



NATIONAL ASSEMBLY

FIRST SESSION

FORTY-FIRST LEGISLATURE

Bill 49

**An Act to implement the accord
between the Government of Canada and
the Government of Quebec for the joint
management of petroleum resources in the
Gulf of St. Lawrence**

Introduction

**Introduced by
Mr. Pierre Arcand
Minister of Energy and Natural Resources**

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EXPLANATORY NOTES

The purpose of this bill is to implement the accord between the Government of Canada and the Government of Quebec for the joint management of petroleum resources in the Gulf of St. Lawrence, signed on 24 March 2011. The proposed legislation applies exclusively to the part of the Gulf of St. Lawrence described in its first schedule and corresponding to the petroleum resources joint management area.

The bill establishes a transitional regime for the joint management of petroleum resources to

- (1) regulate marine oil and gas development activities;*
- (2) promote the use of best practices in order to ensure personal health and safety and environmental protection, among other things;*
- (3) ensure the sustainable management of resources;*
- (4) maximize the social and economic benefits related to petroleum resource development activities; and*
- (5) explicitly recognize the “polluter pays” principle and the principles of prevention, remediation of harm to the environment, and transparency.*

The bill includes provisions maintaining Québec’s position on the constitutional status of the Gulf and on its legislative jurisdiction over the petroleum resources joint management area and its resources. A procedure is established for the settlement of disputes in relation to the limits of that area with any other province that is a party to an agreement with the Government of Canada for the management of petroleum resources.

It specifies that the Government is the principal beneficiary of the work and activities related to the development of petroleum resources within the petroleum resources joint management area and benefits from all revenues derived from those resources.

The bill provides that the royalties to be paid on the production of petroleum are those that would be payable under the Mining Act and that all amounts collected must be remitted to the Receiver

General for Canada and then in turn, without delay and unconditionally, to the Government.

To ensure the joint management of petroleum resources, the Minister of Energy and Natural Resources is granted the powers to take, jointly with the minister of the Government of Canada responsible for natural resources, the measures necessary to carry out the proposed Act.

The Ministers may jointly issue exploration licences and other interests relating to the development of petroleum resources, that is, significant discovery licences and production licences. They must make calls for bids for the issuance of interests concerning State reserve areas. The Ministers may, by order, prohibit the commencement or continuation of any exploration or development work or activity if there exists an environmental or social problem of a serious nature or dangerous weather conditions affecting the safety of people. The Ministers may, again by order, require the drilling of a well following a declaration of significant discovery.

The Régie de l'énergie (the Régie) and the National Energy Board (the Board) jointly exercise the powers and perform the duties and functions required to regulate petroleum operations and the transportation of petroleum by pipeline. To that end, a coordination process is established to foster joint decision-making by the two bodies.

The Régie and the Board are entrusted with the responsibility to jointly make declarations of significant discovery and declarations of commercial discovery.

The Régie and the Board are to jointly issue the operating licences and authorizations required to carry on work and activities related to the exploration for or the production, conservation or transportation by pipeline of petroleum. Accordingly, the bill specifies that no person may carry on such work or activities without holding the required operating licence or authorization issued jointly by the two bodies.

More particularly, as regards environmental assessment, the bill provides that the Régie and the Board may not issue an authorization for drilling work and any other work or activity prescribed by regulation unless they have obtained an opinion in respect of that work or activity issued under the Environment Quality Act and a decision statement issued under section 54 of the Canadian Environmental Assessment Act.

Under the bill, a public register of all interests issued and all instruments relating to those interests is to be established. The rules governing disclosure of the information or documentation obtained for the purposes of the bill are defined.

The bill requires the approval of a benefits plan and the establishment of a committee for the maximization of benefits.

The federal Oil and Gas Occupational Safety and Health Regulations and the provisions of Part II of the Canada Labour Code that are necessary to permit the administration and enforcement of those regulations are made applicable, by reference and in addition to Québec labour legislation, to workers in the petroleum resources joint management area, in order to ensure their health and safety.

As regards liability, persons who wish to carry on work or activities in relation to the drilling for or development or production of petroleum must provide proof of financial responsibility in the amount of \$100 million. They must also prove that they have the financial resources necessary to pay the \$1 billion prescribed as the limit of financial liability for loss or damage caused by spills, even without proof of fault. The persons concerned who are at fault remain liable for all loss or damage caused by spills.

In case of a spill, the use of spill-treating agents may not be authorized jointly by the Régie and the Board unless it is likely to achieve a net environmental benefit. The Ministers have the power to jointly order an inquiry if an accident or incident related to any work or activity to which this bill applies occurs.

To promote the conservation of petroleum, the bill provides for the issuance of pooling orders, unit agreements and unitization orders. In addition, to ensure oversight of petroleum operations, the Ministers must jointly designate a safety officer and a conservation officer charged with verifying compliance with safety standards in the places where the work and activities governed by this bill are carried on.

The bill institutes a penal offence scheme under which the maximum fine is \$6 million. It also institutes a scheme of administrative monetary penalties under which the maximum amount payable as a penalty is \$25,000 for a natural person and \$100,000 for a legal person.

The Government is granted regulatory powers that enable it to give effect to the bill's provisions. More specifically, regulations that include provisions relating to environmental protection are to be

made on the joint recommendation of the Minister of Energy and Natural Resources and the Minister of Sustainable Development, the Environment and the Fight Against Climate Change. Such regulations are to, among other things, promote the use of generally recognized best practices in the exploitation of marine oil and gas in order to ensure adequate environmental protection. Occupational health and safety regulations are to be made on the joint recommendation of the Minister of Energy and Natural Resources and the Minister of Labour, Employment and Social Solidarity.

The Mining Act is amended to specify that royalties payable in respect of petroleum resources will be prescribed by regulation and may vary according to whether the petroleum is extracted on land or in a marine environment.

The Act respecting the Ministère des Ressources naturelles et de la Faune is amended to add the activities relating to the administration of the proposed Act to the hydrocarbon management component of the Natural Resources Fund.

The Act respecting the Régie de l'énergie is amended to authorize the Government to pay the Régie a subsidy for the purpose of implementing the bill.

The Environment Quality Act is amended to grant the minister responsible for its administration the power to determine the list of substances or means authorized to treat spills of contaminants. Amendments are also made to that Act to make drilling and other activities prescribed by regulation subject to the environmental impact assessment and review procedure provided for such activities. At the conclusion of that procedure, the Minister of Sustainable Development, the Environment and the Fight Against Climate Change recommends that the Régie authorize or not authorize the activities concerned. If the Minister considers that carrying on the activity may cause significant adverse environmental effects, the Minister submits a question to the Government as to whether they are justifiable in the circumstances. An amendment is also made to that Act to confirm that the provisions relating to the cap-and-trade system apply to emitters engaged in the exploration for and development of petroleum in the petroleum resources joint management area.

The Taxation Act, the Act respecting the Régie de l'assurance maladie du Québec, the Act respecting the Québec sales tax and the Regulation respecting the Taxation Act are amended to harmonize the application of the federal and Québec tax systems in the petroleum resources joint management area.

Moreover, the Minister of Energy and Natural Resources is authorized, one year after the proposed Act comes into force, to issue jointly with the minister of the Government of Canada who is responsible for the management of natural resources an exploration licence to holders of a licence to explore for petroleum, natural gas and underground reservoirs issued under the Mining Act with respect to the petroleum resources joint management area.

Lastly, various transitional and consequential provisions are included.

LEGISLATION AMENDED BY THIS BILL:

- Taxation Act (chapter I-3);
- Mining Act (chapter M-13.1);
- Act respecting the Ministère des Ressources naturelles et de la Faune (chapter M-25.2);
- Environment Quality Act (chapter Q-2);
- Act respecting the Régie de l'assurance maladie du Québec (chapter R-5);
- Act respecting the Régie de l'énergie (chapter R-6.01);
- Act respecting the Québec sales tax (chapter T-0.1).

REGULATION AMENDED BY THIS BILL:

- Regulation respecting the Taxation Act (chapter I-3, r. 1).

Bill 49

AN ACT TO IMPLEMENT THE ACCORD BETWEEN THE GOVERNMENT OF CANADA AND THE GOVERNMENT OF QUEBEC FOR THE JOINT MANAGEMENT OF PETROLEUM RESOURCES IN THE GULF OF ST. LAWRENCE

AS the Gouvernement du Québec, designated in this Act as “the Government”, and the Government of Canada have entered into an agreement for the joint management of petroleum resources in the Gulf of St. Lawrence and have agreed to implement it by means of the passage in the National Assembly of Québec and the Parliament of Canada of legislation governing petroleum resource development activities in the same manner;

AS the Government and the Government of Canada have agreed, in order to allow the initiation of petroleum resource development activities in the Gulf of St. Lawrence, to establish a transitional scheme for the joint management of those resources by means of that legislation until an independent joint board is established;

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

TITLE I

GENERAL PROVISIONS

CHAPTER I

PURPOSE, SCOPE AND INTERPRETATION

1. The purpose of this Act is to implement the accord between the Government of Canada and the Government of Quebec for the joint management of petroleum resources in the Gulf of St. Lawrence, signed on 24 March 2011, which is designated in this Act as “the Accord”.

It establishes, for that purpose, a transitional regime for the joint management of petroleum resources to

- (1) regulate marine oil and gas development activities;
- (2) promote the use of generally recognized best practices in the exploitation of marine oil and gas in order to ensure personal health and safety and environmental protection, among other things;
- (3) ensure the sustainable management of resources;

(4) maximize the social and economic benefits related to petroleum resource development activities; and

(5) explicitly recognize the “polluter pays” principle and the principles of prevention or remediation of harm to the environment, and transparency.

2. This Act applies within the submarine areas of the part of the Gulf of St. Lawrence situated within the limits described in Schedule I and corresponding to the area for joint management of petroleum resources created by this Act, designated in this Act as the “petroleum resources joint management area”.

With respect to the transportation of petroleum by pipeline, it also applies beyond that area to the extent provided for in the definition of “pipeline” in section 206.

Unless the context requires otherwise, any reference to the petroleum resources joint management area in a provision of this Act involving the transportation of petroleum by pipeline is to be read as a reference to any area beyond the petroleum resources joint management area to which this Act applies in accordance with the second paragraph.

3. In this Act,

“Federal Minister” means the federal minister who is responsible for the management of natural resources;

“field” means a general submarine surface area that is or appears to be underlain by one or more pools and includes the subsurface regions vertically beneath such an area;

“gas” means natural gas and includes all substances, other than oil, that are produced in association with natural gas;

“interest” means any exploration licence, significant discovery licence or production licence;

“Minister” means the minister who is responsible for the management of natural resources;

“oil” means crude oil, regardless of gravity, produced at a well head in liquid form and any other hydrocarbons, except coal and gas, and, without limiting the generality of the foregoing, hydrocarbons that may be extracted or recovered from deposits of oil sand, bitumen, bituminous sand, oil shale or from any other types of deposits on the seabed or its subsoil of the petroleum resources joint management area;

“petroleum” means oil or gas;

“pool” means a natural underground reservoir containing or appearing to contain an accumulation of petroleum that is or appears to be separated from any other such accumulation;

“prescribed” means prescribed by regulations made by the Government.

4. Québec is the principal beneficiary of the work and activities related to the development of petroleum resources within the petroleum resources joint management area and benefits from all revenues derived from those resources, including royalties, bonuses, forfeitures, licence fees and other forms of revenue provided for in this Act and the regulations made under it.

5. The provisions of this Act must not be interpreted as providing a basis for any claim by or on behalf of the Government of Canada or the government of any other province in respect of any right in or legislative jurisdiction over the petroleum resources joint management area or any living or non-living resources of that area.

6. In case of any inconsistency or conflict between the provisions of this Act or any regulations made under it and the provisions of any other Act that deals primarily with the management of petroleum resources in the petroleum resources joint management area, including the exploration for, development of, and transportation by pipeline of those resources, or of any regulations made under such an Act, the provisions of this Act and the regulations made under it take precedence.

7. This Act is binding on the Government and its bodies, and on the Government of Canada.

8. The Government may jointly with the Government of Canada amend the Accord.

CHAPTER II

ADMINISTRATIVE COORDINATION AND DECISION-MAKING PROCEDURES

DIVISION I

MINISTERIAL COORDINATION

9. The decisions that are to be made under this Act by both the Minister and the Federal Minister, designated in this Act as “the Ministers”, must be made jointly.

Any document, including an interest or order, that is issued as a result of a decision made jointly by the Ministers is to be issued as a joint document.

10. The Ministers may conclude with each other or with the appropriate ministers, agencies and bodies of the Government of Canada and of the Government agreements or memoranda of understanding, designated in this Act as “agreements”, about any matter that they consider appropriate, including joint decision-making.

11. The Ministers may together or individually delegate any of their rights, powers and obligations under this Act to any person.

12. The Ministers may establish one or more advisory councils for the purpose of advising the Ministers about any matter relating to the application of this Act, and determine their terms of reference.

13. The Ministers may approve or issue charts setting out the limits or a portion of the limits of the petroleum resources joint management area.

In any legal or other proceedings, a chart purporting to be approved or issued by or under the authority of the Ministers is conclusive proof for all persons of the limits or a portion of the limits of the petroleum resources joint management area set out in the chart without proof of the capacity or signature of the persons purporting to have approved or issued the chart.

14. The Minister must consult the Federal Minister with respect to any regulation proposed to be made under this Act. No regulation is to be made without the Federal Minister’s approval.

The Minister must, before a regulation is made under section 274 or 280, consult the minister of the Government of Canada who is responsible for occupational health and safety with respect to the proposed regulation. No regulation is to be so made without the approval of that minister.

DIVISION II

REGULATORY COORDINATION

15. The Régie de l’énergie established under the Act respecting the Régie de l’énergie (chapter R-6.01) and the National Energy Board established under the National Energy Board Act (Revised Statutes of Canada, 1985, chapter N-7), designated in this Act as “the Régie” and “the Board”, respectively, must jointly exercise the powers and perform the duties and functions that are attributed to them under this Act.

16. The Régie and the Board must take the necessary measures to coordinate the exercise of their powers and the performance of their duties and functions as well as any activities that flow from the application of this Act by encouraging consultation and collaboration with each other to avoid duplication of work and activities and to establish shared services.

For the purposes of the first paragraph, the Régie and the Board must conclude with each other an agreement establishing their operational rules, including rules in respect of the procedural framework and the manner of collaboration.

The agreement and any amendment to it are submitted to the Ministers for approval.

The agreement must be made public.

