2020, or, where applicable, in accordance with an authorization for cultivation issued pursuant to subparagraph 4 of the first paragraph of section 22 of the Act.”

79. Section 30 is amended

(1) in the first paragraph,

(a) by replacing “areas” in the part preceding subparagraph 1 by “environments”;

(b) by replacing subparagraph 1 by the following:

“(1) the littoral zone of a lake or watercourse, a wetland, and a 3 m strip along or around them; “.

(c) by replacing du subparagraph 2 by the following:

“(2) a ditch and a 1 m strip along the ditch.”.

(2) by striking out the second paragraph;

(3) by replacing “there is no runoff from the waste into the areas” in the third paragraph by “the waste cannot reach the environments”;

(4) by replacing the fourth paragraph by the following:

“Subparagraph 1 of the first paragraph does not apply a part of a wetland cultivated in accordance with sections 137 and 139 of the Regulation respecting the regulatory scheme applying to activities on the basis of their environmental impact, enacted by Order in Council 871-2020 dated 19 August 2020, or, where applicable, in accordance with an authorization for cultivation issued pursuant to subparagraph 4 of the first paragraph of section 22 of the Act.

For the purposes of the first paragraph, where a municipality passes a by-law delimiting a strip where activities are prohibited with a width that exceeds the widths provided for, the municipality may, despite section 118.3.3 of the Act, apply that width.”

80. Section 43.5 is amended by replacing “to watercourses and bodies of water and their riparian strip” in subparagraph 1 by “a watercourse, lake or pond, or to a 3 m strip along or around them”.

81. Section 43.6 is amended

(1) in subparagraph 1,

(a) by replacing “, swamp, natural marsh or pond and the 15 m area on each side or around those areas” by “or wetland and the 15 m strip along or around them”;

(b) by replacing de “section” by “the first paragraph of section”;

(2) by inserting the following after paragraph 1:

“(1.1) to comply with the prohibition on the erection or laying out of a raising or storage facility in a high-velocity flood zone, as provided for in the second paragraph of section 6;”

82. Section 44.6 is amended by replacing “third” by “second”.

83. The following is inserted after section 56:

“**56.1.** Subparagraph 1 of the first paragraph of section 30 does not apply to the cultivation of non-aquatic plants and mushrooms eligible for a declaration of compliance referred to in section 135.1 of the Regulation respecting the regulatory scheme applying to activities on the basis of their environmental impact, enacted by Order in Council 871-2020 dated 19 August 2020, and declared pursuant to section 31.0.6 of the Act, provided that the following conditions are met:

(1) for organic fertilizer,

(a) it must be spread before 1 September each year;

(b) the organic fertilizer must be immediately incorporated into the soil after spreading, except in the case of a grassland or pasture area;

(2) the spreading of mineral fertilizer after 1 September must be intended only to establish or maintain a cover crop;

(3) despite sections 22 and 35, all spreading must be carried out in compliance with an agroenvironmental fertilization plan and a phosphorous report, drawn up in accordance with the Regulation and taking into account the sensitivity of the environment where the spreading takes place;

(4) the storage of a solid manure pile on a parcel of land cultivated in the littoral zone is prohibited.

Despite the first paragraph, subparagraph 1 of the first paragraph of section 30 continues to apply to the vegetation strip laid out in accordance with subparagraph 1 of the first paragraph of section 135.1 of the Regulation respecting the regulatory scheme applying to activities on the basis of their environmental impact.

56.2. Despite sections 22 and 35, enacted by Order in Council 871-2020 dated 19 August 2020, the second paragraph of section 4 and section 5 do not apply to a cultivated area eligible for a declaration of compliance referred to in section 135.1 of the Regulation respecting the regulatory scheme applying to activities on the basis of their environmental impact, enacted by Order in Council 871-2020 dated 19 August 2020, and declared pursuant to section 31.0.6 de la Environment Quality Act (chapter Q-2) that is used for grazing, provided that the addition of phosphorous from animals complies with an agroenvironmental fertilization plan and phosphorous report drawn up in accordance with this Regulation, and taking the sensitivity of the environment into account.

Despite the first paragraph, the second paragraph of section 4 and section 5 continue to apply to the vegetation strip laid out in accordance with subparagraph 1 of the first paragraph of section 135.1 of the Regulation respecting the regulatory scheme applying to activities on the basis of their environmental impact.

