

NATIONAL ASSEMBLY
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AN ACT TO AMEND THE ENVIRONMENT QUALITY ACT

Bill 405

Introduced by Mr Pierre Paradis, Minister of the Environment

Introduced 13 November 1991

Passage in principle 26 November 1991

Passage 18 December 1991

Assented to 18 December 1991

Coming into force: on the date or dates fixed by the Government

Act amended:

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



CHAPTER 80

An Act to amend the Environment Quality Act

[Assented to 18 December 1991]

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

c. Q-2,
s. 1, am. **1.** Section 1 of the Environment Quality Act (R.S.Q., chapter Q-2) is amended

(1) by striking out the words “used lubricant,” in the third line of paragraph 11;

(2) by striking out the words “radioactive waste material,” in the fourth and fifth lines of paragraph 11;

(3) by inserting the words “and hazardous materials” after the word “residues” in the sixth line of paragraph 11;

(4) by adding, at the end, the following paragraph:

“hazardous
material”

“(21) “hazardous material”: a material which, by reason of its properties, is a hazard to health or to the environment and which, within the meaning of a regulation under this Act, is explosive, gaseous, flammable, poisonous, radioactive, corrosive, oxidizing or leachable or is designated as a hazardous material, and any object classed by regulation as a hazardous material.”

c. Q-2,
s. 31.7, am. **2.** Section 31.7 of the said Act is amended by replacing the word and figure “or 54” in the third line by the word and figures “, 54 or 70.11”.

c. Q-2,
s. 65, am. **3.** Section 65 of the said Act, amended by section 23 of chapter 30 of the statutes of 1991, is again amended by inserting the word “formerly” after the word “land” in the first line of the first paragraph and by replacing the words “which is no longer in use” in the first and second lines of the first paragraph by the words “or hazardous materials”.

c. Q-2,
ss. 67 and
68, repealed

4. Sections 67 and 68 of the said Act are repealed.

c. Q-2,
s. 70, am.

5. Section 70 of the said Act, amended by section 41 of chapter 23 of the statutes of 1990 and by section 24 of chapter 30 of the statutes of 1991, is again amended

(1) by striking out subparagraphs *n* and *q* of the first paragraph;

(2) by striking out the fourth paragraph.

c. Q-2,
ss. 70.1 to
70.19,
added

6. The said Act is amended by inserting the following division after section 70:

“DIVISION VII.1

“HAZARDOUS MATERIALS

Power of
the
Minister

“70.1 The Minister, if he is of the opinion that a hazardous material is in a situation that could lead to harmful effects on the health of humans or of other living species or damage to the environment or to property, may order the person having possession or custody of the hazardous material to take the measures he indicates, within the time he fixes, to prevent or reduce such harmful effects or such damage.

Order

The order may, in particular, require the temporary or permanent cessation of any activity involving a hazardous material, which may be a source of contamination.

Effect

The order shall set out the Minister's reasons, and shall take effect on the date on which it is served, or on the date indicated therein.

Notice

“70.2 Before issuing an order, the Minister shall serve on the person having possession or custody of the hazardous material a notice of at least 15 days indicating the grounds which appear to justify the order and the proposed effective date and stating that the person may make representations within the period indicated.

Technical
report

The notice shall be accompanied with a copy of any analysis or research report or any other technical report taken into account by the Minister.

Copies of
the notice

The Minister shall transmit a copy of the notice to the Minister of Health and Social Services and to the secretary-treasurer or clerk of the municipality on whose territory the hazardous material is located.

Copies of
order

“70.3 The Minister shall transmit a copy of the order to the Minister of Health and Social Services and to the secretary-treasurer or clerk of the municipality on whose territory the hazardous material is located, and the secretary-treasurer or clerk shall make the order available to the public. The Minister shall also transmit a copy to any person having submitted a sworn complaint to him in respect of the subject of the order.