17. The Régie and the Board may, to ensure effective coordination and avoid duplication of work and activities, conclude with each other or with the appropriate departments, agencies and bodies of the Government and of the Government of Canada—together or individually—agreements about

- (1) environmental assessment and regulation;
- (2) emergency measures;
- (3) marine regulation including the safety and security of navigation;
- (4) aviation regulation;
- (5) employment and industrial benefits and the review and evaluation procedures to be followed in relation to those benefits;
- (6) occupational health and safety;
- (7) public hearings; and
- (8) any other matters that they consider appropriate.

Any agreement between the Régie and the Board, or any amendment to it, must be approved by the Ministers.

The Ministers must be parties to any agreement in relation to a matter referred to in subparagraph 5 of the first paragraph.

18. The Régie and the Board may delegate any of their powers, duties and functions under this Act to each other or to any of their members, officers or employees, except a power, duty or function relating to a declaration of significant discovery, a declaration of commercial discovery, an authorization for a proposed work or activity or an approval of a development plan.

19. If the Régie and the Board are authorized to make a decision under this Act, the decision must be made jointly and in accordance with the rules set out in this division.

20. For the purpose of making a joint decision and subject to section 218, the Régie and the Board must, within 12 months after the day on which an

applicant has, in the Régie's and the Board's opinion, provided a complete application, render individual decisions and communicate them to each other. The individual decisions are of no force or effect and must remain confidential.

21. Once both of the individual decisions have been communicated, the Régie and the Board must, while respecting those decisions, make a joint decision.

The Régie and the Board must ensure that their joint decision includes any terms that are, in their opinion, necessary to ensure respect for their individual decisions.

22. Despite sections 20 and 21, any decision made by the Régie or the Board, as the case may be, under a delegated power is deemed to be a joint decision of the Régie and the Board.

23. Any joint decision is to be issued by the Régie and the Board as a joint document to the person concerned within three months after the day on which the time period specified in section 20 expires. The decision is final.

A joint decision is deemed, for the purposes of judicial review, to be a decision of the Régie.

24. The Régie and the Board may, on their own initiative or on application, amend or rescind any of their joint decisions.

Before amending or rescinding a joint decision, the Régie and the Board must allow the persons concerned to make representations.

The person responsible for making a decision under a delegated power may, if new facts warrant it, amend that decision.

This section does not apply to a decision relating to a declaration of significant discovery, a declaration of commercial discovery, an operating licence issued under paragraph 1 of section 213, an authorization for each proposed work or activity issued under paragraph 2 of section 213 or an approval of a development plan.

25. Any notice, licence, authorization, order, declaration or other document that is given, issued or made following a joint decision by the Régie and the Board must be issued as a joint document.

26. Any notice, licence, authorization, order, declaration or other document that must be sent to the Régie or the Board under this Act must be sent to the head office of the Régie or any other place specified by the Régie and the Board in a public notice.

27. The Régie and the Board may conduct a public hearing in relation to the exercise of any of their powers or the performance of any of their duties and functions under this Act.

28. At any public hearing conducted under section 27 or in any proceedings with respect to Chapter III of Title III, the Régie and the Board may take any measures and make any order that they consider necessary to ensure the confidentiality of any information that is likely to be disclosed at the hearing or in the proceedings if they are satisfied that

(1) the disclosure of the information could reasonably be expected to result in a material loss or gain to a person who is directly affected by the hearing or proceedings, or to prejudice the person's competitive position, and the potential harm resulting from the disclosure outweighs the public interest in making the disclosure; or

(2) the information is financial, commercial, scientific or technical information that is confidential information supplied to the Régie and the Board and the information has been consistently treated as confidential information by a person directly affected by the hearing or proceedings, and the person's interest in confidentiality outweighs the public interest in its disclosure.

29. At any public hearing conducted under section 27 or in respect of an order, or in any proceedings with respect to Chapter III of Title III, the Régie and the Board may take any measures and make any order that they consider necessary to ensure the confidentiality of information that is likely to be disclosed at the hearing or in the proceedings or is contained in the order if they are satisfied that

(1) there is a real and substantial risk that disclosure of the information will impair the security of pipelines, as defined in section 206, installations, vessels, aircraft or systems, including computer or communication systems, or methods employed to protect them; and

(2) the need to prevent disclosure of the information outweighs the public interest in its disclosure.

30. The Régie and the Board must not take any measures or make any order under section 28 or 29 in respect of information or documentation referred to in paragraphs 1 to 5 and 9 of section 187.

DIVISION III

OIL AND GAS COMMITTEE

31. The Ministers may establish a marine oil and gas committee, designated in this Act as "the Oil and Gas Committee" or "the Committee", that is responsible for

(1) submitting to the Ministers its report or opinion on any question, matter or thing arising under Title III or relating to the conservation, production, storage, processing or transportation of petroleum that the Ministers refer to the Committee;

(2) holding hearings, on the request of the Ministers, in respect of any request that may be made by a person directly affected by a proposed drilling order, development order or order for the cancellation of interests, and submitting to the Ministers its recommendations concerning the proposed order; and

(3) holding hearings and exercising its powers under Chapter V of Title III with respect to pooling agreements, unit agreements and unit operating agreements.

32. The Committee must consist of not more than five members, including a chair, appointed by the Ministers. Not more than three members may be employees in the Québec public service or the federal public administration.

33. At least two members of the Committee must have specialized or expert knowledge of petroleum.

Persons employed or who hold office in any division, branch or bureau of the departments that are presided over by either of the Ministers and that is designated as the division, branch or bureau charged with the day-to-day administration and management of oil and gas resources for the department, are not eligible to be members of the Committee, but the Ministers may designate an employee or officer from any such division, branch or bureau to act as secretary to the Committee.

34. The members of the Committee must be appointed by the Ministers to hold office for a term of three years, and one member is to be designated as chair for the term that is fixed by the Ministers.

35. A member of the Committee must not have a pecuniary interest of any description, directly or indirectly, in any property in petroleum to which this Act applies or own shares in any company engaged in any phase of the petroleum industry in Canada in an amount in excess of five percent of the company's issued shares and a member who owns any shares of such a company must not vote or participate in any work of the Committee when a question affecting that company is before the Committee.

36. The Ministers must provide the Committee with any officers, clerks and employees that may be necessary for the proper conduct of its affairs, and may provide the Committee with any professional or technical assistance for temporary periods or for specific work that it may request, but no such assistance is to be provided otherwise than from the staff of the Québec public service or the federal public administration except with the approval of the Ministers.

37. The members of the Committee who are not employees of the Québec public service or the federal public administration are to be paid any remuneration that is authorized by the Ministers.

All members of the Committee are entitled to be paid reasonable travel and living expenses while absent from their ordinary place of residence in the course of their duties.

38. The quorum at meetings of the Committee is a majority of its members, including one member who is not an employee of the Québec public service or the federal public administration.

39. The Committee may make general rules regulating its practice and procedure and the places and times of its sittings.

40. The Committee may conduct any inquiry or hold any hearing necessary or proper for the due exercise of its powers under this Act and, for that purpose, the Committee members have the powers and immunity of commissioners appointed under the Act respecting public inquiry commissions (chapter C-37), except the power to punish for contempt of court.

The Committee may, however, apply to a judge of the Superior Court to provide a response to the offending behaviour.

41. Every person who refuses or fails to comply with an order of the Committee, or who refuses to answer questions that the Committee has the legal authority to ask or to produce documents or other things that the Committee has the legal authority to request, or who undermines the conduct of any hearing is guilty of contempt of court.

42. If the Committee is charged with a duty to conduct an inquiry or hold a hearing, it has full jurisdiction to inquire into, hear and decide the matter that is the subject of that inquiry or hearing and to make any order, or give any direction that under this Act it is authorized to make or give or with respect to any matter, act or thing that by this Act may be prohibited or approved by it or required by it to be done.

43. A finding or determination of the Committee on any question of fact within its jurisdiction is final and binding.

44. The Committee or any interested person may file a true copy of a finding or determination of the Committee with the office of the clerk of the Superior Court of the district of Montréal or Québec or of the district where the head office, business establishment or residence of a party is situated.

A finding or determination that is filed in accordance with the first paragraph has the same force and effect as a judgment that was made by the Superior Court.

Any finding or determination of the Committee, or any order of the Ministers under section 371 rescinding or replacing a finding or determination of the Committee that is filed with the office of the clerk of the Superior Court under the second paragraph, has the effect of cancelling the effect provided for in that paragraph and may in like manner be made a judgment of that Court.

45. The Committee may direct any of its members to conduct an inquiry into or hold a hearing in respect of any matter before it and to report the evidence and their findings to it. The report may be adopted as a finding of the Committee or otherwise dealt with as the Committee considers advisable.

CHAPTER III

COST RECOVERY

46. Subject to section 14, the Government may make regulations

(1) determining the fees or charges, or the method of calculating the fees or charges, to be paid for the provision by the Régie or the Minister of a service or a product under this Act;

(2) determining the fees or charges, or the method of calculating the fees or charges, to be paid by the holder of an operating licence or an authorization for a work or activity or by a person making an application for an authorization under paragraph 2 of section 213 or an application under section 226 in respect of any of the Régie's or the Minister's activities under this Act; and

(3) determining the refund of all or part of any fee or charge referred to in paragraph 1 or 2 or the method of calculating such a refund.

47. The fees or charges payable to the Régie in accordance with regulations made under section 46 must be paid to the Régie and those payable to the Minister must be paid to the Minister and be credited to the hydrocarbon management component of the Natural Resources Fund established under section 17.12.12 of the Act respecting the Ministère des Ressources naturelles et de la Faune (chapter M-25.2).

CHAPTER IV

SETTLEMENT PROCEDURE FOR DISPUTES

48. If a dispute between Québec and any other province that is a party to an agreement with the Government of Canada for the management of petroleum resources arises in relation to the limits of the petroleum resources joint management area, the Government and the province or provinces concerned are to proceed as follows:

(1) they may try to negotiate a settlement;

(2) if negotiations are unsuccessful, they may agree to settle the dispute by means of mediation; and

(3) if negotiation or mediation is unsuccessful, they may agree to submit the dispute to arbitration according to the conditions to which they jointly agree, and the decision of the arbitrator is final and binding on all parties specified in the decision as of the date specified in it.

49. If the Government and the province or provinces concerned are unable to settle the dispute by means of negotiation or mediation or to agree on an arbitration process within a reasonable time, one of the provinces may serve notice on the other provinces that are parties to the dispute and on the Federal Minister of its intention to submit the dispute to a binding arbitration process in accordance with sections 50 to 55.

50. If the dispute is submitted to a binding arbitration process, an arbitration panel must be established. Members of the panel, including the chair, must be neutral and independent of the parties to the dispute.

Within 60 days after the day on which notice is served, each party to the dispute must appoint one member to the panel.

Notice is served if it is sent by registered mail to the recipient and is considered to have been served on the day on which it was mailed.

51. The Government of Canada must appoint a chair to the arbitration panel from a list of candidates agreed on by the parties to the dispute. If the parties do not provide a list of candidates within 60 days after the day on which notice is served, the Government of Canada must appoint the chair after consultation with the parties to the dispute.

The chair is a member of the panel and must be proficient in matters relating to maritime boundary delimitation. The chair must not be a resident of a province that is party to the dispute.

52. If a party to the dispute fails to appoint a member to the arbitration panel within the time specified, the chair must make the appointment.

53. The arbitration panel must control the discharge of its responsibilities and the conduct of its affairs, including its arbitration procedures.

54. The arbitration panel must apply the principles of international law governing maritime boundary delimitation, with any modifications that the circumstances require.

55. The arbitration panel's decisions must be made on the basis of a majority vote of its members. The chair's vote is the deciding vote in the case of a tie.

56. A decision made by the arbitration panel is final and binding on all parties specified in the decision as of the date specified in it.

57. If a dispute is settled by means of negotiation, mediation or arbitration, the Government must, by regulation, amend the description of the limits of the petroleum resources joint management area in accordance with the settlement. The regulation is not subject to the procedure for consultation of and approval by the Federal Minister set out in the first paragraph of section 14.

58. Any settlement by means of negotiation, mediation or arbitration pertains only to the limits of the petroleum resources joint management area and is without prejudice to the constitutional positions of the Government and the Government of Canada.

CHAPTER V

REGULATORY POWERS

59. Subject to section 14, the Government may make regulations amending the description of the limits of the petroleum resources joint management area set out in Schedule I and make any regulations that may be considered necessary for carrying out the purposes of this Title and that Schedule.

TITLE II

PETROLEUM RESOURCES

CHAPTER I

DEFINITIONS AND GENERAL PROVISIONS

DIVISION I

DEFINITIONS

60. In this Title,

“commercial discovery” means a discovery of petroleum that has been demonstrated to contain petroleum reserves that justify the investment of capital and effort to bring the discovery to production;

“commercial discovery area” means, in relation to a declaration of commercial discovery made under section 124, those portions of the petroleum resources joint management area described in the declaration;

“holder” means, in respect of an interest or a share in an interest, the person indicated in the register maintained under Chapter IV as the holder of the interest or the share;

“owner” means, in respect of an interest, the holder who holds the interest or the group of holders who hold all the shares in the interest;

“share” means, in respect of an interest, an undivided share in the interest or a share in the interest held in accordance with section 86;

“significant discovery” means a discovery indicated by the first well on a geological feature that demonstrates by flow testing the existence of petroleum in that feature and, having regard to geological and engineering factors, suggests the existence of an accumulation of petroleum that has potential for sustained production;

“significant discovery area” means, in relation to a declaration of significant discovery made under section 95, those portions of the petroleum resources joint management area described in the declaration;

“State reserve area” means portions of the petroleum resources joint management area in respect of which no interest is in force.

DIVISION II

GENERAL PROVISIONS

61. A notice that is required under this Title must be given in the prescribed manner, in the form and containing the information that is specified by the Ministers.

62. The Ministers may establish the form of any document provided for under this Title and may include a declaration to be signed by the person completing it declaring that the information given by that person is, to the best of that person’s knowledge, true, accurate and complete.

Every document purporting to be a document established by the Ministers is deemed to be established by them under this Title unless it is called into question by either of the Ministers or a person acting for either of them or for the Government or the Government of Canada.

63. If an interest owner consists of a group of holders, those holders must, in the prescribed manner, appoint one of their number to act as a representative of the interest owner.

But the holders may, with the approval of the Ministers, appoint different representatives for different purposes.

If the holders fail to appoint a representative, the Ministers may designate one of those holders as the representative.

64. An interest owner who consists of a group of holders is bound by an act or omission on the part of the representative within the scope of the representative's authority.

The representative must prudently and diligently perform the duties for which he or she has been appointed or designated.

Any agreement or other arrangement in force concerning an interest owner's relevant interest is varied or amended as required to give effect to this section.