56.3. A monetary administrative penalty of \$1,000 in the case of a natural person and \$5,000 in other cases may be imposed on any person who fails to establish an agroenvironmental fertilization plan and comply with it conditions, as provided for in subparagraph 3 of the first paragraph of section 56.1 and section 56.2.

56.4. A monetary administrative penalty of \$2,000 in the case of a natural person and \$10,000 in other cases may be imposed on any person who fails to comply with one of the conditions for spreading set out in section 56.1.

56.5. Any person who contravenes subparagraph 3 of the first paragraph of section 56.1 or section 56.2 commits an offence and is liable to a fine of \$2,000 to \$100,000 in the case of a natural person and \$6,000 to \$600,000 in other cases.

56.6. Any person who fails to comply with one of the conditions for spreading set out in section 56.1 commits an offence and is liable, in the case of a natural person, to a fine of \$10,000 to \$1,000,000 or, despite article 231 of the Code of Penal Procedure (chapter C-25.1), to a maximum term of imprisonment of 3 years, or to both the fine and imprisonment, or, in other cases, to a fine of \$30,000 to \$6,000,000.

56.7. Sections 56.1 to 56.6 cease to have effect on 1 January 2027.”

84. The expressions “Environment Quality Act (chapter Q-2)” and “Environment Quality Act”, wherever they occur, are replaced by “Act”.

PESTICIDES MANAGEMENT CODE

85. Section 1 of the Pesticides Management Code (chapter P-9.3, r. 1) is amended by striking out the second and third paragraphs.

86. The following is inserted after section 1:

“**1.1.** Unless otherwise provided for, for the purposes of this Code,

(1) the terms “boundary”, “watercourse”, “boundary of the littoral zone”, “littoral”, “swamp”, “wetland”, “riverbank or lakeshore”, “peat bog”, “wooded peat bog”, “flood zone”, “low-velocity flood zone” and “high-velocity flood zone” have the meaning given in the Regulation respecting activities in wetlands, bodies of water and sensitive areas, enacted by Order in Council 871-2020 dated 19 August 2020;

(2) the term “ditch” has the meaning given in the Regulation respecting the regulatory scheme applying to activities on the basis of their environmental impact, enacted by Order in Council 871-2020 dated 19 August 2020;

(3) a reference to a “wetland” excludes a managed peat bog;

(4) the expression “apply a pesticide” includes, in particular, the action of putting a pesticide into or onto the soil;

(5) a distance is calculated horizontally:

(a) from the boundary of the littoral zone, for a watercourse or lake;

(b) from the boundary, for a wetland;

(c) from the top of the embankment, for a ditch.

For the purposes of subparagraph 5 of the first paragraph, if there is an embankment, the distance must include a width of at least 1 m from the top of the embankment.”

87. Section 4 is amended by adding the following paragraphs at the end:

“This Regulation does not apply to activities carried out in

(1) the following man-made works:

(a) an irrigation pond;

(b) a water management or treatment facility referred to in the subparagraph 3 of the first paragraph of section 22 of the Environment Quality Act (chapter Q-2);

(c) a body containing water pumped from a sand pit or quarry, if it has not been restored;

(d) a commercial fishing pond;

(e) a pond for the production of aquatic organisms;

(f) a basin reserved for firefighting purposes;

(g) a basin with no outlet.

(2) a wetland in which the vegetation is dominated by reed phalaris (*Phalaris arundinacea* L.) or the introduced sub-species of common water reed (*Phragmites australis* (Cav.) Trin. ex Steud. subsp. *australis*), and when the soil is not hydromorphic.

For the purposes of subparagraph 1 of the second paragraph,

(1) a site must be located on land or in a flood zone, excluding the littoral zone, lakeshores and riverbanks, and any wetlands present;

(2) with the exception of subparagraph *g*, a site must be in use or, if not in use, must have been unused for at least 10 years;

(3) an environment restored or created by work under a program to promote the restoration and creation of wetlands and bodies of water developed pursuant to the Act to affirm the collective nature of water resources and to promote better governance of water and associated environments (chapter C-6.2) or in accordance with the Regulation respecting compensation for adverse effects on wetlands and bodies of water (chapter Q-2, r. 9.1) cannot be deemed to be a man-made site;

(4) a wetland or body of water into which storm water is discharged cannot be deemed to be a water management or treatment facility.”

