



NATIONAL ASSEMBLY

FIRST SESSION

THIRTY-FOURTH LEGISLATURE

Bill 412

**An Act respecting the Office de
protection de l'environnement du
Québec and amending various
legislative provisions**

Introduction

**Introduced by
Mr Pierre Paradis
Minister of the Environment**

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EXPLANATORY NOTES

This bill establishes the Office de protection de l'environnement du Québec.

The Office is entrusted with the exercise of certain powers provided, in particular, under the Environment Quality Act and the Pesticides Act, concerning mainly the issuing of authorization certificates, permits and depollution certificates, and the making of orders.

In addition, the Office will set up environmental protection measures including an environmental emergency service and, at the request of the Minister, will see to the implementation of certain programs.

The Government will exercise certain powers of the Office when the public interest so requires.

The bill amends the Acts whose application is overseen by the Office to include provisions relating to the review and appeal of decisions rendered under those Acts.

Lastly, certain transitional and consequential amendments are enacted by the bill.

ACTS AMENDED BY THIS BILL:

- Cities and Towns Act (R.S.Q., chapter C-19);
- Municipal Code of Québec (R.S.Q., chapter C-27.1);
- Act respecting the Communauté urbaine de l'Outaouais (R.S.Q., chapter C-37.1);
- Act respecting the Communauté urbaine de Montréal (R.S.Q., chapter C-37.2);

- Act respecting the Communauté urbaine de Québec (R.S.Q., chapter C-37.3);
- Act respecting threatened or vulnerable species (R.S.Q., chapter E-12.01);
- Pesticides Act (R.S.Q., chapter P-9.3);
- Environment Quality Act (R.S.Q., chapter Q-2);
- Watercourses Act (R.S.Q., chapter R-13);
- Act respecting ecological reserves (R.S.Q., chapter R-26).

Bill 412

An Act respecting the Office de protection de l'environnement du Québec and amending various legislative provisions

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

CHAPTER I

ESTABLISHMENT AND ORGANIZATION

1. The Office de protection de l'environnement du Québec is hereby established.

2. The head office of the Office shall be in the territory of the Communauté urbaine de Québec; notice of the location or of any change in the location of its head office shall be published in the *Gazette officielle du Québec*.

3. The Office is composed of nine members including the president and seven other members appointed by the Government and the Deputy Minister of the Environment or the person delegated for that purpose by the Deputy Minister.

At least one member from each of the following fields shall be appointed after consultation with the most representative bodies in the fields of business, the environment, municipal government and trade unions.

4. The president of the Office shall be appointed for not more than five years and the other members for not more than three years.

5. The Government shall fix the remuneration, social benefits and other conditions of employment of the president of the Office.

The other members of the Office shall not be remunerated, except in the cases, on the conditions and to the extent determined by the Government, but they shall be entitled to the reimbursement of expenses incurred in the performance of their duties on the conditions and to the extent determined by the Government.

6. The president of the Office shall be responsible for the administration and direction of the Office.

7. In exercising his responsibilities under section 6, the president of the Office shall be assisted by three vice-presidents.

The vice-presidents shall be appointed, for not more than five years, by the Government which shall fix their remuneration, social benefits and other conditions of employment.

The Government shall designate one of the vice-presidents to replace the president when the latter is absent or unable to act.

8. The president and the vice-presidents of the Office shall perform their duties full time.

9. At the expiry of his term, each member of the Office or a vice-president shall remain in office until he is replaced or reappointed.

10. Any member of the Office, other than the president, who has a direct or indirect interest in an undertaking putting his personal interest in conflict with that of the Office shall, under pain of forfeiture of office, declare his interest to the president in writing and abstain from participating in any discussion and any decision concerning the undertaking in which he has an interest or in any meeting at which his interest is debated.

Neither the president nor any of the vice-presidents of the Office may, under pain of forfeiture of office, have any direct or indirect interest in an undertaking putting his personal interest in conflict with that of the Office. However, forfeiture is not incurred if such an interest devolves to him by succession or gift, provided he renounces or disposes of it with diligence.

11. A majority of the members of the Office, including the president, constitutes a quorum.

In case of a tie-vote, the president has a casting vote.