Publication

The Minister shall publish the order in a daily newspaper distributed in the region in which the hazardous material is located, as well as in a daily newspaper in Montréal and a daily newspaper in Québec.

Order
without
notice

“70.4 The Minister may, without prior notice, issue an order under section 70.1 effective for a period of not more than 30 days if he is of the opinion that a hazardous material is in a situation that is causing immediate danger to the health of humans or other living species or an immediate risk of serious or irreparable damage to property.

Information

“70.5 Every person who has possession of a hazardous material shall furnish to the Minister, within the time fixed by him, any information or document he requires in respect of the hazardous material.

Register

“70.6 Every person who has possession of

(1) a hazardous material that he has produced or used but has discarded;

(2) a hazardous material that he has used and no longer uses for the same purpose or a purpose resembling its initial use;

(3) a hazardous material that he has produced or taken possession of with a view to utilization, but which is outdated; or

(4) a hazardous material that he has produced or used and that appears on a list established for that purpose by regulation or belongs to a class mentioned on the list,

is required to keep a register containing the information prescribed by regulation in respect of the hazardous material.

Information

A person keeping a register must furnish to the Minister, within the time fixed by him, any information he requires which is contained in the register.

Exception This section does not apply to a natural person who has possession of a hazardous material which he has used exclusively for personal, domestic or family purposes.

Annual management report “**70.7** Every person or municipality subject to section 70.6 who or which carries on an activity determined by regulation shall, at the time prescribed by regulation, prepare and transmit to the Minister an annual management report, containing the information prescribed by regulation, for any hazardous material in respect of which a register must be kept.

Content The annual management report shall contain an attestation of the accuracy of the information furnished and shall bear the signature of the person carrying on the activity or, in the case of a corporation or partnership, the signature of a person authorized by a resolution of the board or of the partners, which resolution shall accompany the annual management report.

Period of possession “**70.8** No person may have possession for more than 12 months of a hazardous material referred to in any of subparagraphs 1 to 4 of the first paragraph of section 70.6, except where he is authorized to do so by the Minister and satisfies the conditions fixed by him.

Management plan An application for authorization must contain the information determined by regulation and be submitted with a management plan for the hazardous material prepared in accordance with the regulations. The Minister may require from the applicant any other information or document which he considers necessary for the purpose of making his decision.

Content The management plan shall contain an attestation of the accuracy of the information furnished and shall bear the signature of the person having possession of the hazardous material or, in the case of a corporation or partnership, the signature of a person authorized by a resolution of the board or of the partners, which resolution shall accompany the management plan.

Permit “**70.9** A permit issued by the Minister must be held by every person who

(1) operates a site for the elimination of hazardous materials for his own purposes or for another person, or offers a hazardous materials elimination service;

(2) operates for commercial purposes a treatment process for hazardous materials that are used, spent or outdated, or that appear on a list established for that purpose by regulation or belong to a class mentioned on the list;

(3) stores any hazardous material described in paragraph 2 after having taken possession thereof for that purpose;

(4) uses for energy generation purposes any hazardous material described in paragraph 2 after having taken possession thereof for that purpose;

(5) carries on an activity determined by regulation involving a hazardous material.

Application **“70.10** An application for a permit shall be made in writing to the Minister; it shall contain the information and be accompanied with the documents prescribed by regulation.

Information The Minister may require any information or document in connection with the impact of the project on the environment.

Issuance **“70.11** The Minister shall issue a permit to every person who furnishes the information and documents required by regulation and by the Minister, and who satisfies the other conditions prescribed by regulation.

Refusal After giving the applicant the opportunity to make representations, the Minister may, however, refuse to issue a permit where he is of the opinion that the project constitutes an unacceptable risk for health or for the environment.

Conditions **“70.12** The Minister may subject the issue of a permit to any condition, restriction or prohibition he determines.