88. Section 15 is amended by replacing subparagraph 1 of the first paragraph by the following:

“(1) in the littoral zone of a lake or watercourse, in a wetland, or in the 30 m strip along or around them;”

89. Section 16 is amended by replacing “flood area having a flood recurrence interval of 0 to 20 years that is mapped or identified in a land use planning and development plan or a metropolitan land use and development plan or in a municipal zoning by-law” in the first paragraph by “high-velocity flood zone”.

90. Section 17 is amended

(1) by replacing “flood area having a flood recurrence interval of 20 to 100 years that is mapped or identified in a land use planning and development plan or a metropolitan land use and development plan or in a municipal zoning by-law” in the first paragraph by “low-velocity flood zone”;

(2) by replacing subparagraph 3 of the second paragraph by the following:

“(3) the pesticides are stored above the 100 year flood recurrence level;”

91. Section 22 is amended by replacing “highest level reached by water in a 100-year interval flood” in subparagraph 2 by “100 year flood recurrence level”.

92. Section 29 is amended by replacing the first paragraph by the following:

“It is prohibited to apply a pesticide for purposes other than agricultural purposes in the littoral zone of a lake or watercourse, in a wetland, or in a 3 m strip along or around them.”

93. Section 30 is replaced by the following:

“**30.** It is prohibited to apply a pesticide for agricultural purposes

(1) in the littoral zone of a lake or watercourse, in a wetland, or in a 3 m strip along or around them;

(2) in a ditch or in a 1 m strip along the ditch.

Subparagraph 1 of the first paragraph does not apply to a part of a wetland cultivated in accordance with sections 137 and 139 of the Regulation respecting the regulatory scheme applying to activities on the basis of their environmental impact, enacted by Order in Council 871-2020 dated 19 August 2020, or, where applicable, in accordance with an authorization for cultivation issued pursuant to subparagraph 4 of the first paragraph of section 22 of the Environment Quality Act (chapter Q-2).”

94. Section 35 is amended by replacing subparagraph 1 of the first paragraph by the following:

“(1) in the littoral zone of a lake or watercourse or in a wetland, or in a 30 m strip along or around them;”

95. Section 59 is amended

(1) by replacing “must be carried out more than 30 m from a watercourse or body of water” in the part preceding paragraph 1 by “may not be carried out in the littoral zone of a lake or watercourse, in a wetland, or in a 30 m strip along or around them”;

(2) by replacing “more than 3 m from a watercourse or body of water” in paragraph 1 by “outside the littoral zone of a lake or watercourse, a wetland, or a 3 m strip along or around them”;

(3) by replacing “more than 3 m from a watercourse or body of water” in paragraph 2 by “outside the littoral zone of a lake or watercourse, a wetland, or a 3 m strip along or around them”;

(4) by replacing “more than 10 m from a watercourse or body of water” in paragraph 3 by “outside the littoral zone of a lake or watercourse, a wetland, or a 10 m strip along or around them”;

(5) by replacing “more than 15 m from a watercourse or body of water” in paragraph 4 by “outside the littoral zone of a lake or watercourse, a wetland, or a 15 m strip along or around them”;

(6) by replacing “more than 15 m from a watercourse or body of water” in paragraph 5 by “outside the littoral zone of a lake or watercourse, a wetland, or a 15 m strip along or around them”.

96. Section 75 is amended by replacing “the second paragraph of section 1” in the second paragraph by “subparagraph 1 of the first paragraph of section 1.1”.

97. Section 80 is amended by replacing “watercourse or body of water” wherever it occurs in the first paragraph by “watercourse, lake, wetland”;

98. Section 86 is amended

(1) by replacing “watercourse or body of water” wherever it occurs in the first paragraph by “watercourse, lake, wetland”;

(2) in the second paragraph :

(a) by replacing “the watercourses referred to in “watercourse or body of water”” by “watercourses”;

(b) by striking out “that width is measured from the natural high-water mark of the watercourse as defined in the policy referred to in the second paragraph of section 1”.