DIVISION III

GENERAL RULES RESPECTING INTERESTS

65. The Ministers may, by order, for any purposes and under any conditions that are set out in the order, prohibit the issuance of interests for any portion of the petroleum resources joint management area.

66. An interest owner may, in the prescribed manner and subject to any requirements that may be prescribed respecting the minimum geographical area to which an interest may relate, surrender an interest for all or any portion of the petroleum resources joint management area subject to the interest.

Any liability of an interest owner or the holder of a share in an interest to the Government that exists at the time of any surrender under the first paragraph is not affected by the surrender.

67. The Ministers may, by order, prohibit any interest owner specified in the order from commencing or continuing any work or activity in the petroleum resources joint management area or any portion of it that is subject to the interest of that owner if there exists

- (1) an environmental or social problem of a serious nature; or
- (2) dangerous or extreme weather conditions affecting the health or safety of people or the safety of equipment.

Any requirement in relation to an interest that cannot be complied with while an order under the first paragraph is in force is suspended until the order is revoked by the Ministers.

68. Despite anything in this Act, the term of an interest that is subject to an order under section 67 and the period provided for compliance with any requirement in relation to the interest are extended for a period equal to the period that the order is in force.

69. Nothing in section 67 affects the authority of the Ministers to relieve a person from any requirement in relation to an interest or under this Title.

CHAPTER II

ISSUANCE AND CANCELLATION OF INTERESTS

DIVISION I

CALL FOR BIDS

70. The Ministers may issue interests for any portion of the petroleum resources joint management area in accordance with this Title and the regulations made under it.

The application of an interest may be restricted to any geological formations and substances that are specified in the interest.

71. The Ministers must make a call for bids, by publishing a notice, for the issuance of an interest in relation to State reserve areas.

The Ministers must not issue the interest to anyone but the person who submitted, in response to the call, the bid selected by the Ministers in accordance with section 75.

72. Any request received by the Ministers to make a call for bids for particular portions of the petroleum resources joint management area must be considered by the Ministers in selecting the portions to be specified in the call for bids.

73. A call for bids must specify

(1) the interest to be issued—exploration licence, significant discovery licence or production licence—and the portions of the petroleum resources joint management area to which the interest is to apply;

(2) if applicable, the geological formations and substances to which the interest is to apply;

(3) the other terms subject to which the interest is to be issued;

(4) any terms that a bid must satisfy to be considered by the Ministers;

(5) the form and manner in which a bid is to be submitted;

(6) the closing date and time for the submission of bids; and

(7) the sole criterion that the Ministers will apply in assessing bids.

74. Unless otherwise prescribed, a call for bids must be published at least 120 days before the last day on which bids may be submitted as specified in the call for bids.

75. Any bid submitted in response to a call for bids that does not satisfy the terms and is not submitted in the form and manner specified in the call for bids must be rejected.

The selection of a bid must be made on the basis of the sole criterion specified in the call for bids.

76. The Ministers must publish a notice setting out the terms of the bid selected.

77. If an interest is to be issued as a result of a call for bids, the terms of the interest must be substantially consistent with any terms specified in the call for bids in respect of that interest.

78. The Ministers must publish a notice setting out the terms of any interest issued as a result of a call for bids as soon as feasible after issuing it.

79. The Ministers are not required to issue an interest as a result of a call for bids.

80. If the Ministers have not issued an interest for a particular portion of the petroleum resources joint management area specified in a call for bids within six months after the last day on which bids may be submitted, they must not issue an interest for that portion without making a new call for bids.

81. The Ministers may issue an interest, for any State reserve area, without making a call for bids if

(1) the portion of the petroleum resources joint management area to which the interest is to apply has, through error or inadvertence, become a State reserve area and the interest owner who last held an interest for that portion has, within one year after the time it so became a State reserve area, requested the Ministers to issue an interest; or

(2) they are issuing the interest to an interest owner in exchange for the surrender by the interest owner, at the Ministers' request, of any other interest or a share in any other interest, for all or any portion of the petroleum resources joint management area subject to that other interest.

If the Ministers propose to issue an interest under the first paragraph, they must, not later than 90 days before the day on which they issue the interest, publish a notice setting out the terms of the proposed interest.

82. If an interest has been issued, it is not vitiated by reason only of a failure to comply with any of the requirements set out in this division respecting the form and content of, and time and manner of publishing, any notice required by this division in relation to that interest.

83. Any notice that is required to be published under this division must be published in the *Gazette officielle du Québec* and in any other publication the Ministers consider appropriate.

A notice must contain the information prescribed by this division. It may contain only a summary of the information required to be published and a statement that the full text is available for inspection by any person on request made to the Ministers.

84. Subject to section 14, the Government may make regulations in relation to all or any portion of the petroleum resources joint management area, or in respect of any particular call for bids, prescribing the terms and sole criterion to be specified in a call for bids and the manner in which bids are to be submitted.

DIVISION II

PETROLEUM EXPLORATION

§1.—*Exploration licences*

85. An exploration licence confers on its holder, with respect to the portions of the petroleum resources joint management area to which the licence applies, the right to explore, and the exclusive right to drill and test, for petroleum, the exclusive right to develop those portions in order to produce petroleum, and the exclusive right, subject to compliance with the other provisions of this Act, to obtain a production licence.

86. A share in an exploration licence may, subject to any requirements that may be prescribed, be held with respect only to a portion of the petroleum resources joint management area that is subject to the exploration licence.

87. An exploration licence must contain the terms that are prescribed and may contain any other terms, which are not inconsistent with this Title, that are agreed on by the Ministers and the owner of the licence.

88. The Ministers may, in agreement with the owner of an exploration licence, amend any provision of the licence in any manner not inconsistent with the provisions of this Title or the regulations made under it and may also, subject to the second paragraph, amend the licence to include any other portion of the petroleum resources joint management area.

The Ministers must not amend an exploration licence to include any portion of the petroleum resources joint management area that was a State reserve area unless the Ministers would be able to issue an interest to that interest owner for that area under section 81 and a notice setting out the terms of the amendment has been published in the *Gazette officielle du Québec* and in any other publication the Ministers consider appropriate not later than 90 days before the day on which they make the amendment.

Despite the second paragraph, the notice may contain a summary of the terms and a statement that the full text is available for inspection by any person on request made to the Ministers.

89. The Ministers may, on the application of the interest owners of two or more exploration licences, consolidate those licences into a single exploration licence, subject to any terms that may be agreed on by the Ministers and interest owners.

90. An exploration licence takes effect on the date that is specified in the licence.

91. The term of an exploration licence must not be greater than nine years from the day on which the licence takes effect and the term must not be renewed.

92. On the expiry of an exploration licence, the portions of the petroleum resources joint management area to which the exploration licence related that are not subject to a production licence or a significant discovery licence become State reserve areas.

93. An exploration licence that is set to expire during the drilling of a well continues to be in force while the drilling of that well is being pursued diligently and for so long after that as may be necessary to determine the existence of a significant discovery based on the results of that well.

If the drilling of that well is suspended because of dangerous or extreme weather conditions or mechanical or other technical problems, the drilling is deemed to have been pursued diligently during the period of suspension.

94. If the drilling of a well cannot be completed because of mechanical or other technical problems and if, within 90 days after the day on which drilling operations for that well cease, or any longer period that the Ministers decide, the drilling of another well is begun on any portion of the petroleum resources joint management area that was subject to the exploration licence, the drilling of that other well is deemed to have begun before the expiry of the exploration licence.

§2.—*Declaration of significant discovery*

95. If a significant discovery has been made on any portion of the petroleum resources joint management area that is subject to an interest or a share in an interest held in accordance with section 86, the Régie and the Board must, on the holder's application made in the prescribed manner, make a written declaration of significant discovery for those portions of the petroleum resources joint management area to which there are reasonable grounds to believe that the significant discovery may extend.

If a significant discovery has been made on any portion of the petroleum resources joint management area, the Régie and the Board may, on their own

initiative, make a written declaration of significant discovery for those portions of that area to which there are reasonable grounds to believe the significant discovery may extend.

96. A declaration of significant discovery must describe the portions of the petroleum resources joint management area to which the declaration applies.

97. If a declaration of significant discovery is made under section 95 and, based on the results of further drilling, there are reasonable grounds to believe that a discovery is not a significant discovery or that the portions of the petroleum resources joint management area to which the significant discovery extends differ from the significant discovery area, the Régie and the Board may, as appropriate in the circumstances, amend the declaration by increasing or decreasing the significant discovery area, or revoke the declaration.

However, a declaration of significant discovery must not be amended to decrease the significant discovery area or be revoked earlier than, in the case of a significant discovery area that is subject to a significant discovery licence issued under section 108, the day on which the exploration licence referred to in that section expires and, in the case of a significant discovery area that is subject to a significant discovery licence issued under section 109, three years after the day on which the significant discovery licence takes effect.

98. A copy of a declaration of significant discovery and of any amendment or revocation of the declaration must be sent by registered mail to the interest owner.

99. At least 30 days before making a decision to make, amend or revoke a declaration of significant discovery, the Régie and the Board must give written notice of their intention to make the decision to any person that the Régie and the Board consider to be directly affected by the decision.

100. A person to whom notice is given may, in writing, request a hearing in respect of the decision.

101. A request for a hearing must be received by the Régie and the Board within 30 days after the day on which the notice is given.

102. If no request is received under sections 100 and 101, the Régie and the Board may make the decision.

103. If a request is received under sections 100 and 101, the Régie and the Board must fix a suitable time and place for the hearing and notify each person who requested the hearing.

104. Each person who requests a hearing may make representations and introduce witnesses and documents at the hearing.

105. At or after the conclusion of the hearing, the Régie and the Board must make the decision, give notice of it to each person who requested the hearing and, if the person requests reasons, publish or make available the reasons for the decision.

106. The Régie and the Board may each delegate any of their powers under this subdivision to any of their members, officers or employees, and those powers must be exercised or performed in accordance with the terms of the delegation.

§3.— *Significant discovery licences*

107. A significant discovery licence confers on its holder, with respect to the portions of the petroleum resources joint management area to which the licence applies, the right to explore, and the exclusive right to drill and test, for petroleum, the exclusive right to develop those portions in order to produce petroleum, and the exclusive right, subject to compliance with the provisions of this Act, to obtain a production licence.

108. If a declaration of significant discovery is in force and all or a portion of the significant discovery area is subject to an exploration licence or a share in it held in accordance with section 86, the Ministers must, on the holder's application made in the prescribed manner, issue to the interest holder a significant discovery licence for all portions of the significant discovery area that are subject to the exploration licence or the share.

109. If a declaration of significant discovery is in force and the significant discovery area extends to a State reserve area, the Ministers may, after making a call for bids for all or any portion of that State reserve area and selecting a bid that was submitted in response to the call for bids in accordance with Division I of this chapter, issue a significant discovery licence to the person who submitted that bid.

110. A significant discovery licence may contain any other terms, not inconsistent with the provisions of this Title or the regulations made under it, that may be agreed on by the Ministers and the interest owner.

111. If a significant discovery area in relation to a declaration of significant discovery is decreased as the result of an amendment made under section 97, any significant discovery licence that was issued on the basis of that declaration must be amended to decrease the portions of the petroleum resources joint management area subject to the licence accordingly.

If a significant discovery area in relation to a declaration of significant discovery is increased as a result of an amendment made under section 97, any significant discovery licence that was issued on the basis of that declaration must be amended to include all portions of that amended significant discovery area.

112. On the day on which a significant discovery licence for a significant discovery area is issued under section 108, any exploration licence issued for that area ceases to have effect.

A significant discovery licence takes effect on the day on which the application for the licence was submitted.

Subject to section 145, a significant discovery licence continues to be in force for each portion of the petroleum resources joint management area to which the licence applies during the period that the relevant declaration of significant discovery remains in force.

On the day on which a significant discovery licence expires, any portion of the petroleum resources joint management area to which the significant discovery licence relates and that is not subject to a production licence becomes a State reserve area.

§4.—*Drilling orders*

113. If a declaration of significant discovery has been made, the Ministers may, by order, require the owner of an interest in relation to any portion of the significant discovery area to drill a well on any portion of the significant discovery area that is subject to that interest, in accordance with any directions that are set out in the order, and to begin the drilling within one year after the day on which the order is made or within any longer period, subject to the following:

(1) a drilling order must not be made with respect to any interest owner who has completed a well on the relevant portion of the area within six months after the completing of that well; and

(2) a drilling order must not be made within three years after the day on which the well indicating the relevant significant discovery has been abandoned, completed or suspended in accordance with any applicable drilling regulations made under Title III.

114. A drilling order must not require an interest owner to drill more than one well at a time on the relevant portion of the significant discovery area.

115. The Ministers must, not less than 30 days before the day on which they make a drilling order, give notice in writing to the persons that the Ministers consider to be directly affected by the proposed order.

116. Any person to whom notice is given under section 115 may, in writing to the Ministers, request a hearing within the 30-day period referred to in that section.

On receipt of such a request, the Ministers must direct the Oil and Gas Committee to appoint a time and place for the hearing and to give notice of that hearing to each person who requested it.

117. Any person who requests a hearing may make representations and introduce witnesses and documents at the hearing.

118. On the conclusion of the hearing, the Committee must submit to the Ministers its recommendations concerning the proposed order, together with the evidence and other material that was before the Committee.

119. Before making any decision in respect of the proposed order, the Ministers must consider the recommendations of the Committee.

120. The Ministers must notify the person who requested the hearing of any order made and, on request by that person, publish or make available to that person the reasons for the order.

121. An order takes effect, if no hearing is requested, as of the day after the 30-day period for requesting such a hearing or, if a hearing is requested, as of the day on which the decision to make the proposed order is made by the Ministers.

122. An order made after a hearing is subject to the superintending and reforming power of the Superior Court in the manner and form prescribed by law.

123. Despite sections 185 to 192, the Ministers may provide information or documentation relating to a significant discovery to any interest owner who requires it to assist that owner in complying with a drilling order. The Ministers may ask or direct the Régie and the Board to provide that information or documentation to that owner.

An interest owner must not disclose any information or documentation provided to them under the first paragraph except if necessary to comply with a drilling order.

DIVISION III

PRODUCTION

§1.—Declaration of commercial discovery

124. If a commercial discovery has been made on any portion of the petroleum resources joint management area that is subject to an interest or a share in an interest held in accordance with section 86, the Régie and the Board must, on the holder's application made in the prescribed manner, make a written declaration of commercial discovery for those portions of that area to which

there are reasonable grounds to believe that the commercial discovery may extend.