12. Any decision of the Office signed by all the members has the same value as if it had been made at a meeting.

13. The Office may adopt internal management by-laws for the conduct of its business; such by-laws must be submitted to the Government for approval and come into force on the date determined by the latter.

14. The personnel of the Office shall be appointed and remunerated in accordance with the Public Service Act (R.S.Q., chapter F-3.1.1).

15. The members of the Office, the vice-presidents and the employees cannot be prosecuted by reason of official acts done in good faith in the performance of their duties.

16. Except on a question of jurisdiction, no extraordinary recourse provided for in articles 33 and 834 to 850 of the Code of Civil Procedure (R.S.Q., chapter C-25) may be exercised nor any injunction granted against the Office, a member, a vice-president or an employee of the Office acting in its or his official capacity.

A judge of the Court of Appeal may, on motion, summarily annul any judgment, order or injunction rendered, made or issued in contravention of the provisions of the first paragraph.

17. The minutes of the meetings of the Office approved by the Office and certified by a person authorized to do so by the internal management by-laws are authentic. The same applies to documents and copies emanating from the Office or forming part of its records when they are thus certified.

CHAPTER II

FUNCTIONS AND POWERS

18. The Office shall exercise the functions conferred on it by this Act and, to the extent provided for therein, by the Environment Quality Act (R.S.Q., chapter Q-2), the Pesticides Act (R.S.Q., chapter P-9.3), the Act respecting threatened or vulnerable species (R.S.Q., chapter E-12.01), the Watercourses Act (R.S.Q., chapter R-13) and the Act respecting ecological reserves (R.S.Q., chapter R-26).

The Office shall

(1) identify its priorities for intervention and define its orientations;

(2) implement measures of protection of the environment, in particular, set up an environmental emergency service;

(3) at the Minister's request, see to the implementation of programs of restoration and prevention of environmental deterioration;

(4) hear complaints relating to the presence of a contaminant in the environment;

(5) set up committees to review decisions rendered by persons exercising a delegated power pursuant to section 20;

(6) in collaboration with the Minister, design training and information programs in the fields coming under the jurisdiction of the Office;

(7) publish or otherwise disseminate the statistical data at its disposal relating to environment quality;

(8) carry out any mandate connected with its functions that is entrusted to it by the Government.

19. The Office shall advise the Minister on any matter coming under the jurisdiction of the Office. In addition, the Office may, of its own initiative, make recommendations to the Minister on any matter coming under its jurisdiction.

The Minister shall consult the Office to obtain its advice on any draft regulation whose application will be overseen by the Office. The Office shall give its advice within the time prescribed by the Minister.

20. The Office shall delegate to the president or a vice-president or to an employee or appointee designated in the instrument of delegation the exercise of powers related to certificates, authorizations, permits, permissions, applications and depollution certificates, which are conferred on the Office by the Acts listed in the first paragraph of section 18.

Subject to section 21, the Office may delegate to the president, a vice-president or to an employee or appointee designated in the instrument of delegation the exercise of the other powers which are conferred on it.

Every instrument of delegation made pursuant to this section requires the approval of the Government, which may, when giving approval, amend it. The instrument shall be published in the *Gazette officielle du Québec*.

21. In no case may the power to make orders conferred on the Office be exercised by any person other than the president. However, the Government may exercise the power to make orders in the place and stead of the president where the public interest justifies it.

22. Within the scope of its functions, the Office may make an agreement with any person, municipality, partnership or body.

It may also, with the authorization of the Government and on the conditions it determines, make an agreement with a department or agency of the Government of Québec, another government in Canada or a department or agency of such government.

It may, according to law, make an agreement with a foreign government or one of its departments, with an international organization or with an agency of such government or organization.

23. The Office or a person exercising a power delegated pursuant to section 20 may, of its or his own initiative or at the request of a person contemplated by a decision, unless a request for review or appeal of the decision has been filed, revise any decision

(1) rendered before an essential fact became known or based on an error related to that fact;

(2) affected by a substantial or procedural defect which may invalidate it;

(3) containing an error in writing or in calculation or any other clerical error.

Such a decision shall replace the initial decision which shall cease to have effect.

24. The Minister may issue directives on the objectives and orientations of the Office in the exercise of the functions which are conferred on it.

The directives shall be submitted to the Government for approval and shall come into force on the day of their approval. Once approved, they are binding on the Office and the Office must comply with them.