Authorized activity **“70.13** The permit shall set out, in addition to the name and address of the holder, the activity he is authorized to carry on, the hazardous materials or category thereof that the activity he is authorized to carry on may involve and any condition, restriction or prohibition determined under section 70.12.

Validity **“70.14** A permit is valid for not more than five years. It is renewed provided its holder satisfies the conditions prescribed by regulation.

Permit modified or revoked **“70.15** The Minister may modify or revoke a permit where the permit holder

(1) does not comply with a condition, restriction or prohibition mentioned in the permit;

(2) does not satisfy the conditions prescribed by regulation for the issue of the permit;

(3) does not comply with this Act or the regulations;

(4) has ceased all or some of the activities mentioned in the permit.

Notice Before making his decision, the Minister shall transmit a written notice to the permit holder informing him of his decision to modify or revoke the permit, on the grounds indicated, and shall give the permit holder the opportunity to make representations.

Permit modified on request **“70.16** The Minister may, on request, modify the permit of a holder who satisfies the conditions determined by regulation. He may, for that purpose, exercise the powers provided for in the second paragraph of section 70.10 and of section 70.11 and in section 70.12.

Conditions To obtain a modification of the activities or hazardous materials mentioned in the permit, the permit holder must satisfy the conditions for the issue of a permit which apply to the new activities and hazardous materials requested by him.

Transfer prohibited **“70.17** No permit may be transferred, except with the written authorization of the Minister.

Changes notified **“70.18** Every permit holder shall notify the Minister of any change which renders the information furnished for the issue or renewal of the permit inaccurate or incomplete.

Cessation of activity The holder shall also notify the Minister, within the time prescribed by regulation, of the cessation of all or some of his activities. Where the holder ceases his activities permanently, he shall comply with the decontamination measures indicated by the Minister.

Corporation or partnership Any corporation or partnership which is a permit holder shall inform the Minister of any merger, sale or transfer of the corporation or partnership, and of any change in its corporate or firm name.

Regulations **“70.19** The Government may, by regulation,

(1) define the properties of the materials referred to in paragraph 21 of section 1;

(2) determine any material or object classed as a hazardous material within the meaning of paragraph 21 of section 1;

(3) establish classes of hazardous materials and activities involving hazardous materials;

(4) establish the list of hazardous materials or classes of hazardous materials referred to in section 70.6;

(5) determine the activities which require the persons involved to prepare a management plan for any hazardous material in respect of which a register must be kept, and fix the times at which the plan must be transmitted to the Minister;

(6) determine the information that must appear in a register, an annual management report and an application for authorization under section 70.8, and the rules relating to the contents of a management plan;

(7) define, for the purposes of paragraph 1 of section 70.9, the expressions "site for the elimination of hazardous materials" and "hazardous materials elimination service";

(8) establish the list of hazardous materials or classes of hazardous materials referred to in paragraph 2 of section 70.9;

(9) determine, for the purposes of paragraph 5 of section 70.9, the activities involving a hazardous material for which a permit is required;

(10) determine the conditions for the issue, renewal and modification of a permit, including the information and documents to be furnished, and the qualities required of the applicant or its management;

(11) prescribe the payment of fees for the issue, renewal or modification of a permit;

(12) determine the cases in which security or a guarantee must be furnished for the issue, renewal or modification of a permit, establish the object, nature, duration and amount thereof, the rules governing use of the security or guarantee by the Minister in cases of default, and the rules governing remittance thereof;

(13) as a condition prior to issue of a permit, require a person or a municipality to take out civil liability insurance, and determine the nature, scope, term and amount of the insurance, and the other conditions applicable to it;

(14) prescribe the preparation of registers, reports or other documents and the period for which registers must be kept;

(15) prescribe communication of the information and documents to the Minister at the time he fixes;

(16) control, restrict or prohibit the storage, handling, use, manufacturing, sale, treatment and elimination of hazardous materials;

(17) determine the qualities required of natural persons who carry on an activity involving a hazardous material;

(18) control, restrict or prohibit the presence of a hazardous material in a product that is manufactured, sold, distributed or used in Québec;

(19) exempt, on the conditions that it may determine, any hazardous materials, activities or classes of persons from the application of all or some of the provisions of this Act and the regulations under this section.