If a commercial discovery has been made on any portion of the petroleum resources joint management area, the Régie and the Board may, on their own initiative, make a written declaration of commercial discovery in relation to those portions of that area to which there are reasonable grounds to believe the commercial discovery may extend.

125. A declaration of commercial discovery must describe the portions of the petroleum resources joint management area to which the declaration applies.

126. If a declaration of commercial discovery is made under section 124 and, based on the results of further drilling, there are reasonable grounds to believe that a discovery is not a commercial discovery or that the portions of the petroleum resources joint management area to which the commercial discovery extends differ from the commercial discovery area, the Régie and the Board may, as appropriate in the circumstances, amend the declaration by increasing or decreasing the commercial discovery area or revoke the declaration.

127. A copy of a declaration of commercial discovery and of any amendment or revocation of the declaration must be sent by registered mail to the interest owner.

128. Sections 99 to 105 apply, with any modifications that the circumstances require, with respect to any decision of the Régie and the Board to make, amend or revoke a declaration of commercial discovery.

129. The Régie and the Board may each delegate any of their powers under this subdivision to any of their members, officers or employees and those powers must be exercised in accordance with the terms of the delegation.

§2. — Development orders

130. Despite anything in this Act, if the Ministers are of the opinion that it is in the public interest, they may, after a declaration of commercial discovery has been made and at any time within six months after the day on which the period specified in the notice under the third paragraph ends, by order, reduce the term of any interest in any portion of the commercial discovery area where commercial production of petroleum has not begun.

The term of the interest may be reduced to a period of three years, or any longer period that may be specified in the order, beginning on the day on which the order is made.

Before making such an order, the Ministers must give the interest owner notice of not less than six months of their intention and provide a reasonable opportunity during that period for the interest owner to make submissions in relation to the order.

131. Despite anything in this Act, any interest that is the subject of a development order ceases to have effect at the end of the period specified in the order.

132. Despite section 131, if commercial production of petroleum begins before the day on which the period specified in a development order or the period extended under section 133 ends, the order ceases to have effect and is considered to have been vacated.

133. Despite section 131, the Ministers may extend the period specified in a development order or may revoke the order.

134. Sections 115 to 122 apply, with any modifications that the circumstances require, to a development order made by the Ministers under this subdivision.

§3.—*Production licences*

135. A production licence confers on its holder, with respect to the portions of the petroleum resources joint management area to which the licence applies, the right to explore, and the exclusive right to drill and test, for petroleum, the exclusive right to develop those portions in order to produce petroleum, the exclusive right to produce petroleum from those portions and the title to the petroleum so produced.

136. The Ministers, on an application made in the prescribed manner,

(1) must issue a production licence to one interest owner, in respect of any one commercial discovery area or portion of it that is subject to an exploration licence or a significant discovery licence held by that interest owner; and

(2) may, subject to any terms that may be agreed on by the Ministers and the relevant interest owners, issue a production licence to

(a) one interest owner, in respect of two or more commercial discovery areas or portions of them that are subject to an exploration licence or a significant discovery licence held by that interest owner, or

(b) two or more interest owners, in respect of one or more commercial discovery areas or portions of them that are subject to an exploration licence or a significant discovery licence held by any of those interest owners.

137. Despite section 135, the Ministers may, subject to any terms that they consider appropriate, authorize any holder of an interest or a share in an interest to produce petroleum on the portions of the petroleum resources joint management area that are subject to the interest or share for use in the exploration or drilling for or development of petroleum in any portion of that area.

138. If a declaration of commercial discovery is in force and the commercial discovery area extends to a State reserve area, the Ministers may, after making a call for bids for all or any portion of that State reserve area and selecting a bid that was submitted in response to the call for bids in accordance with section 75, issue a production licence to the person who submitted that bid.

139. A production licence may contain any terms, not inconsistent with the provisions of this Title or the regulations made under it, that may be agreed on by the Ministers and the interest owner.

140. The Ministers may, on the application of the interest owners of two or more production licences, consolidate any of those production licences into a single production licence, on any terms that may be agreed on by the Ministers and those interest owners.

141. If a commercial discovery area in relation to a declaration of commercial discovery is decreased as the result of an amendment made under section 126, any production licence that was issued on the basis of that declaration must be amended to decrease the portions of the petroleum resources joint management area subject to the licence accordingly.

If a commercial discovery area in relation to a declaration of commercial discovery is increased as the result of an amendment made under section 126, any production licence that was issued on the basis of that declaration must be amended to include all portions of that amended commercial discovery area subject to an exploration licence or a significant discovery licence held by the production licence owner.

142. A production licence takes effect on the day on which it is issued and must be issued for a term of 25 years.

If a declaration of commercial discovery on the basis of which a production licence was issued is, under section 126, revoked or amended to exclude all portions of the commercial discovery area for which the production licence was issued, the production licence ceases to be in force.

143. If petroleum is being produced commercially on the day on which the term of a production licence expires, the term is extended for any period during which the commercial production continues.

144. The Ministers may, by order, on any terms that they may specify, extend the term of a production licence if

(1) commercial production of petroleum from the portions of the petroleum resources joint management area that are subject to the licence ceases before or on the day on which the production licence's 25-year term expires and the Ministers have reasonable grounds to believe that commercial production from those portions will restart; or

(2) the Ministers have reasonable grounds to believe that commercial production of petroleum from those portions will, at any time before or after the day on which the licence's term expires, cease during any period and restart after the period.

145. Any interest in portions of the petroleum resources joint management area that is held before a production licence is issued for those portions ceases to have effect in relation to those portions on the day on which the licence is issued but otherwise continues to have effect.

On the expiry of a production licence, the portions of the petroleum resources joint management area for which the production licence was issued become State reserve areas.

§4. — *Subsurface storage licences*

146. The Ministers may, subject to any terms that they consider appropriate, issue a licence authorizing the subsurface storage of petroleum or any other substance approved by them in portions of the petroleum resources joint management area at depths greater than 20 metres.

The petroleum resources joint management area must not be used for a purpose referred to in the first paragraph without a subsurface storage licence.

DIVISION IV

CANCELLATION OF INTERESTS

147. If the Ministers have reason to believe that an interest owner or holder is failing or has failed to meet any requirement under this Act, they may give notice to that interest owner or holder requiring compliance with the requirement within 90 days after the day on which the notice was given or within any longer period that they consider appropriate.

148. Despite anything in this Act, if an interest owner or holder fails to comply with a notice under section 147 within the period specified in the notice and the Ministers consider that the failure to comply warrants cancellation of the interest of the interest owner or holder or any share in the interest held by the holder with respect to a portion only of the petroleum resources joint management area subject to the interest, the Ministers may, by order, cancel that interest or share, and if the interest or share is so cancelled, the portions of the petroleum resources joint management area under that share or interest become State reserve areas.

Sections 115 to 122 apply, with any modifications that the circumstances require, to an order made by the Ministers under this division.

CHAPTER III

ROYALTIES

149. In this chapter, “replacement Act” means any Act that replaces the Mining Act (chapter M-13.1) in whole or in part in respect of the management of petroleum.

150. Every holder of a share in a production licence, and every person who conducts an extended formation flow test under subdivision 12 of Division II of Chapter II of Title III, is liable for and must pay, under the Mining Act or the replacement Act, the royalties in respect of their share of the production of petroleum in the petroleum resources joint management area.

The holder and person must also pay, in accordance with either of those Acts, as the case may be, the related interest and penalties in default of payment of those royalties.

All amounts payable under the first and second paragraphs must be remitted to the Receiver General for Canada.

Any amount so remitted to the Receiver General for Canada must be remitted, without delay and unconditionally, to the Government.

151. Despite anything in this Act, if a person is in default in the payment of any amount payable under this chapter, the Ministers may, for so long as the amount remains unpaid,

(1) refuse to issue to that person any interest for any portion of the petroleum resources joint management area;

(2) refuse to authorize, under Title III, that person to carry on any work or activity related to the exploration for or the production of petroleum on any portion of that area and suspend any authorization already given; and

(3) exercise the powers under sections 147 and 148.

A remedy must not be exercised under this section in respect of a default in the payment of an amount before any remedy, including assessment, reassessment, appeal or review, under the Mining Act or the replacement Act is exhausted in respect of that default.

152. The Minister may, with the approval of the Government, enter on behalf of the Government into an agreement with the Government of Canada with respect to the collection and administration of the amounts referred to in the first and second paragraphs of section 150.

153. All amounts payable under the first and second paragraphs of section 150 are debts due to the Government and the Government of Canada.

154. For the purposes of this chapter, the petroleum resources joint management area is deemed to be within the territorial limits of the judicial district of Montréal.

CHAPTER IV

TRANSFERS, ASSIGNMENTS AND REGISTRATION

DIVISION I

DEFINITIONS, TRANSFERS AND ASSIGNMENTS

155. In this chapter,

“assignment of security interest” means a notice of the assignment of a security interest or any part of it for which a security notice has been registered under this chapter;

“discharge” means a notice of the discharge or release of a security notice or postponement and includes a partial discharge or release;

“instrument” means a discharge, postponement, security notice, transfer of an interest or a share in an interest or an assignment of a security interest;

“operator’s lien” means any charge on or right in relation to an interest or a share in an interest arising under a contract that the interest owner or holder of the interest or share is a party to, that provides for the operator appointed under the contract to carry out any work or activity related to the exploration for or the development or production of petroleum in the portions of the petroleum resources joint management area to which the interest or share applies, and that requires the interest owner or holder to make payments to the operator to cover all or part of the advances made by the operator in respect of the costs and expenses of any work or activity, and securing those payments;

“postponement” means a document evidencing the postponement of a security notice or operator’s lien;

“secured party” means the person claiming a security interest under a security notice;

“security interest” means any security given under section 426 of the Bank Act (Statutes of Canada, 1991, chapter 46) and any charge on or right in relation to an interest or a share in an interest but not including an operator’s lien, that secures

(1) the payment of an indebtedness arising from an existing or future loan or advance of money,

(2) a bond, debenture or other security of a corporation, or

(3) the performance of the obligations of a guarantor under a guarantee given in respect of all or part of an indebtedness referred to in paragraph 1 or all or part of a bond, debenture or other security of a corporation referred to in paragraph 2;

“security notice” means a notice of a security interest.

156. If an assignment of security interest is registered, a reference in this chapter to a secured party is, in respect of the security notice to which the assignment of security interest relates, a reference to the assignee named in the assignment of security interest.

157. If a holder of an interest or any share in an interest enters into an agreement or arrangement that results in or may result in a transfer, assignment or other disposition of the interest or share, the holder must give notice of that agreement or arrangement to the Ministers, together with a summary of its terms or, on the request of those Ministers, a copy of the agreement or arrangement.

DIVISION II

REGISTER

158. A public register of all interests issued under this Act, and all instruments related to those interests, is to be established and maintained in accordance with this chapter.

159. The Ministers must designate a Registrar and Deputy Registrar to exercise the powers and perform any duties and functions in respect of the register that may be prescribed.

160. A document other than an interest or instrument must not be registered.

An instrument must not be registered unless it has been submitted for registration in the form and containing the information required under this chapter and it meets any other requirement for its registration.

In the case of a security notice, it must also specify

- (1) the nature of the security interest claimed;
- (2) the person from whom the security interest was acquired;
- (3) the documents giving rise to the security interest; and
- (4) any other particulars in respect of the security interest that may be prescribed.

161. An instrument must not be registered unless a notice of official address for service of that instrument is filed with the Registrar.

The official address for service may be changed by filing with the Registrar another notice of official address for service.

162. If a significant discovery licence or production licence is issued at any time in respect of any portion of the petroleum resources joint management area, the registration of a security notice in respect of the interest in force immediately preceding the issuance of that licence and relating to that portion applies in respect of the licence as though the security notice referred to that licence and as though that licence had been issued before the registration of the security notice.

163. Every document submitted for registration must be examined by the Registrar and if the document meets all the requirements for its registration under this chapter and the regulations, the Registrar must register it.

If the Registrar refuses to register any document, the Registrar must return the document to the person who submitted it for registration and provide that person with the reasons for the refusal.

164. An instrument is registered when the Registrar endorses it with a registration number and the time and date of registration.

165. Instruments that are accepted for registration must be registered in the chronological order in which they are received by the Registrar.

166. The registration of an instrument constitutes actual notice of the instrument to all persons as of the instrument's time of registration and actual notice of the contents of the documents specified in a security notice to all persons who may serve a demand for information under section 170.

167. Subject to the first paragraph of section 168 and section 169, any particular right in an interest or a share in an interest, in respect of which an instrument has been registered at any time, has priority over and is valid against any other right, in relation to that interest or share,

(1) in respect of which an instrument may be registered, whether that other right was acquired before or after that particular right, if the instrument was not so registered, or if the instrument was so registered after that time; or

(2) in respect of which an instrument must not be registered, if that other right was acquired after that time.

168. If any right in respect of which an instrument may be registered was acquired before the day on which this chapter comes into force and an instrument in respect of that right is registered not later than 180 days after the day on which this chapter comes into force, the priority and validity of that

right must be determined as though the instrument was registered at the time the right was acquired and as though this chapter was in force at that time.

Despite the first paragraph, no right in respect of which that paragraph applies is to have priority over and be valid against any other right in respect of which that paragraph applies but in respect of which an instrument is not registered within the period referred to in that paragraph, if the person who claims the right in respect of which the instrument is registered within that period acquired that right with actual knowledge of the other right.

An instrument in respect of any right to which the first paragraph applies may be registered if it is accompanied by the statutory declaration, in the form and containing the information specified by the Ministers, of the person claiming that right, attesting to the day on which that right was acquired.

169. An operator's lien, in relation to an interest or a share in an interest, must, without the need for registration, have priority over and be valid against any other right, in relation to that interest or share, in respect of which an instrument may be registered, whether an instrument in respect of that other right was registered before or after the acquisition of the operator's lien or the operator's lien was acquired before or after that other right, unless the operator's lien is postponed with respect to any other rights by the registration of a postponement in respect of the operator's lien and a discharge in respect of that postponement has not been registered.

170. A person may, in accordance with sections 171 to 174, serve a demand for information in respect of a security notice that has been registered in relation to an interest or a share in an interest if that person

- (1) is the holder of that interest or share;
- (2) is specified in the security notice as the person from whom the security interest was acquired;
- (3) is the secured party under another security notice registered in respect of that interest or share;
- (4) is a member of a class of prescribed persons; or
- (5) obtains leave to do so from the Superior Court.

171. A demand for information may be served by delivering to the secured party under the security notice a demand notice requiring the secured party

- (1) to inform the person serving the demand notice, within 15 days after the day on which the notice is served, of the place where the documents specified in the security notice or copies of those documents are located and available for examination, and of the normal business hours during which the examination may be made; and

(2) to make those documents or copies available for examination at that place during normal business hours, by or on behalf of the person serving the notice, within a reasonable period after the demand notice is served.