Every directive issued under this section shall be tabled before the National Assembly within 15 days of being approved by the Government, or, if the National Assembly is not sitting, within 15 days of resumption.

CHAPTER III

ACCOUNTS AND REPORTS

25. The fiscal year of the Office ends on 31 March.

26. The Office shall, not later than 30 September each year, submit a report on its activities for the preceding fiscal year to the Minister; the report shall also contain all the information required by the Minister.

The Minister shall table the report of the Office before the National Assembly within 15 days of receiving it or, if the National Assembly is not sitting, within 15 days of resumption.

27. The books and accounts of the Office shall be audited each year by the Auditor General and each time the Government so orders; the audit reports shall be submitted with the report on the Office's activities.

28. The Office shall furnish to the Minister any other information concerning its activities that he requests.

CHAPTER IV

AMENDING PROVISIONS

ENVIRONMENT QUALITY ACT

29. Section 1 of the Environment Quality Act (R.S.Q., chapter Q-2), amended by section 123 of chapter 85 of the statutes of 1990, is again amended by adding, at the end, the following paragraph:

“(21) “Office” means the Office de protection de l’environnement du Québec, established under section 1 of the Act respecting the Office de protection de l’environnement du Québec and amending various legislative provisions (*insert here the reference of this bill in the annual volume of statutes*).”

30. Section 2 of the said Act is amended

(1) by inserting the words “and, where the case arises, in collaboration with the Office” after the word “Government” in the fourth line of subparagraph *c* of the third paragraph;

(2) by replacing subparagraph *e* of the third paragraph by the following subparagraph:

“(e) implement any experimental project concerning water quality or the management of waste water or waste and, for that purpose, acquire by agreement or expropriation any necessary servitude or immovable;”;

(3) by replacing the words “any governmental or international agency” in the second and third lines of subparagraph *h* of the third paragraph by the words “any agency thereof or international agency”;

(4) by striking out the words “and in particular for purposes relating to salvaging and recycling” in the second and third lines of subparagraph *i* of the third paragraph.

31. Section 31.7 of the said Act is replaced by the following section:

“31.7 Notwithstanding sections 22, 32 and 54, the Minister shall exercise the powers provided for therein with respect to any project related to a project authorized under section 31.5 or section 31.6; such a decision is binding on the Minister when he is exercising such powers.”

32. Division XI of Chapter I of the said Act is replaced by the following division:

“DIVISION XI

“REVIEW AND APPEAL

“96. Any decision which is subject to review or appeal under this Act shall be rendered in writing and transmitted to the person or municipality concerned thereby. Where applicable, the person or municipality shall be informed in the decision of his or its right to request a review of the decision or, as the case may be, to appeal therefrom to the Court of Québec.

“§ 1.—*Review*

“97. Any person or municipality concerned by a decision rendered by a person exercising a power delegated by the Office pursuant to section 20 of the Act respecting the Office de protection de l’environnement du Québec may request a review of the decision where the person

(1) refuses to issue or renew an authorization certificate, authorization, attestation, certificate of conformity, approval other than the one provided for in the third paragraph of section 31.44 or permit, as the case may be;

(2) fixes the term of the renewal of a permit at less than five years;

(3) suspends or revokes an authorization certificate, approval, attestation, authorization, certificate of conformity or permit, as the case may be;

(4) serves a notice under section 31.46;

(5) serves a denial of conformity on the proponent of a project;

(6) requires a change in an application made to him;

(7) refuses to amend or revoke a depollution attestation upon application from the holder thereof.

“98. An application for review must be forwarded in writing to the Office within 30 days of the mailing of the decision that is challenged.

The application shall set out the reasons on which it is founded.

“99. An application for review shall be submitted to a review committee composed of three persons designated by the Office for a term specified in their instrument of designation.

The Government shall fix the remuneration of the members of a review committee.

“100. An application for review shall suspend execution of the decision. However, the review committee may render a provisional decision in the interest of environmental protection. No appeal lies from the provisional decision and it has effect until the review decision becomes executory.

“101. The review decision must be rendered with diligence.

“102. A decision under review may be confirmed, quashed or amended.

“103. A review decision shall include the reasons on which it is based and be transmitted in writing by registered or certified mail to the person or municipality concerned by the decision.