Variations

The regulations under this section may vary according to the hazardous materials, the activities or their nature or extent, and according to the classes of persons.”

c. Q-2,
s. 99, am.

7. Section 99 of the said Act, amended by section 25 of chapter 30 of the statutes of 1991, is again amended by replacing the words “and in the second paragraph of section 31.16” in the second and third lines by the words “, in the second paragraph of section 31.16 and in section 70.4”.

c. Q-2,
s. 106, am.

8. Section 106 of the said Act, amended by section 731 of chapter 4 of the statutes of 1990 and by section 26 of chapter 30 of the statutes of 1991, is again amended

(1) by inserting the figures “70.6, 70.7,” after the figure “68,” in that part which precedes subparagraph *a* of the first paragraph;

(2) by inserting the figure “70.8,” after the figure “65,” in the second line of subparagraph *d* of the second paragraph;

(3) by striking out subparagraph *e* of the second paragraph;

(4) by adding the following subparagraph at the end of the second paragraph:

“(g) does not comply with a condition, restriction or prohibition imposed by the Minister under section 70.12.”

c. Q-2,
s. 106.1,
am.

9. Section 106.1 of the said Act, amended by section 732 of chapter 4 of the statutes of 1990, is again amended by replacing the words “or refuses or neglects to comply with” in the third line of that part which precedes paragraph *a* by the words “section 70.8 or 70.9,

refuses or neglects to comply with a decontamination measure indicated by the Minister pursuant to the second paragraph of section 70.18 or”.

c. Q-2,
s. 110.1,
am.

10. Section 110.1 of the said Act is amended by replacing the words “concerning the management of waste classified as harmful under section 70,” in the fourth and fifth lines of the second paragraph by the words “relating to hazardous materials,”.

c. Q-2,
s. 118.1,
am.

11. Section 118.1 of the said Act is amended by inserting the figures “70.1, 70.2,” after the figure “31.46,” in the second line.

c. Q-2,
s. 118.3.2,
am.

12. Section 118.3.2 of the said Act is amended by replacing the words and figure “or section 60” in the third line of paragraph 1 by the words and figures “, section 60, 70.1 or 70.4”.

c. Q-2,
s. 118.5,
am.

13. Section 118.5 of the said Act is amended

(1) by inserting the figures “70.10, 70.14,” after the figure “55,” in the third line of subparagraph *a* of the first paragraph;

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

“(o) the annual management reports and the management plans transmitted to the Minister pursuant to sections 70.7 and 70.8.”

Presumption

14. A permit issued pursuant to section 55 of the Environment Quality Act in connection with the operation of all or part of a hazardous waste management system is deemed to have been issued under section 70.9 for as long as it remains in force.

Application
of s. 70.8

15. Section 70.8 of the Environment Quality Act applies to any person who, on the date of coming into force of that section, has had possession for more than 12 months of a hazardous material referred to in any of subparagraphs 1 to 4 of the first paragraph of section 70.6 of the said Act, from the one hundred and eightieth day following the said date of coming into force or, if he has applied for authorization before the expiry of that period, from the date of the Minister’s decision concerning the application.

Temporary
exemption

16. Every person who, on the date of coming into force of section 70.9 of the Environment Quality Act or of a regulatory provision under subparagraph 8 or 9 of the first paragraph of section 70.19, carries on an activity for which a permit under section 70.9 is required, is exempt from that obligation for a period of 180 days from the said date of coming into force and, if he makes an application for a permit within

that period, until the Minister has made a decision concerning the application.

Coming into
force **17.** The provisions of this Act will come into force on the date or dates fixed by the Government.