“Document” includes any amendment to the document.

172. A demand for information is served if it is sent by registered mail or delivered to the official address for service of the security notice according to the records of the Registrar.

173. A demand for information may be complied with by mailing or delivering to the person serving the demand notice a true copy of the documents referred to in the demand notice.

174. If a secured party fails without reasonable excuse to comply with a demand for information, the Superior Court may, on application by the person who served the demand notice, make an order requiring the secured party to comply with the demand within the time and in the manner specified in the order.

If a secured party fails to comply with an order made under the first paragraph, the Court may, on the application of the person who applied for the order, make any other order the Court considers necessary to ensure compliance with the order made under the first paragraph or make an order directing the Registrar to cancel the registration of the security notice.

175. A person who may serve a demand for information in respect of a security notice under section 170 may

(1) serve on the secured party under the security notice a notice to take proceedings directing that secured party to apply to the Superior Court within 60 days after the day on which the notice to take proceedings is served, for an order substantiating the security interest claimed in the security notice; or

(2) begin proceedings in the Superior Court, requiring the secured party to show cause why the registration of the security notice should not be cancelled.

176. The Superior Court may, by order, on the *ex parte* application of a person who proposes to serve a notice to take proceedings under section 175, shorten the 60-day period and, if the order is made, a certified copy of it must be served with that notice to take proceedings.

The Superior Court may, on the application of a secured party served with a notice to take proceedings, extend the 60-day period, whether or not that period has been shortened under the first paragraph.

177. A notice to take proceedings is served if it is sent by registered mail or delivered to the secured party at the official address for service of the security notice according to the records of the Registrar.

178. The registration of a security notice is to be cancelled on submission to the Registrar of a statutory declaration showing that a notice to take proceedings was served in accordance with sections 175 to 177 and that no application was made in relation to the notice to take proceedings or an application so made was dismissed by the Superior Court or discontinued.

If the registration of a security notice in respect of a security interest is cancelled, the secured party under the security notice is not to submit for registration under this Title another security notice in respect of that security interest without leave of the Superior Court.

179. The registration of a security notice is to be cancelled on submission to the Registrar of a certified copy of a court order or judgment directing the Registrar to do so, whether as a result of proceedings taken under this chapter or otherwise.

180. A transfer of an interest or a share in an interest is not effective against the State before the registration of the transfer.

181. The registration of an instrument does not restrict or affect any right or power of the Ministers under this Act or under the terms of any interest and does not derogate from any interest or right over property or natural resources that the State has in respect of any portion of the petroleum resources joint management area.

182. No action or other proceedings for damages is to be commenced against the Registrar or Deputy Registrar or anyone acting under their authority for an act done or omitted to be done in good faith in the exercise of a power or the performance of a duty or function.

183. Subject to section 14, the Government may make regulations for carrying out the purposes and provisions of this chapter, including regulations

(1) prescribing the powers, duties and functions of the Registrar and Deputy Registrar for the purposes of this chapter and the time when, and manner and circumstances in which, they are to be exercised or performed, and providing for the designation by the Ministers of any person or class of persons to exercise any powers and perform any duties and functions that may be specified in the regulations;

(2) governing the books, abstracts and indexes to be maintained as the register for the purposes of this chapter and the particulars of interests, instruments and portions of the petroleum resources joint management area and the orders and declarations made in relation to interests to be recorded in them;

(3) governing the filing of copies of documents relating to interests, registered instruments and other documents in the register established under this chapter; and

- (4) governing access to and searches of the register.

CHAPTER V

DISCLOSURE OF INFORMATION

184. In this chapter,

“delineation well” means a well that is so located in relation to another well penetrating a pool that there is a reasonable expectation that another portion of that pool will be penetrated by the first-mentioned well and that the drilling is necessary in order to determine the commercial value of the pool;

“development well” means a well that is so located in relation to another well penetrating a pool that it is considered to be a well or part of a well drilled for the purposes of production or observation or for the injection or disposal of fluid into or from the pool;

“engineering research or feasibility study” includes work undertaken to facilitate the design or to analyze the viability of engineering technology, systems or schemes to be used in the exploration for or the development, production or transportation of petroleum in the petroleum resources joint management area;

“environmental study” means work pertaining to the measurement or statistical evaluation of the physical, chemical and biological elements of the lands, oceans or coastal zones, including winds, waves, tides, currents, precipitation, ice cover and movement, icebergs, pollution effects, flora and fauna both onshore and offshore, human activity and habitation and any related matters;

“experimental project” means work or activity involving the use of methods or equipment that are untried or unproven;

“exploratory well” means a well that is drilled on a geological feature on which a significant discovery has not been made;

“geological work” means work, in the field or laboratory, involving the collection, examination, processing or other analysis of lithological, paleontological or geochemical materials recovered from the surface or subsurface or the seabed or its subsoil of any portion of the petroleum resources joint management area and includes the analysis and interpretation of mechanical well logs;

“geophysical work” means work involving the indirect measurement of the physical properties of rocks in order to determine the depth, thickness, structural configuration or history of their deposition and includes the processing, analysis and interpretation of material or data obtained from any work;

“geotechnical work” means work, in the field or laboratory, involving the analysis of the physical properties of materials recovered from the surface or subsurface or the seabed or its subsoil of any portion of the petroleum resources joint management area;

“termination date” means the day on which a well has been abandoned, completed or suspended in accordance with any applicable drilling regulations made under Title III;

“well site seabed survey” means a survey pertaining to the nature of the surface or subsurface or the seabed or its subsoil of any portion of the petroleum resources joint management area in the area of the proposed drilling site in respect of a well and to the conditions of those portions of the petroleum resources joint management area that may affect the safety or efficiency of drilling operations.

185. Despite the Act respecting Access to documents held by public bodies and the Protection of personal information (chapter A-2.1) and unless otherwise provided in this Act, information or documentation provided for the purposes of this Act or any regulations made under it, whether or not the information or documentation is required to be provided, is privileged and must not knowingly be disclosed without the written consent of the person who provided it except for the purposes of the administration or enforcement of this Act, or for the purposes of legal proceedings relating to that administration or enforcement.

A person is not required to produce or give evidence relating to any information or documentation that is privileged under the first paragraph in connection with any legal proceedings, other than proceedings relating to the administration or enforcement of this Act.

This section does not apply to a document registered in the public register established under Chapter IV.

186. The first paragraph of section 185 does not apply in respect of information or documentation regarding the applicant for an operating licence or authorization for a work or activity under section 213 or the scope, purpose, location, timing and nature of the proposed work or activity for which the authorization is sought.

Nor does it apply in respect of information or documentation provided for the purposes of a public hearing conducted under section 27.

187. The first paragraph of section 185 does not apply to the following classes of information or documentation obtained as a result of carrying on a work or activity that is authorized under Title III, namely, information or documentation in respect of

(1) an exploratory well, if the information or documentation is obtained as a direct result of drilling the well and if two years have passed since the termination date of that well;

(2) a delineation well, if the information or documentation is obtained as a direct result of drilling the well and if the later of the following time periods has passed:

(a) two years since the termination date of the relevant exploratory well, and

(b) 90 days since the termination date of the delineation well;

(3) a development well, if the information or documentation is obtained as a direct result of drilling the well and if the later of the following time periods has passed:

(a) two years since the termination date of the relevant exploratory well, and

(b) 60 days since the termination date of the development well;

(4) geological work or geophysical work performed on or in relation to any portion of the petroleum resources joint management area,

(a) in the case of a well site seabed survey if the well has been drilled, after the expiry of the period referred to in paragraph 1 or the later period referred to in subparagraph *a* or *b* of paragraph 2 or of paragraph 3, according to whether paragraph 1, 2 or 3 is applicable in respect of that well, or

(b) in any other case, five years after the day on which the work is completed;

(5) any engineering research or feasibility study or experimental project, including geotechnical work, carried out on or in relation to any portion of the petroleum resources joint management area,

(a) if it relates to a well that has been drilled, after the expiry of the period referred to in paragraph 1 or the later period referred to in subparagraph *a* or *b* of paragraph 2 or of paragraph 3, according to whether paragraph 1, 2 or 3 is applicable in respect of that well, or

(b) in any other case, five years after the day on which the research, study, project or work is completed or after the reversion of that portion to State reserve areas, whichever occurs first;

(6) any contingency plan formulated in respect of emergencies arising as a result of any work or activity authorized under Title III;

(7) diving work, weather observation or the status of operational activities or of the development of or production from a pool or field;

(8) accidents, incidents or petroleum spills, if necessary to permit a person or body to produce and to distribute or publish a report for the administration of this Act in respect of the accident, incident or spill;

(9) an environmental study,

(a) if it relates to a well that has been drilled, after the expiry of the period referred to in paragraph 1 or the later period referred to in subparagraph *a* or *b* of paragraph 2 or of paragraph 3, according to whether paragraph 1, 2 or 3 is applicable in respect of that well, or

(b) in any other case, five years after the day on which the study is completed; and

(10) the quantity of petroleum that is extracted from a pool or well.

188. The Régie and the Board may disclose any information or documentation that they obtain under this Act to officials of the Government, the Government of Canada or any other provincial government, or a foreign government or to the representatives of any of their agencies or bodies for the purposes of a federal, provincial or foreign law, as the case may be, that deals primarily with a petroleum-related work or activity, including the exploration for and the management, administration and production of petroleum, if

(1) the government, agency or body undertakes to keep the information or documentation confidential and not to disclose it without the Régie's and the Board's written consent;

(2) the information and documentation is disclosed in accordance with any conditions agreed to by the Régie and the Board and the government, agency or body; and

(3) in the case of disclosure to a foreign government, agency or body, the Ministers consent in writing.

189. The Régie and the Board may disclose to the Ministers the information or documentation that the Régie and the Board have disclosed or intend to disclose under section 188.

But the Ministers are not to further disclose that information or documentation unless the Régie and the Board consent in writing to that disclosure or the Minister or the Federal Minister is required by an Act of the Parliament of Québec or the Parliament of Canada, as the case may be, to disclose that information or documentation.

190. For the purposes of paragraph 1 of section 188 and section 189, the Régie and the Board may consent to the further disclosure of information or documentation only if the Régie and the Board themselves are authorized under sections 184 to 187 to disclose it.

191. Subject to sections 193 to 200, the Régie and the Board may disclose all or part of any information or documentation related to safety or environmental protection that is provided in relation to an application for an operating licence

or authorization under section 213 or to an operating licence or authorization for a work or activity that is issued under that section or provided in accordance with any regulation made under this Act.

The Régie and the Board are not, however, permitted to disclose information or documentation if they are satisfied that

(1) disclosure of it could reasonably be expected to result in a material loss or gain to a person, or to prejudice their competitive position, and the potential harm resulting from the disclosure outweighs the public interest in making the disclosure;

(2) it is financial, commercial, scientific or technical information or documentation that is confidential and has been consistently treated as such by a person who would be directly affected by its disclosure, and for which the person's interest in confidentiality outweighs the public interest in its disclosure; or

(3) there is a real and substantial risk that disclosure of it will impair the security of pipelines, as defined in section 206, installations, vessels, aircraft or systems, including computer or communication systems, used for any work or activity in respect of which this Act applies, or methods employed to protect them, and the need to prevent its disclosure outweighs the public interest in its disclosure.

192. Sections 186 and 191 do not apply in respect of information or documentation described in paragraphs 1 to 5 of section 187.

193. If the Régie and the Board intend to disclose any information or documentation under section 191, they must make every reasonable effort to give the person who provided it written notice of their intention to disclose it.

Any person to whom a notice is required to be given under the first paragraph may waive the requirement, and if they have consented to the disclosure they are deemed to have waived the requirement.

194. A notice given under the first paragraph of section 193 must include

(1) a statement that the Régie and the Board intend to disclose information or documentation under section 191;

(2) a description of the information or documentation that was provided by the person to whom the notice is given; and

(3) a statement that the person may, within 20 days after the day on which the notice is given, make written representations to the Régie and the Board as to why the information or documentation, or a portion of it, should not be disclosed.

195. If a notice is given to a person by the Régie and the Board under the first paragraph of section 193, the Régie and the Board must

(1) give the person the opportunity to make, within 20 days after the day on which the notice is given, written representations to the Régie and the Board as to why the information or documentation, or a portion of it, should not be disclosed; and

(2) after the person has had the opportunity to make representations, but not later than 30 days after the day on which the notice is given, make a decision as to whether or not to disclose the information or documentation and give written notice of the decision to the person.

196. A notice given under paragraph 2 of section 195 of a decision to disclose information or documentation must include

(1) a statement that the person to whom the notice is given may request a review of the decision by the Superior Court within 20 days after the day on which the notice is given; and

(2) a statement that if no review is requested within 20 days after the day on which the notice is given, the Régie and the Board will disclose the information or documentation.

197. If, under paragraph 2 of section 195, the Régie and the Board decide to disclose the information or documentation, they must disclose it within 20 days after the day on which the notice is given under that paragraph, unless a review of the decision by the Superior Court is requested.

198. Any person to whom the Régie and the Board are required under paragraph 2 of section 195 to give a notice of a decision to disclose information or documentation may, within 20 days after the day on which the notice is given, apply to the Superior Court for a review of the decision.

199. An application made under section 198 must be heard and determined in a summary way in accordance with any applicable rules of practice and procedure of the Superior Court.

200. In any proceedings arising from an application under section 198, the Superior Court must take every reasonable precaution, including, when appropriate, conducting hearings in camera, to avoid the disclosure by the Court or any person of any information or documentation that, under this Act, is privileged or is not to be disclosed.

201. The Ministers are entitled to access to any information or documentation relating to petroleum resource activities in the petroleum resources joint management area that is provided for the purposes of this Act and any information or documentation must, on the request of either Minister, be

disclosed to that Minister without requiring the consent of the party who provided the information or documentation.

202. The Ministers must make an annual report detailing the amount of petroleum extracted by an owner from a pool or a well during the previous year and the amount of royalties paid by that owner. The report must be made available to the public.

203. The Régie and the Board may disclose to each other any information or documentation relating to petroleum resource activities in the petroleum resources joint management area that is provided for the purposes of this Act without requiring the consent of the party who provided the information or documentation.

204. Sections 185 to 192 apply, with any modifications that the circumstances require, in respect of any disclosure of information or documentation or the production or giving of evidence relating to that information or documentation as if the references in section 185 to the administration or enforcement of this Act included references to the administration or enforcement of the Act to implement the accord between the Government of Canada and the Government of Quebec for the joint management of petroleum resources in the Gulf of St. Lawrence and to make consequential amendments to other Acts (*insert the chapter of the federal Act*), as amended from time to time.