“103.1 Subject to the provisions of section 103.6, every review decision rendered is executory at the expiry of the time limit for appeal.

"§ 2.—Appeal

"103.2 Any person or municipality concerned by an order made by the Minister or the Office, other than an order made under sections 29 and 32.5, the second paragraph of section 34, sections 35, 49.1, 57, 59, 61, 114, 114.1 and 120, by a decision rendered by the Minister, other than a decision relating to the fixing or apportionment of costs or expenses established under section 32.5 or 35 or the determination of a compensation under section 61, or by a decision rendered by the Office or a review committee, may appeal therefrom to the Court of Québec where

(1) the reasons of fact or law invoked in support of the decision or order are manifestly erroneous;

(2) the proceedings were affected by gross irregularity;

(3) the decision was not rendered with impartiality.

"103.3 In cases where the Minister approves rates with amendments pursuant to section 32.9, the operator may appeal therefrom.

"103.4 The appeal shall be brought within thirty days of the mailing of the decision, by depositing an inscription which has been served upon the Office and filed with the clerk of the Court of Québec of the judicial district where the appellant has his domicile, a residence, an establishment or a place of business, or in the district where the facts giving rise to the decision occurred.

The inscription shall set out the reasons invoked in support of the appeal.

"103.5 Within fifteen days of the service of the inscription, a person authorized by the Office shall forward to the clerk of the Court of Québec a certified copy of the file relating to the decision appealed from and all related documents.

"103.6 The appeal suspends execution of the decision, except in the cases provided for in section 26 and the second paragraph of section 31.16. In those cases, execution of the decision is maintained unless the Court of Québec, upon a motion and for serious cause, orders otherwise.

"103.7 The appeal shall be heard and decided by preference.

"103.8 The Court of Québec may confirm, quash or amend a decision referred to it.

The judgment shall be set out in writing and include the reasons on which it is based.

“103.9 The decision of the Court of Québec is final and no appeal lies therefrom.

“103.10 The clerk of the Court of Québec must, within ten days of the date of the judgment, transmit a certified copy thereof to the appellant and to the Office, by registered or certified mail.

“103.11 Subject to the provisions of this division, the appeal and the hearing are subject to the procedure governing ordinary actions before the Civil Division of the Court of Québec.”

33. Section 106.1 of the said Act, amended by section 732 of chapter 4 of the statutes of 1990 and by section 7 of chapter 26 of the statutes of 1990, is again amended by striking out the words “of the Minister” in the fourth line of the first paragraph.

34. Section 107 of the said Act, amended by section 734 of chapter 4 of the statutes of 1990, is again amended by inserting the words “or the Office” after the word “Minister” in the fifth line of the third paragraph.

35. Section 108.1 of the said Act is amended by replacing the words “A functionary or an employee of the Ministère de l’Environnement, duly authorized by the Minister,” in the first and second lines of the first paragraph by the words “A person authorized for such purpose by the Office”.

36. Section 110.1 of the said Act, amended by section 739 of chapter 4 of the statutes of 1990, is again amended by replacing the words “, a functionary contemplated in section 119 or 120 or a person who exercises any of the powers enumerated in those sections” in the second, third and fourth lines of the second paragraph by the words “or to a person referred to in section 119 or 120”.

37. Section 113 of the said Act is amended by inserting the words “or, as the case may be, the Office” after the word “Minister” in the second line and in the fifth line of the second paragraph.

38. Section 114 of the said Act is amended by inserting the words “or the Office” after the word “Minister” in the first line of the first paragraph and the second line of the second paragraph.

39. Section 116.1 of the said Act, amended by section 743 of chapter 4 of the statutes of 1990, is again amended

(1) by replacing the words "Minister of the Environment" in the first paragraph by the words "the Office";

(2) by striking out the words ", as established by the Minister," in the first line of the second paragraph.

40. Section 118.0.1 of the said Act is amended by replacing the words "Minister shall inform" in the first line of the first paragraph by the words "Office shall inform the Minister of the Environment and".

41. The said Act is amended by inserting, after section 118.2, the following section:

"118.2.1 The Government may, where the public interest so requires, exclude from the jurisdiction of the Office an application for a certificate of authorization or for authorization made under section 22, 32 or 48. In such a case, the Government has, in respect of the application, the same powers as the Office and shall, notwithstanding section 22, 32 or 48, render its decision subject to the conditions it determines."