99. The following is inserted after section 88:

“**88.1.** Section 30 does not apply to the application of a Class 1 to Class 3A pesticide, carried out otherwise than by aircraft, in connection with the cultivation of non-aquatic plants and mushrooms eligible for a declaration of compliance referred to in section 135.1 of the Regulation respecting the regulatory scheme applying to activities on the basis of their environmental impact, enacted by Order in Council 871-2020 dated 19 August 2020, and declared pursuant to section 31.0.6 de la Environment Quality Act (chapter Q-2), provided that the following conditions are met

(1) a pesticide, other than a biopesticide or a pesticide intended to eliminate plants prior to the establishment of grassland, must be applied in accordance with an prior agronomic justification containing the information listed in section 74.1. and complying with the second paragraph of section 74.3;

(2) a Class 1 to Class 3 pesticide must be applied before 1 September each year and only to growing crops.

For the purposes of subparagraph 1 of the first paragraph, the farmer must comply with the fourth paragraph of section 74.3.

Despite subparagraph 1 of the first paragraph, a Class 1 to Class 3 insecticide or fungicide may be applied before an agronomic justification is obtained when, in the opinion of an agronomist, the application of the pesticide is the treatment most appropriate to ensure rapid control of a pest that endangers a crop. The justification must be obtained at the latest 2 business days before application of the pesticide, and must bear a number preceded by the letter “U”.

Despite the first paragraph, section 30 continues to apply to the vegetation strip laid out in accordance with section 135.1 of the Regulation respecting the regulatory scheme applying to activities on the basis of their environmental impact.

88.2. Every person who commits an offence under 88.1 is liable to the penalties prescribed by section 118 de la Pesticides Act (chapter P-9.3).

88.3. Sections 88.1 and 88.2 cease to have effect on 1 January 2027.”.

CHAPTER III INTERPRETIVE PROVISIONS TO ENSURE CONCORDANCE

100. The expressions defined in the Regulation respecting activities in wetlands, bodies of water and sensitive areas, enacted by Order in Council 871-2020 dated 19 August 2020, including the expression “flood zone”, apply to the following regulations:

(1) Regulation respecting standards of practice for location certificates (chapter A-23, r. 10);

(2) Construction Code (chapter B-1.1, r. 2);

(3) Safety Code (chapter B-1.1, r. 3);

(4) Regulation respecting wildlife habitats (chapter C-61.1, r. 18);

(5) Regulation respecting threatened or vulnerable plant species and their habitats (chapter E-12.01, r. 3)

(6) Regulation respecting food (chapter P-29, r. 1);

(7) Regulation respecting the burial of contaminated soils (chapter Q-2, r. 18);

(8) Regulation respecting the landfilling and incineration of residual materials (chapter Q-2, r. 19);

(9) Regulation respecting used tire storage (chapter Q-2, r. 20);

(10) Regulation respecting pulp and paper mills (chapter Q-2, r. 27);

(11) Water Withdrawal and Protection Regulation (chapter Q-2, r. 35.2);

(12) Regulation respecting the reclamation of residual materials, enacted by Order in Council 871-2020 dated 19 August 2020;

(13) Regulation respecting contaminated soil storage and contaminated soil transfer stations (chapter Q-2, r. 46);

(14) Regulation respecting the environmental impact assessment and review of certain projects (chapter Q-2, r. 23.1);

(15) Snow, road salt and abrasives management regulation, enacted by Order in Council 871-2020 dated 19 August 2020.

101. Unless otherwise indicate by context, in all laws and all regulations, a reference to the Protection Policy for Lakeshores, Riverbanks, Littoral Zones and Floodplains (chapter Q-2, r. 35) is deemed to be a reference to the Regulation respecting activities in wetlands, bodies of water and sensitive areas, enacted by Order in Council 871-2020 dated 19 August 2020.

102. Unless the context indicates a different meaning, the expression “flood zone” replaces the following expressions in the regulations listed in section 100:

- (1) flood zone;
- (2) flood plain;
- (3) floodplain;
- (4) flood-plain.

103. Unless the context indicates a different meaning, the expression “high-velocity flood zone” replaces the following expressions in the regulations listed in section 100:

- (1) 20-year flood event;
- (2) 20-year flood zone;

(3) flood-risk area having a flood recurrence of 20 years or less;

(4) floodplain having a flood recurrence interval of 20 years;

(5) floodplain, with no reference to a number of years.

104. Unless the context indicates a different meaning, the expression “low-velocity flood zone” replaces the following expressions in the regulations listed in section 100:

- (1) 100-year flood line;
- (2) 100-year flood plain.