CHAPTER VI

REGULATORY POWERS

205. Subject to section 14, the Government may make regulations for carrying out the purposes and provisions of this Title, including regulations

(1) respecting the division and subdivision of the petroleum resources joint management area, including providing for the criteria to define and describe those divisions and subdivisions;

(2) respecting any notice or application and indicating to or by whom it is to be given or made;

(3) prescribing the information and documentation to be provided by interest owners and holders of an interest or a share in an interest and the time when and manner in which they are to be provided, and requiring that information and documentation to be provided in accordance with the regulations;

(4) respecting fees and deposits to be paid in respect of interests, prescribing the amounts of those fees and deposits and the time and manner of their payment and providing for the administration of those fees and deposits and the disposition and return of deposits; and

(5) prescribing anything that for the purposes of this Title is to be prescribed.

TITLE III

PETROLEUM OPERATIONS

CHAPTER I

DEFINITIONS AND GENERAL PROVISIONS

DIVISION I

DEFINITIONS

206. In this Title,

“pipeline” means any pipe or any system or arrangement of pipes that is within the petroleum resources joint management area or that extends beyond that area to ground installations for the storage, production or processing of petroleum, unless the pipe, system or arrangement connects with a territory outside Québec, by which petroleum or any other substance, including water, that is incidental to the drilling for or production of petroleum is transported from any wellhead or other place at which it is produced to any other place, or from any place where it is stored, processed or treated to any other place, and includes all property of any kind used for the purposes of, or in connection with or incidental to, the operation of a pipe or system or arrangement of pipes in the gathering, transportation, handling and delivery of the petroleum or substance and includes installations or vessels in the petroleum resources joint management area, tanks, surface reservoirs, pumps, racks, storage and loading facilities, compressors, compressor stations, pressure measuring and controlling equipment and fixtures, flow controlling and measuring equipment and fixtures, metering equipment and fixtures, and heating, cooling and dehydrating equipment and fixtures, but does not include any pipe or any system or arrangement of pipes that constitutes a system for the distribution of gas to ultimate consumers;

“spill-treating agent” means a substance or means used to treat spills that appears both on the list established by order made under the Environment Quality Act (chapter Q-2) and on the list established by regulation by the minister of the Government of Canada who is responsible for the environment;

“well” means any opening in the ground, other than a seismic shotpoint, that is made, is to be made or is in the process of being made by drilling, boring or other method for the production of petroleum, for the purpose of exploring for or obtaining petroleum, for the purpose of obtaining water to inject into an underground formation, for the purpose of injecting gas, air, water or any other substance into an underground formation, or for any purpose if made through sedimentary rocks to a depth of at least 150 metres.

DIVISION II

GENERAL PROVISIONS

207. The purpose of this Title is to promote, in respect of the exploration for and development of petroleum,

(1) safety, particularly by encouraging persons who are exploring for and developing petroleum to maintain a prudent regime for achieving safety;

(2) the protection of the environment;

(3) accountability in accordance with the “polluter pays” principle;

(4) the conservation of petroleum resources;

(5) joint production arrangements; and

(6) economically efficient infrastructures.

208. This Title applies in respect of the exploration and drilling for and the production, conservation, processing and transportation of petroleum in the petroleum resources joint management area.

209. The Régie and the Board may designate a member, officer or employee of the Régie or the Board as the Chief Safety Officer and another member, officer or employee of the Régie or the Board as the Chief Conservation Officer. However, the chief executive officer of either the Régie or the Board must not be designated as the Chief Safety Officer.

210. The Regulations Act (chapter R-18.1) does not apply to an order made under this Act by a safety officer, the Chief Safety Officer, a conservation officer, the Chief Conservation Officer, the Committee or the Régie and the Board.

CHAPTER II

OPERATIONS

DIVISION I

PROHIBITIONS AND LIMITATIONS

211. A person must not carry on any work or activity related to the exploration or drilling for or the production, conservation, processing or transportation of petroleum in the petroleum resources joint management area unless

(1) that person is the holder of an operating licence issued under paragraph 1 of section 213;

(2) that person is the holder of an authorization issued, before operations are commenced, under paragraph 2 of section 213 for each work or activity; and

(3) when it is required, that person is authorized or entitled to carry on business in the place where that person proposes to carry on the work or activity.

212. A holder of an authorization to construct or operate a pipeline that is issued under paragraph 2 of section 213 must not, without the leave of the Régie and the Board,

- (1) sell, transfer or lease the pipeline, in whole or in part, to any person;
- (2) purchase or lease any other pipeline from any person;
- (3) enter into an agreement for amalgamation with any person; or
- (4) abandon the operation of a pipeline.

For the purposes of subparagraph 2 of the first paragraph, “pipeline” is not limited to the definition that is given to it in section 206.

Despite subparagraph 1 of the first paragraph, leave is required only if the holder sells, transfers or leases any part of the pipeline that is capable of being operated for the transportation of petroleum or any other substance, including water, that is incidental to the drilling for or production of petroleum.

DIVISION II

LICENCES AND AUTHORIZATIONS

§1.— *Operating licences and authorizations for work or activity*

213. The Régie and the Board may, on application made in the form established and containing the information required by them and in the prescribed manner, issue

- (1) an operating licence; and
- (2) subject to section 242, an authorization for each proposed work or activity, designated also as an “authorization for a work or activity”.

214. An operating licence expires on 31 March following the day on which it is issued and may be renewed for successive periods not exceeding one year each.

215. An operating licence is subject to any requirements that are determined by the Régie and the Board or that are prescribed and to any deposits that are prescribed.

216. On receipt by the Régie and the Board of an application for an authorization for a work or activity or of an application to amend such an authorization, the Régie and the Board are to provide a copy of the application to the Chief Safety Officer.

217. An authorization for a work or activity is subject to any approvals that the Régie and the Board determine or that may be granted in accordance with the regulations and any requirements and deposits that the Régie and the Board determine or that may be prescribed, which approvals, requirements or deposits must not be inconsistent with the provisions of this Act or the regulations, including requirements

- (1) relating to liability for loss, damage, costs or expenses;
- (2) for the carrying out of environmental programs or studies; and
- (3) for the payment of expenses incurred by the Régie and the Board in approving the design, construction and operation of production facilities and production platforms, as those terms are defined in the regulations.

218. If an application for an authorization for a work or activity or an application for an approval made under section 226 is in respect of an activity described in the second paragraph, the Régie and the Board must not issue an authorization or approval, as the case may be, unless the following conditions are met:

- (1) in the case of an activity referred to in subparagraph *a* of subparagraph 2 of the second paragraph, the minister responsible for the Environment Quality Act has communicated his or her recommendation to the Régie under section 31.8.4 or 31.8.5 of that Act in respect of the activity; and
- (2) in the case of an activity referred to in subparagraph *b* of subparagraph 2 of the second paragraph, the applicant has received the decision statement referred to in section 54 of the Canadian Environmental Assessment Act, 2012 (Statutes of Canada, 2012, chapter 19, section 52) in respect of the activity.

For the purposes of this section, “activity” means an activity

- (1) that is carried out in the petroleum resources joint management area; and
- (2) that is
 - (a) referred to in section 31.8.2 of the Environment Quality Act; or
 - (b) designated by regulations made under paragraph 84(a) of the Canadian Environmental Assessment Act, 2012 or in an order made under subsection 14(2) of that Act.

219. The Régie and the Board may suspend or revoke an operating licence or an authorization for a work or activity for failure to comply with, contravention of or default in respect of

(1) a requirement, approval or deposit subject to which the licence or authorization was issued;

(2) a fee or charge payable in accordance with regulations made under section 46;

(3) a requirement undertaken in a declaration referred to in section 232;

(4) section 233 or 236, the first or second paragraph of section 322 or the first or second paragraph of section 324; or

(5) any applicable regulation.

220. The Régie and the Board may vary the terms of an operating licence or authorization for a work or activity.

221. The Régie and the Board may each delegate any of their powers under paragraph 2 of section 213 to any of their members, officers or employees.

222. Any person may, for the purpose of exploring for or developing petroleum, enter in and use any portion of the petroleum resources joint management area in order to carry on a work or activity authorized under paragraph 2 of section 213.

However, if a person occupies a portion of that area under lawful title or ownership or lawful possession, other than an authorization for a work or activity or an interest, no person is to enter in or use that portion for a purpose referred to in the first paragraph without the consent of the occupier.

If consent has been refused, the terms of access to that portion of the area may be imposed by a decision of an arbitrator made in accordance with the regulations.

§2. — *Safety of works and activities*

223. The Régie and the Board must, before issuing an authorization for a work or activity, consider the safety of the work or activity by reviewing, in consultation with the Chief Safety Officer, the system as a whole and its components, including its installations, equipment, operating procedures and personnel.

§3.—*Spill-treating agent*

224. The Régie and the Board must not permit the use of a spill-treating agent in an authorization for a work or activity unless they determine that the use of the spill-treating agent is likely to achieve a net environmental benefit.

§4.—*Financial requirements*

225. The Régie and the Board must, before issuing an authorization for a work or activity, ensure that the applicant has complied with the requirements of section 319 or 320 and 323 in respect of that work or activity.

§5.—*Development plan*

226. An approval that is applicable to an authorization issued under paragraph 2 of section 213 in relation to developing a pool or field and that is prescribed for the purposes of this section is not to be granted unless the Régie and the Board have, on application, approved a development plan relating to the development of that pool or field under section 228.

An application for the approval of a development plan must be submitted to the Régie and the Board in the form established and containing the information required by them, at the time and in the manner prescribed, together with the proposed development plan in the form and containing the information described in section 227.

227. The development plan relating to the proposed development of a pool or field that is submitted under section 226 must be set out in two parts, containing

(1) in the first part, a description of the general approach to developing the pool or field and, in particular, information, in any detail that may be prescribed, with respect to

(a) the scope, purpose, location, timing and nature of the proposed development;

(b) the production rate, evaluations of the pool or field, estimated amounts of petroleum proposed to be recovered, reserves, recovery methods, production monitoring procedures, costs and environmental factors in connection with the proposed development; and

(c) the production system and any alternative production systems that could be used for the development of the pool or field; and

(2) in the second part, all technical or other information and proposals, as may be prescribed, that are necessary for a comprehensive review and evaluation of the proposed development.

228. After reviewing the application and development plan, the Régie and the Board may approve the development plan, subject to the consent of the Ministers for the first part of the development plan and any requirements that the Régie and the Board consider appropriate or that may be prescribed.

229. If a development plan has been approved under section 228, it is not to be amended unless the amendment is approved by the Régie and the Board and, in the case of an amendment to the first part of the development plan, the Ministers consent to the approval.

Any requirement to which the approval is subject may be amended by the Régie and the Board, but if the requirement relates to the first part of the development plan, it may only be amended with the consent of the Ministers.

230. Sections 226 to 229 apply, with any modifications that the circumstances require, with respect to a proposed amendment to a development plan or to any requirement to which the approval of the plan is subject.

231. The Régie and the Board may each delegate any of their powers under section 228 to any of their members, officers or employees.

§6.—*Declarations*

232. No authorization for a work or activity is to be issued unless the Régie and the Board have received, from the applicant, a declaration in the form established by the Régie and the Board that states that

(1) the equipment and installations that are to be used in the work or activity to be authorized are fit for the purposes for which they are to be used, the operating procedures relating to them are appropriate for those uses and the personnel who are to be employed in connection with them are qualified and competent; and

(2) the applicant will ensure, as long as the work or activity that is authorized continues, that the equipment and installations continue to be fit for the purposes for which they are used, the operating procedures continue to be appropriate for those uses and the personnel continue to be qualified and competent.

233. If any equipment, installation, operating procedure or personnel specified in the declaration changes and no longer conforms to the declaration, the holder of the authorization must provide the Régie and the Board with a new declaration as soon as feasible after the change occurs.

234. The Régie and the Board or any of their representatives are not liable to any person by reason only of having issued an authorization in reliance on a declaration made under section 232 or 233.

§7.—*Certificates*

235. No authorization for a work or activity is to be issued with respect to any prescribed equipment or installation, or any equipment or installation of a prescribed class, unless the Régie and the Board have received, from the applicant, a certificate issued by a prescribed certifying authority in the form established by the Régie and the Board.

236. The holder of an authorization must ensure that the certificate remains in force for as long as the equipment or installation to which the certificate relates is used in the work or activity in respect of which the authorization is issued.

237. The certificate must state that the equipment or installation in question

(1) is fit for the purposes for which it is to be used and may be operated safely without posing a threat to human beings or the environment in the location and for the period set out in the certificate; and

(2) is in conformity with all the requirements and conditions that are imposed under section 217, whether they are imposed by regulation or by the Régie and the Board.

238. The certificate is not valid if the certifying authority

(1) has not complied with any prescribed procedure or any procedure that may be established by the Régie and the Board; or

(2) has participated, directly or indirectly, to any extent greater than that prescribed, in the design, construction or installation of the equipment or installation in respect of which the certificate is issued.

239. An applicant for an authorization must permit the certifying authority to have access to the equipment and installations in respect of which the certificate is required and to any information that relates to them.

240. The Régie and the Board or any of their representatives are not liable to any person by reason only of having issued an authorization in reliance on a certificate issued under section 235.

§8.—*Site plans and location maps*

241. A person who is the holder of both an authorization for a work or activity and an operating licence must ensure that a certified site plan and certified location map are made to confirm the location of a well on the seabed by a person who both holds a licence issued under the Canada Lands Surveyors Act (Statutes of Canada, 1998, chapter 14) and is a member of the Ordre des arpenteurs-géomètres du Québec.

The person charged with making a site plan and location map must do so in accordance with the specifications and requirements of the provisions of this Act and any regulations made under it. A site plan or location map is not subject to the specifications and requirements under the Act respecting the lands in the domain of the State (chapter T-8.1).

Despite any other Act, the site plan and location map must be kept on file in the office of the person who made them and a certified copy must be sent, for administrative purposes, to the Régie and the Board as well as to the Surveyor-General of Québec and the Surveyor General of Canada.

§9.—*Benefits plan approval*

242. Section 5.2 of the Canada Oil and Gas Operations Act (Revised Statutes of Canada, 1985, chapter O-7) applies with any modifications that the circumstances require, except that

(1) the reference to a development plan under subsection 5.1(1) in subsection 5.2(2) of that Act is a reference to a development plan under section 226 of this Act;

(2) the reference to an authorization under paragraph 5(1)(b) in subsection 5.2(2) of that Act is a reference to an authorization for a work or activity; and

(3) the Federal Minister must consult with the Minister before approving, or waiving approval of, a benefits plan.