42. Section 118.3.1 of the said Act is amended by inserting the words "or the Office, as the case may be," before the word "shall" in the second line.

43. Section 118.3.2 of the said Act is amended by striking out the words "by the Minister" in the first lines of paragraphs 1 and 2.

44. Section 118.4 of the said Act is amended by inserting the words "or from the Office a" after the words "l'Environnement" in the second line.

45. Section 118.5 of the said Act is amended

(1) by replacing what precedes subparagraph *a* of the first paragraph by the following:

"118.5 The Minister and the Office shall each, according to their respective responsibilities, keep a register of:";

(2) by replacing subparagraph *f* of the first paragraph by the following subparagraph:

"(f) all applications for review, all appeals brought under Division XI and all decisions rendered on such applications and appeals;".

46. Section 119 of the said Act is amended by replacing the words “Every functionary authorized for that purpose by the Minister” in the first and second lines by the words “Every person authorized for such purpose by the Office”.

47. Section 119.1 of the said Act, enacted by section 744 of chapter 4 of the statutes of 1990, is amended

(1) by replacing the words “A functionary authorized by the Minister” in the first line of the first paragraph by the words “A person authorized for such purpose by the Office”;

(2) by replacing the word “functionary” in the second line of the second paragraph by the word “person”;

(3) by replacing the words “A functionary authorized therefor by the Minister” in the first line of the fifth paragraph by the words “A person authorized for such purpose by the Office”.

48. Section 120 of the said Act is amended by replacing the words “The Minister and the functionaries designated by him for that” in the first line by the words “The Office and the persons which it authorizes for such”.

49. Section 120.1 of the said Act is amended by replacing

(1) the word “functionary” in the second line of the first paragraph by the word “person”;

(2) the words “the functionary” in the ninth line of the first paragraph by the words “that person”;

(3) the words “that purpose, the functionary or person to whom the warrant is issued” in the first and second lines of the second paragraph by the words “such purpose, that person”;

(4) the word “functionary” in the first line of the third paragraph by the word “person”.

50. Section 121 of the said Act is replaced by the following section:

121. No person may hinder, in the performance of his duties, a person acting under section 119, 120 or 120.1, mislead him by concealment or false declarations, neglect to obey any order he has given under this Act, or remove or deface a notice he has ordered posted, or allow it to become defaced.

Every authorized person shall, if required, produce a certificate of his capacity, signed by the president of the Office."

51. Section 123.2 of the said Act is amended by replacing the words "adjudication by the Commission municipale or final decision by the court, as the case may be" in the sixth, seventh and eighth lines of the first paragraph by the words "a final decision has been rendered".

52. Sections 84, 120.2, 120.3, 120.5 and 120.6 of the said Act are amended by replacing the words "functionary" and "functionaries" wherever they appear by the words "person" and "persons", respectively.

53. In sections 21, 22 to 27.1, 31, 31.11, 31.13, 31.15 to 31.29, 31.31, 31.33 to 31.51, 32, 32.1, 32.4, 32.7, 32.8, 44, 45.4, 46 to 48, 54, 55, 57, 59, 64, 65, 66 to 68.1, subparagraph *g* of the first paragraph of section 70, sections 90, 94, 95.1, 95.4, 95.6, 95.8, 95.9, subparagraph *e* of the first paragraph of section 106, sections 108.1, 109.1.1, 114.1 to 115.1, 117, 118, 120.1 to 120.4, 120.6.1, 122.1, 122.4 and 123 of the said Act, as amended, where applicable, by chapters 4 and 85 of the statutes of 1990 and chapter 30 of the statutes of 1991, the word "Minister" and the words "Deputy Minister", where they refer to the Minister of the Environment and the Deputy Minister of the Environment, and the words "Ministère de l'Environnement" are replaced wherever they appear by the word "Office".

PESTICIDES ACT

54. Section 4 of the Pesticides Act (R.S.Q., chapter P-9.3) is amended by striking out the words "of the Minister" in the fifth line of the second paragraph.