105. Unless the context indicates a different meaning, the expression “boundary of the littoral zone” replaces the following expressions in the regulations listed in section 100:

- (1) high-water mark;
- (2) high-water level;
- (3) natural high-water mark, with respect to the ocean, a watercourse or a lake;
- (4) natural high-water mark;
- (5) normal high-water mark.

CHAPTER IV OTHER TRANSITIONAL MEASURES AND FINAL PROVISIONS

106. Local municipalities are responsible for the application of sections 1 to 14 and 16.

107. Sections 14 and 15 apply from 1 January 2023.

For the purposes of section 14, the information that must be forwarded to a regional county municipality for the first time on 31 January 2023 must cover the period from (*insert the date of publication of this Regulation in the Gazette officielle du Québec*) to 1 January 2023.

For the purposes of section 15, the first summary that a regional county municipality must publish on its website on 31 March 2023 must cover the period from (*insert the date of publication of this Regulation in the Gazette officielle du Québec*) to 1 January 2023.

108. Chapter 1 does not apply to substantially complete applications filed with a municipality for an activity to which this Regulation applies before 23 June 2021.

109. In accordance with the first paragraph of section 118.3.3 of the Environment Quality Act (chapter Q-2) and unless otherwise provided for, this Regulation takes precedence over any municipal by-law having the same object.

110. No provision of this Regulation operates to prevent, in any part of the territories of Municipalité de Pointe-Calumet, Ville de Sainte-Marthe-sur-le-Lac and Ville de Deux-Montagnes included in the perimeter referred to in subparagraph 6 of the second paragraph of section 2, excluding any high-velocity zone within that perimeter, the following activities without floodproofing:

- (1) the reconstruction of any building;
- (2) the construction of any building, except on
 - (a) land that became vacant after 1 April 2017 in the territory of Ville de Deux-Montagnes;
 - (b) land located within the zone of the highest water level reached during the flood of May 2017, as delimited in the Règlement de contrôle intérimaire de la Communauté métropolitaine de Montréal numéro 2019-78 concernant les plaines inondables et les territoires à risque d'inondation, in force on 9 October 2019, and
 - i. that was vacant on 1 April 2017 in the territory of Municipalité de Pointe-Calumet;
 - ii. that was vacant on 1 April 2019 in the territory of Ville de Sainte-Marthe-sur-le-Lac.

For the purposes of this section, land is vacant if, on the date indicated, either it contains no buildings, or it contains one or more buildings whose total value is less than 10% of the value of the land according to the real estate assessment roll in force on that date.

111. Order in Council 817-2019 dated 12 July 2019 respecting the declaration of a special planning zone to promote better management of flood zones, as amended by the orders of the Minister of Municipal Affairs and Housing dated 2 August 2019, 23 August 2019, 25 September 2019, 23 December 2019 and 12 January 2021, and by Order in Council 1260-2019 dated 18 December 2019, including the land use planning and development rules it introduces, will cease to have effect on (*insert the date of publication of this Regulation in the Gazette officielle du Québec*).

However, the first paragraph does not relieve a municipality of its obligation to file with the Minister of Municipal Affairs and Housing any report on administration required pursuant to Order in Council 817-2019 for the period preceding (*insert the date of publication of*

this Regulation in the Gazette officielle du Québec). The same applies with respect to any requirement to provide the information needed to produce a report on administration in accordance with the Order in Council.

112. Every application for the issuance, amendment or renewal of ministerial authorization filed with the Minister under the Environment Quality Act (chapter Q-2) that is pending on (*insert the date of publication of this Regulation in the Gazette officielle du Québec*) remains active and is decided on in accordance with this Regulation.

When an application concerns an activity that is exempted from ministerial authorization on (*insert the date of publication of this Regulation in the Gazette officielle du Québec*), the application remains active and is decided on only with respect to the activities that remain subject to ministerial authorization or an amendment thereto pursuant to the Environment Quality Act. The fee for the part of the application concerning such an activity may be reimbursed on request.

113. A person or municipality that, on (*insert the date of publication of this Regulation in the Gazette officielle du Québec*), is awaiting the issue, amendment or renewal of an authorization under the Environment Quality Act (chapter Q-2) for an activity that, beginning on that date, is eligible for a declaration of compliance, may file a declaration of compliance for that activity with the Minister.