243. Any holder of an authorization for a work or activity referred to in section 226 must establish a committee for the maximization of benefits. The committee must follow the approved benefits plan and ensure that the holder maximizes benefits in accordance with the principles of sustainable development.

The committee must be established within 30 days after the day on which the authorization for a work or activity is issued and must be continued until the day on which the development of the pool or field in respect of the authorization for which the submission of a development plan was required under section 226 ceases.

The composition of the committee and the method for the selection of members are to be determined by the holder and submitted to the Régie and the Board for approval. The majority of the committee's members must be independent of the holder.

244. Subject to section 14, the Government may make regulations respecting the operation of the committee, including

(1) the information and documents that a holder must submit to the committee so that it can carry out its duties;

(2) the types of charges that will be reimbursed by the holder to the committee;

(3) the number of meetings that the committee must hold every year; and

(4) the requirement to produce an annual report.

§10. — *Jurisdiction and powers of the Régie and the Board*

245. The Régie and the Board have full and exclusive jurisdiction to inquire into, hear and determine any matter if it appears to them

(1) that any person has failed to do any act or thing that the person is required to do under the provisions of this Title or the regulations made under it, an order or direction made by the Régie and the Board under this Title, or an operating licence or authorization for a work or activity, or that any person has done or is doing any act or thing that is contrary to this Title or the regulations made under it, an order or direction made by the Régie and the Board under this Title, or an operating licence or authorization for a work or activity; or

(2) that the circumstances may require them, in the public interest, to make any order or give any direction, leave or approval that by law they are authorized to make or give, or with respect to any act or thing that is prohibited, sanctioned or required to be done by the provisions of this Title or the regulations made under it, an order or direction made by the Régie and the Board under this Title, or an operating licence or authorization for a work or activity.

The Régie and the Board may, of their own motion, inquire into, hear and determine any matter or thing that under this Title they may inquire into, hear and determine.

For the purposes of this Title, the Régie and the Board have full jurisdiction to hear and determine all matters, whether of law or of fact.

246. The Régie and the Board may

(1) order any person to do, without delay, or within or at any time and in any manner established by the Régie and the Board, any act or thing that the person is or may be required to do under the provisions of this Title or the regulations made under it, or under an order or direction made by the Régie and the Board under this Title or an operating licence or authorization for a work or activity; and

(2) prohibit any act or thing or the continuing of any act or thing that is contrary to the provisions of this Title or the regulations made under it, an order or direction made under this Title or an operating licence or authorization for a work or activity.

247. Sections 245 and 246 do not apply to any act or thing that is required or prohibited by any decision or order of the Oil and Gas Committee.

248. The Régie and the Board may specify in an operating licence or authorization for a work or activity or in any of their orders that it or any portion or provision of it is to come into force at a future time.

The Régie and the Board may also make the coming into force contingent on whether the conditions specified in the operating licence, authorization for a work or activity or order have been met to their satisfaction, on the happening of any contingency, on any condition or on any required approval.

They may also direct that the whole or any portion of an operating licence, authorization for a work or activity or order is to be in force for a limited time or until the happening of a specified event.

This section does not limit the generality of any provision of this Title that authorizes the Régie and the Board to impose terms in respect of an operating licence or authorization for a work or activity or any of their orders.

249. The Régie and the Board may make an interim order and may reserve their decision pending further proceedings in connection with any matter.

§11. — *Keeping and production of documents*

250. A holder of an authorization for a work or activity that relates to the construction or operation of a pipeline must keep, in the form and manner determined by the Régie and the Board, any documents, including any records or books of account, that the Régie and the Board require and that contain information that is determined by the Régie and the Board to be necessary for the administration of this Title.

The holder must produce those documents to the Régie and the Board, or make them available to the Régie and the Board or their designated representative, for inspection or copying at a time and under conditions set by the Régie and the Board.

§12. — *Extended formation flow tests*

251. The title to petroleum produced during an extended formation flow test vests in the person who conducts the test in accordance with an authorization for a work or activity, with every approval and requirement subject to which such an authorization is issued and with any applicable regulation, whether or not the person has a production licence.

The title to petroleum is conditional on compliance with the terms of the authorization, approval and regulation, including the payment of royalties or other payment in lieu of royalties.

252. This subdivision applies only in respect of an extended formation flow test that provides significant information for determining the best recovery system for a reservoir, the limits of a reservoir or the productivity of a well producing petroleum from a reservoir and that does not adversely affect the ultimate recovery from a reservoir.

CHAPTER III

TRAFFIC, TOLLS AND TARIFFS

DIVISION I

DEFINITIONS AND POWERS OF THE RÉGIE AND THE BOARD

253. For the purposes of this chapter,

“holder” means a holder of an authorization for a work or activity that relates to the construction or operation of a pipeline;

“tariff” means a schedule of tolls, terms, classifications, practices or rules and regulations applicable to the provision of a service by a holder and includes rules respecting the calculation of tolls;

“toll” includes any rate, charge or allowance that is charged or made

(1) for the shipment, transportation, transmission, care, handling or delivery of oil, gas or any other substance, including water, that is incidental to the drilling for or production of oil or gas that is transmitted through a pipeline, or for storage, demurrage or the like;

(2) for the provision of a pipeline when the pipeline is available and ready to provide for the transmission of oil, gas or any other substance, including water, that is incidental to the drilling for or production of oil or gas; and

(3) in respect of the purchase and sale of gas that is the property of a holder and that is transmitted by the holder through its pipeline, from which is subtracted the cost to the holder of the gas at the point where it enters the pipeline.

254. The Régie and the Board may make orders with respect to all matters relating to traffic, tolls or tariffs.

DIVISION II

TRANSMISSION TARIFF

255. A holder must not charge any tolls except tolls that are specified in a tariff that has been filed with the Régie and the Board and is in effect or that are approved by an order of the Régie and the Board.

256. If gas that is transmitted by a holder through its pipeline is the property of the holder, the holder must file with the Régie and the Board true copies of all the contracts that it makes for the sale of the gas at the time they are made and any amendments to those contracts made from time to time.

The true copies constitute, for the purposes of this chapter, a tariff under section 255.

257. If a holder files a tariff with the Régie and the Board and the holder proposes to charge a toll for the provision of a pipeline that is ready to provide transmission services, the Régie and the Board may establish the day on which the tariff is to come into effect and the holder must not begin charging the toll before that day.

258. All tolls must be just and reasonable and must always, under substantially similar circumstances and conditions with respect to all traffic of the same description carried over the same route, be charged equally to all persons at the same rate.

259. The Régie and the Board may determine, as questions of fact, whether the traffic is or has been carried out under substantially similar circumstances and conditions referred to in section 258, whether in any case a holder has complied with the requirements of that section and whether there has, in any case, been unjust discrimination under section 263.

260. If the Régie and the Board have made an interim order authorizing a holder to charge tolls until a specified time or the happening of a specified event, the Régie and the Board may, in any subsequent order, direct the holder to, in a manner satisfactory to the Régie and the Board,

(1) refund any part of the tolls that are charged under the interim order that is in excess of the tolls determined by the Régie and the Board to be just and reasonable, together with interest on the amount so refunded; or

(2) recover in its tolls the amount by which the tolls determined by the Régie and the Board to be just and reasonable exceed the tolls charged under the interim order, together with interest on the amount so recovered.

261. The Régie and the Board may disallow any tariff or any portion of any tariff that they consider to be contrary to any of the provisions of this Act or any of their orders and they may require a holder, within a time fixed by them,

to substitute for the tariff a tariff that is satisfactory to them or establish other tariffs in lieu of the tariff or the portion so disallowed.

262. The Régie and the Board may suspend any tariff or any portion of any tariff before or after the tariff goes into effect.

263. A holder must not make any unjust discrimination in tolls, service or facilities against any person or locality.

264. If it is shown that a holder makes any discrimination in tolls, service or facilities against any person or locality, the burden of proving that the discrimination is not unjust lies on the holder.

265. A holder or shipper or an officer or employee, or an agent or mandatary, of a holder or shipper must not

(1) offer, grant, give, solicit, accept or receive a rebate, concession or discrimination by which a person obtains the transmission of oil, gas or any other substance, including water, that is incidental to the drilling for or production of oil or gas from the holder at a rate less than that specified in the tariffs then in force; or

(2) knowingly be party or privy to a false billing, false classification, false report or other device resulting in a rate being charged that is less than that specified in the tariffs then in force.

No prosecution is to be instituted for a contravention of this section without leave of the Régie and the Board.

266. Except as provided in this section, no contract, condition or notice made or given by a holder that impairs, restricts or limits its liability in respect of the transmission of oil, gas or any other substance, including water, that is incidental to the drilling for or production of oil or gas relieves the holder from its liability, unless that class of contract, condition or notice is included as a term of its tariffs as filed or has been authorized or approved by order of the Régie and the Board.

The Régie and the Board may determine the extent to which the liability of a holder may be impaired, restricted or limited as provided in this section.

The Régie and the Board may establish the terms under which oil, gas or any other substance, including water, that is incidental to the drilling for or production of oil or gas may be transmitted by a holder.

DIVISION III

TRANSMISSION OF OIL OR GAS

267. Subject to any exemptions or conditions that the Régie and the Board may establish, a holder that operates a pipeline for the transmission of oil must, according to the holder's powers, without delay and with due care and diligence, receive, transport and deliver all oil and any other substance, including water, that is incidental to the drilling for or production of oil that the holder is requested to transmit by means of its pipeline.

268. The Régie and the Board may, by order, on any conditions that they may specify in the order, require a holder that operates a pipeline for the transmission of gas to receive, transport and deliver, according to the holder's powers, gas and any other substance, including water, that is incidental to the drilling for or production of gas that the holder is requested to transmit by means of its pipeline.

269. If the Régie and the Board find that no undue burden will be placed on the holder by requiring the holder to do so and if they consider it in the public interest, they may require a holder that operates a pipeline for the transmission of oil or gas to provide adequate and suitable facilities for

(1) the receipt, transmission and delivery of the oil, gas or any other substance, including water, that is incidental to the drilling for or production of oil or gas that is offered for transmission by means of its pipeline;

(2) the storage of the oil, gas or any other substance, including water, that is incidental to the drilling for or production of oil or gas; and

(3) the junction of its pipeline with other facilities for the transmission of the oil, gas or any other substance, including water, that is incidental to the drilling for or production of oil or gas.

270. A holder may, for the purposes of its undertaking and subject to the provisions of this Title, transmit by pipeline oil, gas or any other substance, including water, that is incidental to the drilling for or production of oil or gas and regulate the time and manner in which it is to be transmitted and the tolls to be charged for the transmission.

271. If the Régie and the Board find that no undue burden will be placed on the holder by requiring the holder to do so and if they consider it in the public interest, they may require a holder that operates a pipeline for the transmission of gas to extend or improve its transmission facilities in order to facilitate the junction of its pipeline with any facilities of any locality or entity that is authorized by law to distribute gas locally to the public.

The Régie and the Board may also require such a holder to sell gas to such an entity or locality and, for those purposes, to construct branch lines to communities immediately adjacent to its pipeline.

However, the Régie and the Board are not empowered to compel a holder to sell gas to additional customers if doing so would impair its ability to render adequate service to its existing customers.

DIVISION IV

REGULATORY POWERS

272. Subject to section 14, the Government may make regulations for the purposes of this chapter, designating as oil or gas any other substance resulting from the processing or refining of hydrocarbons, including coal, if that substance

- (1) is asphalt or a lubricant; or
- (2) is a suitable source of energy by itself or when it is combined or used in association with something else.

CHAPTER IV

REGULATION OF OPERATIONS

DIVISION I

GENERAL

273. Subject to section 14, the Government may make regulations under this Title for the purposes of safety, the protection of the environment and accountability as well as for the production and conservation of petroleum resources, including regulations

- (1) respecting the form and content of a notice, application, request or report and the method of transmission;
- (2) prescribing to or by whom any notice, application, request or report is to be given or made;
- (3) respecting the exploration and drilling for and the production, processing and transportation of petroleum as well as the works and activities related to the exploration, drilling, production, processing and transportation;
- (4) concerning the measures to be taken in preparation for or in the case of a spill, as defined in section 295, including measures concerning the use of a spill-treating agent;
- (5) concerning the process for the determination of a net environmental benefit;
- (6) concerning the variation or revocation of an approval referred to in paragraph 2 of section 305;

(7) authorizing the Régie and the Board or any person to make any orders that may be specified in the regulations and to exercise any powers and perform any duties that may be necessary for

(a) the management and control of petroleum production,

(b) the removal of petroleum from the petroleum resources joint management area; and

(c) the design, construction, operation or abandoning of a pipeline;

(8) respecting arbitration for the purposes of the third paragraph of section 222, including the costs of or incurred in relation to the arbitration;

(9) respecting the approvals to be granted as conditions of authorizations for proposed works or activities;

(10) establishing classes of installations and equipment;

(11) respecting certificates for the purposes of subdivision 7 of Division II of Chapter II of this Title;

(12) prohibiting or limiting the introduction into the environment of substances, classes of substances and forms of energy, in the prescribed circumstances;

(13) authorizing, for the purposes of the definition of “spill” in section 295, the discharge, emission or escape of petroleum in any quantities, at any locations, under any conditions and by any persons that are prescribed;

(14) concerning the circumstances under which the Régie and the Board may make a recommendation for the purposes of section 326 and the information to be submitted with respect to that recommendation;

(15) concerning the creation, conservation and production of records;

(16) prescribing the circumstances under which an inquiry is to be held under Division IV of Chapter IV of this Title;

(17) respecting the making, certification and filing of site plans and location maps for any infrastructure related to the exploration for and development of petroleum; and

(18) prescribing anything that for the purposes of this Title is to be prescribed.

A regulation under the first paragraph that includes provisions relating to the protection of the environment must be made on the recommendation of the Minister and the minister responsible for the Environment Quality Act.

A regulation under the first paragraph must, among other things, promote the use of generally recognized best practices in the exploitation of marine oil and gas in order to ensure proper environmental protection.