55. Section 13 of the said Act is amended by replacing the word "Minister" in the first line of the first paragraph by the words "Office de protection de l'environnement du Québec, established by section 1 of the Act respecting the Office de protection de l'environnement du Québec and amending various legislative provisions (*insert here the reference of this bill in the annual volume of statutes*)".

56. The heading of subdivision 2 of Division III of Chapter III of the said Act is amended by striking out the words "*available to the Minister*".

57. Chapter V of the said Act is replaced by the following chapter:

“REVIEW AND APPEAL

“68. Any decision which is subject to review or appeal under this chapter shall be rendered in writing and transmitted to the person concerned thereby. Where applicable, the person shall be informed in the decision of his right to request a review of the decision or, as the case may be, to appeal therefrom to the Court of Québec.

“DIVISION I

“REVIEW

“69. Any person concerned by a decision rendered by a person exercising a power delegated by the Office pursuant to section 20 of the Act respecting the Office de protection de l'environnement du Québec may request a review of the decision where the person

(1) refuses to issue, extend, renew or amend a permit or certificate;

(2) fixes the term of a permit at less than two years or that of a certificate at less than three years;

(3) requires a change in an application made to him;

(4) suspends or revokes a permit or certificate;

(5) refuses to authorize the transfer of a permit; or

(6) requires, in the cases referred to in section 61, that a certificate holder submit to an examination.

Subdivision 1 of Division XI of Chapter I of the Environment Quality Act applies to such review.

“DIVISION II

“APPEAL

“70. Any person concerned by an order or a decision rendered by the Office or by a decision rendered by a review committee established under section 99 of the Environment Quality Act, may appeal therefrom to the Court of Québec where

(1) the reasons of fact or law invoked in support of the decision or order are manifestly erroneous;

(2) the proceedings were affected by gross irregularity;

(3) the decision was not rendered with impartiality.

The appeal does not suspend the execution of an order made under section 17, unless, for serious cause, the Court of Québec orders otherwise.

Subdivision 2 of Division XI of Chapter I of the Environment Quality Act applies to such appeal.”

58. Section 80 of the said Act is replaced by the following section:

“80. The inspector shall, on request, identify himself and produce a certificate of his capacity, signed by the president of the Office.”

59. Section 129 of the said Act is amended by replacing subparagraph 5 of the first paragraph by the following subparagraph:

“(5) all applications for review, all appeals brought pursuant to this Act and all decisions rendered on such applications and appeals.”

60. The word “Minister”, where it designates the Minister of the Environment, and the expression “Ministère de l’Environnement” shall be replaced, with the necessary changes by the word “Office”, wherever they appear in sections 14 to 18, 20, 24 to 27, 34, 37 to 40, 42, 43, 46, 48 to 50, 53 to 55, 57, 60, 61, 65 to 67, 79, 88, 96, 98 to 100, 109, 117, 121, 124, 125, 127, 128 and 129 of the said Act, as amended, where such is the case, by chapters 4 and 85 of the statutes of 1990.

ACT RESPECTING THREATENED OR VULNERABLE SPECIES

61. Section 8 of the Act respecting threatened or vulnerable species (R.S.Q., chapter E-12.01) is amended by striking out the second paragraph.

62. Section 15 of the said Act is amended by adding, at the end, the following paragraph:

“(5) the Office de protection de l’environnement du Québec established under section 1 of the Act respecting the Office de protection de l’environnement du Québec and amending various legislative provisions (*insert here the reference of this bill in the annual volume of statutes*).”

63. The said Act is amended by inserting, after section 25, the following sections:

“25.1 The Office may, for the purposes of protection and management of designated threatened or vulnerable plant species, take all measures necessary to repair or mitigate damage caused to a designated threatened or vulnerable plant species or to its habitat and, in the manner of any debt owed to the Government, claim reimbursement of the costs entailed by these measures from the author of the damage.

“25.2 Any decision which is subject to review or appeal under sections 25.3 and 25.4 shall be rendered in writing and transmitted to the person concerned thereby. Where applicable, the person shall be informed in the decision of his right to request a review of the decision or, as the case may be, to appeal therefrom to the Court of Québec.

“25.3 Any person concerned by a decision rendered by a person exercising a power delegated by the Office pursuant to section 20 of the Act respecting the Office de protection de l’environnement du Québec may request a review of the decision.