The documents required for the declaration of compliance that have already been filed for the application for authorization, amendment or renewal need not be filed again.

The fee for the declaration of compliance is not payable if the fee for authorization, amendment or renewal has been deposited.

114. Despite section 363 of the Regulation respecting the regulatory scheme applying to activities on the basis of their environmental impact, enacted by Order in Council 871-2020 dated 19 August 2020, a person wishing to carry out work on flood protection works must, for the application to be valid, file with the Minister in support of the application the information and documents provided for in subparagraph 5 of the first paragraph of section 331 of that Regulation, as amended by section 64 of this Regulation.

115. The Protection Policy for Lakeshores, Riverbanks, Littoral Zones and Floodplains (chapter Q-2, r. 35) is repealed.

Every disposition of a municipal by-law that implements paragraph *f* of section 3.2 and section 3.3 of the Protection Policy for Lakeshores, Riverbanks, Littoral Zones and Floodplains with respect to the cultivation of non-aquatic plants or mushrooms in the littoral zone or on the shore or bank of a lake or river remains applicable under 1 January 2022.

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

(1) section 39 enacting sections 33.1 and 33.2 of the Regulation respecting activities in wetlands, bodies of water and sensitive areas, enacted by Order in Council 871-2020 dated 19 August 2020, and sections 59, 60, 84 and 99, which come into force on 1 January 2022;

(2) sections 65 to 67, which come into force on 1 November 2021.

105111

Draft conservation plan

Natural Heritage Conservation Act
(chapter C-61.01)

Act to amend the Natural Heritage Conservation Act and other provisions
(2021, chapter 1)

Réserve aquatique projetée du Banc-des-Américains — Temporary protection status

Notice is hereby given, in accordance with sections 10 and 11 of the Regulations Act (chapter R-18.1), that the Minister of the Environment and the Fight Against Climate Change intends to assign temporary protection status as a proposed aquatic reserve to the territory in the conservation plan established for the Réserve aquatique projetée du Banc-des-Américains, appearing below, on the expiry of 45 days following this publication.

The setting aside of the territory was authorized by Order in Council 760-2021 dated 2 June 2021, in accordance with the Natural Heritage Conservation Act and the Act to amend the Natural Heritage Conservation Act and other provisions. The assignment of temporary protection status as a proposed aquatic reserve will make the activities framework provided for in the Act and in the conservation plan established for the proposed aquatic reserve applicable to the territory designated in the plan accompanying it.

The activities framework is set out in particular in section 4 of the draft conservation plan of the Réserve aquatique projetée du Banc-des-Américains. It provides for prohibitions in addition to those set out in the Act and it regulates the carrying out of certain activities that may be carried out within the territory to better ensure the protection of the natural environment, in conformity with the principles of conservation and other management objectives of the proposed aquatic reserve. Certain activities are subject to the prior authorization from the Minister.

Further information on the setting aside may be obtained by contacting Francis Bouchard, Director, Direction des aires protégées, Ministère de l'Environnement et de la Lutte contre les changements climatiques, édifice Marie-Guyart, 4^e étage, boîte 21, 675, boulevard René-Lévesque Est, Québec (Québec) G1R 5V7; telephone: 418 521-3907, extension 4426; fax: 418 646-6169; email: consultation.GOQ@environnement.gouv.qc.ca.

Any person wishing to comment on the matter is requested to submit written comments within the 45-day period to Francis Bouchard, at the above contact information.

BENOIT CHARETTE
*Minister of the Environment and
the Fight Against Climate Change*

Temporary protection status assigned as Réserve aquatique projetée du Banc-des-Américains

Natural Heritage Conservation Act
(chapter C-61.01, s. 27)

Act to amend the Natural Heritage Conservation Act and other provisions
(2021, chapter 1, s. 65)

1. The conservation plan of the Réserve aquatique projetée du Banc-des-Américains appears in Schedule A.

2. The territory appearing as a schedule to the conservation plan constitutes the Réserve aquatique projetée du Banc-des-Américains.

3. The temporary status as proposed aquatic reserve and the conservation plan of the Réserve aquatique projetée du Banc-des-Américains, applicable to the territory appearing as a schedule to the document, come into force on the fifteenth day following the date of their publication in the *Gazette officielle du Québec*.