Subdivision 1 of Division XI of Chapter I of the Environment Quality Act applies to such review.

“25.4 Any person concerned by a decision rendered by the Office or a review committee established under section 99 of the Environment Quality Act may appeal therefrom before the Court of Québec where

- (1) the reasons of fact or law invoked in support of the decision or order are manifestly erroneous;
- (2) the proceedings were affected by gross irregularity;
- (3) the decision was ~~not~~ rendered with impartiality.

Subdivision 2 of Division XI of Chapter I of the Environment Quality Act applies to such appeal.”

64. Section 26 of the said Act, amended by section 123 of chapter 85 of the statutes of 1990, is again amended by replacing the words and figures “and 20 to 24 and the second paragraph of section 8” in the seventh and eighth lines of the first paragraph by the words and figures “, 20 to 24 and 25.1”.

65. Section 39 of the said Act is amended by replacing the words and figures “the second paragraph of section 8 or to section 23” in the fourth and fifth lines of subparagraph 5 of the first paragraph by the words and figures “section 23 or 25.1”.

66. The expression "Minister of the Environment" and the word "Minister", where it designates the Minister of the Environment, shall be replaced, with the necessary changes, by the word "Office", wherever they appear in sections 16 to 18, 20 to 25, 28, 29, 33, 39 and 47 of the said Act.

WATERCOURSES ACT

67. Section 7 of the Watercourses Act (R.S.Q., chapter R-13) is amended

(1) by replacing the expression "Minister of the Environment" in the first and second lines by the expression "Office de protection de l'environnement du Québec";

(2) by replacing the word "Minister" in the sixth line by the word "Office".

68. The expression "Minister of the Environment" and the word "Minister", where it designates the Minister of the Environment, shall be replaced, with the necessary changes, by the word "Office", wherever they appear in sections 7, 34, 35, 40, 58, 59, 73, 74, 81 and 84 and in the appended forms of the said Act.

ACT RESPECTING ECOLOGICAL RESERVES

69. Section 1 of the Act respecting ecological reserves (R.S.Q., chapter R-26) is amended by adding, at the end, the following paragraph:

"(d) "Office" means the Office de protection de l'environnement du Québec established under section 1 of the Act respecting the Office de protection de l'environnement du Québec and amending various legislative provisions (*insert here the reference of this bill in the annual volume of statutes*)."

70. Section 6 of the said Act is amended by replacing the word "Minister" in the first line of the third paragraph by the word "Office".

71. Section 7 of the said Act is amended by replacing the word "Minister" wherever it appears by the word "Office", and making the necessary changes.

72. The said Act is amended by adding, after section 7, the following sections:

“7.1 Any decision which is subject to review or appeal under sections 7.2 and 7.3 shall be rendered in writing and transmitted to the person concerned thereby. Where applicable, the person shall be informed in the decision of his right to request a review of the decision or, as the case may be, to appeal therefrom to the Court of Québec.

“7.2 Any person concerned by a decision rendered by a person exercising a power delegated by the Office pursuant to section 20 of the Act respecting the Office de protection de l’environnement du Québec, may request a review of the decision.

Subdivision 1 of Division XI of Chapter I of the Environment Quality Act (R.S.Q., chapter Q-2) applies to such review.

“7.3 Any person concerned by a decision rendered by the Office or a review committee established under section 99 of the Environment Quality Act may appeal therefrom before the Court of Québec where

- (1) the reasons of fact or law invoked in support of the decision or order are manifestly erroneous;
- (2) the proceedings were affected by gross irregularity;
- (3) the decision was not rendered with impartiality.

Subdivision 2 of Division XI of Chapter I of the Environment Quality Act applies to such appeal.”

CITIES AND TOWNS ACT

73. Section 562 of the Cities and Towns Act (R.S.Q., chapter C-19) is amended by replacing paragraph 11 by the following paragraph:

“(11) A copy of the certificate, authorization or authorization certificate or of the attestation of environmental conformity, where any of such documents is required by the Environment Quality Act (R.S.Q., chapter Q-2);”.

MUNICIPAL CODE OF QUÉBEC

74. Article 1075 of the Municipal Code of Québec (R.S.Q., chapter C-27.1) is amended by replacing paragraph 10 by the following paragraph:

“(10) a copy of the certificate, authorization or authorization certificate or of the attestation of environmental conformity, where any of such documents is required by the Environment Quality Act (R.S.Q., chapter Q-2);”.

ACT RESPECTING THE COMMUNAUTÉ URBAINE DE L'OUTAOUAIS

75. Section 115 of the Act respecting the Communauté urbaine de l'Outaouais (R.S.Q., chapter C-37.1) is amended by inserting the words “or, as the case may be, the Office de protection de l'environnement du Québec” after the word “Environment” in the first line of the first paragraph.

ACT RESPECTING THE COMMUNAUTÉ URBAINE DE MONTRÉAL

76. Section 133 of the Act respecting the Communauté urbaine de Montréal (R.S.Q., chapter C-37.2) is amended by replacing the words “sections 96 to 103 of the Environment Quality Act (R.S.Q., chapter Q-2). Notwithstanding the appeal, the decision remains executory unless the Commission municipale du Québec orders otherwise in accordance with section 99 of the said Act” at the end of the second paragraph by the words “subdivision 2 of Division XI of Chapter I of the Environment Quality Act (R.S.Q., chapter Q-2). Notwithstanding the appeal, the decision remains executory unless the Court of Québec orders otherwise”.

77. Section 142 of the said Act is amended by inserting the words “or, as the case may be, the Office de protection de l'environnement du Québec” after the word “Environnement” in the first line of the first paragraph.

ACT RESPECTING THE COMMUNAUTÉ URBAINE DE QUÉBEC

78. Section 128 of the Act respecting the Communauté urbaine de Québec (R.S.Q., chapter C-37.3) is amended by inserting the words “or, as the case may be, the Office de protection de l'environnement du Québec” after the word “Environment” in the first line of the first paragraph.

CHAPTER V

TRANSITIONAL AND FINAL PROVISIONS

79. Until the coming into force of paragraph *g*, the second paragraph of paragraph *j* and paragraphs *n* and *p* of section 2 of the

Regulation respecting environmental impact assessment and review (R.R.Q., chapter Q-2, r. 9) and any amendment thereto, the Minister of the Environment, in the place and stead of the Office de protection de l'environnement du Québec, may authorize the carrying out of projects mentioned in the said paragraphs.

30. The rights and obligations arising from the instruments signed in accordance with the Act respecting the Ministère de l'Environnement (R.S.Q., chapter M-15.2) which concern functions devolving to the Office are transferred to the Office, except where otherwise decided by the Government.

31. The employees of the Ministère de l'Environnement who are assigned functions devolving to the Office become, to the extent determined by the Government, the employees of the Office.

32. The records and other documents of the Ministère de l'Environnement become the records and documents of the Office in matters within its jurisdiction, except where the Government decides otherwise.

33. Cases pending before the Ministère de l'Environnement shall be continued and decided by the Office where they are within its jurisdiction, except where the Government decides otherwise.

34. Proceedings to which the Minister or Deputy Minister of the Environment is a party are transferred, without continuance of suit, to the Office according to the functions assigned to it or, if the Government decides otherwise, to any other person it designates.

35. Any appeal to the Commission municipale du Québec pursuant to section 96 of the Environment Quality Act the hearing of which has not begun on (*insert here the date of coming into force of section 32 of this bill*) shall be continued before the Court of Québec in accordance with the provisions of sections 103.2 to 103.11 of the Environment Quality Act, as amended by this Act.

Any appeal before the Commission municipale du Québec the hearing of which, on the same date, has begun shall be continued before that commission in accordance with the provisions of sections 96 to 103 of the said Act, as they read on (*insert here the date preceding the date of coming into force of section 103.2 of the Environment Quality Act, enacted by section 32 of this bill*).

36. In any regulation, order in council, order, contract or other document, when it concerns the functions of the Office, the

expressions "Ministère de l'Environnement" and "Minister of the Environment" as well as the word "Ministère" and the word "Minister", where they designate the said department or Minister, mean the Office de protection de l'environnement du Québec or the Office or, if the Government decides otherwise, any other person it designates.

87. Appropriations granted and property belonging to the Ministère de l'Environnement for functions devolving to the Office shall be transferred, to the extent determined by the Government, to the Office.

88. The Minister of the Environment is responsible for the administration of this Act.

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