274. Subject to section 14 and on the recommendation of the Minister and the minister responsible for the administration of Québec labour legislation, the Government may make regulations under this Title for the purposes of occupational health and safety, including regulations

(1) respecting the safety of any work or activity that involves the use of explosives or that is carried out at heights, directly over water or under water or in a confined space;

(2) respecting the establishment of standards for the design and maintenance of equipment, machines, devices, materials and other things that may be used by employees, as defined by regulation, in carrying out their job functions;

(3) respecting the circumstances and manner in which any thing referred to in paragraph 2 is or is not to be used, and any qualifications that an individual must have in order to use it;

(4) specifying who is responsible for ensuring that the standards referred to in paragraph 2 are complied with and that the things referred to in that paragraph are used in the specified circumstances and manner and by individuals who have the required qualifications;

(5) respecting the establishment of standards relating to levels or limits for ventilation, lighting, temperature, humidity, sound and vibration, and exposure to chemical agents, biological agents and radiation and specifying who is responsible for ensuring that those standards are complied with;

(6) respecting the qualifications of persons authorized to carry out prescribed training;

(7) respecting the establishment of emergency and fire safety measures, and specifying who is responsible for ensuring that those measures are complied with;

(8) respecting the form and manner in which records are to be maintained and information is to be communicated; and

(9) prescribing anything that for the purposes of this Title is to be prescribed.

275. Regulations made under section 273 or 274 may be made applicable to all persons or one or more classes of persons.

276. Regulations made under section 273 or 274 may incorporate any material by reference regardless of its source and either as it exists on a particular day or as amended from time to time.

Material that is incorporated by reference in a regulation is not required to be published in the *Gazette officielle du Québec* by reason only that it is incorporated by reference.

277. The Chief Safety Officer and Chief Conservation Officer may

(1) authorize the use of equipment, methods, measures or standards in lieu of any that are required by any regulation made under section 273 or 274 if those Officers are satisfied that the use of that other equipment or those other methods, measures or standards would provide a level of safety, protection of the environment and conservation that is equivalent to that that would be provided by compliance with the regulations; or

(2) grant an exemption from any requirement imposed, by any regulation made under section 273, in respect of equipment, methods, measures or standards if those Officers are satisfied with the level of safety, protection of the environment and conservation that will be achieved without compliance with that requirement.

The Chief Safety Officer alone may exercise the powers under the first paragraph if the regulatory requirement referred to in that paragraph does not relate to protection of the environment or conservation and the Chief Conservation Officer alone may exercise those powers if the regulatory requirement does not relate to safety.

No person contravenes the regulations if that person acts in compliance with an authorization or exemption under this section.

278. The provisions of the Oil and Gas Occupational Safety and Health Regulations (SOR/87-612) and the provisions of Part II of the Canada Labour Code (Revised Statutes of Canada, 1985, chapter L-2) that permit the administration and enforcement of those regulations, and paragraphs *e*, *y* and *z*.14 of subsection 1 of section 125 of that Act, are incorporated by open incorporation by reference in this Act and apply, with any modifications that the circumstances require, on a marine installation or structure. Any complaint or remedy that relates substantially to those regulations must be made or sought in accordance with the procedure specified in them.

The provisions referred to in the first paragraph apply on any marine installation or structure that is within the petroleum resources joint management area in connection with the exploration or drilling for or the production, conservation or processing of petroleum, and take precedence over the Québec labour legislation.

Despite the second paragraph, any occupational safety and health committee to which the Oil and Gas Occupational Safety and Health Regulations and Part II of the Canada Labour Code refer corresponds, with any modifications that the circumstances require, to the health and safety committee established under the Act respecting occupational health and safety (chapter S-2.1).

When an independent joint board is established for the management of petroleum resources in the petroleum resources joint management area, the provisions of Part II of the Canada Labour Code and the regulations mentioned in the first paragraph cease to apply in respect of any marine installation or structure in that area. Instead, the provisions of any Québec labour legislation respecting occupational health and safety in the petroleum sector and any regulations made under the provisions of that labour legislation apply to a marine installation or structure in that area.

For the purposes of this Title, a marine installation or structure includes any ship, including any ship used for construction, production, diving, geotechnical or seismic work, any offshore drilling unit, including a mobile offshore drilling unit, any production platform, subsea installation, pipeline, pumping station, living accommodation, storage structure or loading or landing platform, and any other prescribed work, or work within a class of works, but does not include

(1) any vessel, including any supply vessel, standby vessel, shuttle tanker or seismic chase vessel, that provides any supply or support services to a ship, installation, structure, work or anything else described in the introductory clause of this paragraph, unless the vessel is within a prescribed class of vessels; or

(2) any ship or vessel within a prescribed class of ships or vessels.

For the purposes of this division, “Québec labour legislation” means the Act respecting industrial accidents and occupational diseases (chapter A-3.001), the Act respecting pressure vessels (chapter A-20.01), the Building Act (chapter B-1.1), the Labour Code (chapter C-27), the National Holiday Act (chapter F-1.1), the Act respecting workforce vocational training and qualification (chapter F-5), the Master Electricians Act (chapter M-3), the Master Pipe-Mechanics Act (chapter M-4), the Stationary Enginemen Act (chapter M-6), the Act respecting labour standards (chapter N-1.1), the Act respecting labour relations, vocational training and workforce management in the construction industry (chapter R-20), the Act respecting occupational health and safety (chapter S-2.1), and any other prescribed Act.

279. A provision of an Act or regulation pertaining to a matter in respect of which a regulation has been made under section 274 does not apply on any marine installation or structure during any time that the marine installation or structure is within the petroleum resources joint management area in connection with the exploration or drilling for or the production, conservation or processing of petroleum.

280. Subject to section 14 and on the recommendation of the Minister and the minister responsible for the administration of Québec labour legislation, the Government may make regulations

(1) prescribing a work or a class of works for the purposes of the definition of marine installation or structure in section 278;

(2) prescribing a class of vessels for the purposes of subparagraph 1 of the fifth paragraph of section 278; and

(3) prescribing a class of ships or vessels for the purposes of subparagraph 2 of the fifth paragraph of section 278.

281. If the Chief Conservation Officer, on reasonable grounds, is of the opinion that, with respect to an interest in any portion of the petroleum resources joint management area, the capability exists to begin, continue or increase petroleum production and that a production order would stop waste, that Officer may order the beginning, continuation or increase of petroleum production at any rates and in any quantities that are specified in the order.

If the Chief Conservation Officer, on reasonable grounds, is of the opinion that an order under this section would stop waste, that Officer may order a decrease or the cessation or suspension of petroleum production for any period specified in the order.

282. A person who is subject to an order under the first or second paragraph of section 281 must, on request, give the Chief Conservation Officer or a person designated by that Officer access to premises, files and records for all reasonable purposes related to the order.

283. Before making any order under the first or second paragraph of section 281, the Chief Conservation Officer must hold an investigation at which interested persons are to be given an opportunity to be heard.

284. Despite section 283, the Chief Conservation Officer may, without an investigation, make an order requiring all operations to be shut down if, in that Officer's opinion, it is necessary to do so to prevent damage to persons or property or to protect the environment.

In such a case, as soon as feasible after making the order, and within a maximum of 15 days after the day on which the order is made, the Chief Conservation Officer must hold an investigation at which interested persons are to be given an opportunity to be heard.

At the conclusion of the investigation, the Chief Conservation Officer may set aside, vary or confirm the order made under the first paragraph or make a new order.

285. A person who is aggrieved by a production order or an order to shut down operations made by the Chief Conservation Officer after an investigation may apply to the Régie and the Board for a review of the order.

286. After hearing an application for a review, the Régie and the Board may confirm, vary or set aside the production order or the order to shut down operations, order any works to be undertaken that are considered necessary to prevent waste, the escape of petroleum or any other contravention of the

provisions of this chapter or the regulations, or make any other order that the Régie and the Board consider appropriate.

DIVISION II

WASTE

287. In this Title, “waste”, in addition to its ordinary meaning, means waste as understood in the petroleum industry and in particular includes

- (1) the inefficient or excessive use or dissipation of reservoir energy;
- (2) the locating, spacing or drilling of a well within a field or pool or within part of a field or pool or the operating of any well in a manner that, having regard to sound engineering and economic principles, results or tends to result in a reduction in the quantity of petroleum ultimately recoverable from a pool;
- (3) the drilling, equipping, completing, operating or beginning of production of any well in a manner that causes or is likely to cause the unnecessary or excessive loss or destruction of petroleum after its removal from the reservoir;
- (4) the inefficient storage of petroleum above ground or underground;
- (5) the production of petroleum in excess of available storage, transportation or marketing facilities;
- (6) the escape or flaring of gas that could be economically recovered and processed or economically injected into an underground reservoir; or
- (7) the failure to use suitable artificial, secondary or supplementary recovery methods in a pool when it appears that those methods would result in increasing the quantity of petroleum ultimately recoverable under sound engineering and economic principles.

288. If the Chief Conservation Officer, on reasonable grounds, is of the opinion that waste, other than waste as defined in paragraph 6 or 7 of section 287, is being committed, that Officer may order that all operations giving rise to the waste cease until that Officer is satisfied that the waste has stopped.

The investigation and review procedures described in sections 283 to 286 apply to an order made under this section, with any modifications that the circumstances require.

289. For the purpose of giving effect to an order made under section 288, the Chief Conservation Officer may authorize any person, as necessary, to enter the place where the operations giving rise to the waste are being carried out and take over the management and control of those operations and any connected works.

An authorized person must manage and control the operations and do all things necessary to stop the waste.

290. The cost of stopping the waste is to be borne by the person who holds the exploration licence or the production licence and constitutes a debt recoverable by action in any court of competent jurisdiction as a debt due to the State.

291. When the Chief Conservation Officer, on reasonable grounds, is of the opinion that waste as defined in paragraph 6 or 7 of section 287 is occurring in the recovery of petroleum from a pool, that Officer may apply to the Régie and the Board for an order requiring the operators within the pool to show cause at a hearing to be held before the Régie and the Board on a date specified in the order why the Régie and the Board should not make a direction in respect of the waste that is occurring.

On the date specified in the order, the Régie and the Board must hold a hearing at which the Chief Conservation Officer, the operators and other interested persons are to be given an opportunity to be heard.

292. If, after the hearing, the Régie and the Board are of the opinion that waste as defined in paragraph 6 or 7 of section 287 is occurring in the recovery of petroleum from a pool, the Régie and the Board may, by order, direct one or both of the following:

(1) the introduction of a scheme for the collection, processing, disposition or reinjection of any gas produced from the pool;

(2) the repressurizing, recycling or pressure maintenance for the pool or any part of it and, for or incidental to that purpose, direct the introduction or injection of gas, water or any other substance into that pool or any part of it.

293. The Régie and the Board may, by order, direct that the operation of the pool or any part of it that is specified in the order made under section 292 be shut down if the requirements of that order are not met or unless a scheme is approved by the Régie and the Board and in operation on the day fixed in the order.

294. Despite sections 292 and 293, the Régie and the Board may permit the continued operation of a pool or any part of a pool after the day fixed by an order under section 292 if, in the opinion of the Régie and the Board, any scheme or action described in paragraph 1 or 2 of that section is in the course of preparation; however, the continued operation is subject to any conditions imposed by the Régie and the Board.

DIVISION III

SPILLS AND DEBRIS

§1.—*General provisions*

295. For the purposes of this division and Division IV of this chapter,

“actual loss or damage” includes loss of income, including future income, and, with respect to any Aboriginal nations, includes loss of hunting, fishing and gathering opportunities, but does not include loss of income recoverable by any licenced commercial fisher;

“debris” means any installation or structure that was put in place in the course of any work or activity required to be authorized under paragraph 2 of section 213 and that has been abandoned without an authorization that may be required by or under this Title, or any material that has broken away or been jettisoned or displaced in the course of that work or activity;

“spill” means a discharge, emission or escape of petroleum other than one that is authorized under section 308, the regulations or any other law.

296. The Government incurs no liability whatever to any person arising out of the authorization by regulation of any discharge, emission or escape of petroleum.

297. A person must not cause or permit a spill on or from any portion of the petroleum resources joint management area.

298. If a spill occurs in any portion of the petroleum resources joint management area, any person who at the time of the spill is carrying on any work or activity related to the exploration for or development or production of petroleum in the area of the spill must, in the prescribed manner, report the spill to the Chief Conservation Officer.

Every person who is required to report a spill must, as soon as feasible, take all reasonable measures consistent with safety and the protection of health and the environment to prevent any further spill, to repair or remedy any situation resulting from the spill and to reduce or mitigate any damage or danger that results or may reasonably be expected to result from the spill.

299. The Chief Conservation Officer may take any action or direct that it be taken by any person that may be necessary if that Officer is satisfied on reasonable grounds that

(1) a spill has occurred in any portion of the petroleum resources joint management area and immediate action is necessary in order to effect any reasonable measures referred to in the second paragraph of section 298; and

(2) action is not being taken or will not be taken under the second paragraph of section 298.

300. For the purposes of section 299, the Chief Conservation Officer may authorize and direct any person, as necessary, to enter the place where the spill has occurred and take over the management and control of any work or activity being carried on in the area of the spill.

The person so authorized and directed must manage and control that work or activity and take all reasonable measures that are referred to in the second paragraph of section 298 in relation to the spill.

301. Any costs incurred under section 300 must be borne by the person who obtained the authorization for a work or activity under paragraph 2 of section 213 in respect of the work or activity from which the spill emanated.

Such costs, until paid, constitute a debt due to the State.

302. If a person, other than a person referred to in section 301, takes action under section 298 or 299, the person may recover from the State the costs and expenses reasonably incurred by them in taking the action.

303. A person who is aggrieved by any action or measure taken or authorized or directed to be taken under sections 299 and 300 may apply to the Régie and the Board for a review of the action or measure.

After hearing an application for a review, the Régie and the Board may confirm, vary or set aside the action or measure taken, ordered or authorized under sections 299 and 300, order that any of the measures under the second paragraph of section 298 be taken, or make any other order that the Régie and the Board consider appropriate.

304. No person who is required, directed or authorized to act under section 298 or 299 is personally liable either civilly or criminally in respect of any act or omission in the course of complying with that section unless it is shown that the act or omission was due to that person's intentional or gross fault.

§2.—*Spill-treating agents*

305. No person contravenes an Act or regulation relating to the protection of living resources and in general the protection of human health and the environment by using a spill-treating agent, if

(1) the authorization for a work or activity permits the use of the spill-treating agent;

(2) the Chief Conservation Officer approves the use of the agent in response to the spill and it is used in accordance with any requirements set out in the approval; and

(3) the agent is used for the purposes of the second paragraph of section 298 or section 299.

306. Despite section 305, the holder of an authorization referred to in paragraph 1 of that section is liable for any harm that is caused by the spill or by the interaction between the spill-treating agent and the spilled oil.

307. Other than in the case of a small-scale test, the approval required under paragraph 2 of section 305 must be in writing and is not to be granted unless

(1) the Chief Conservation Officer has consulted with the Ministers with respect to the approval;

(2) the Minister has consulted with the minister responsible for the Environment Quality Act; and

(3) the Chief Conservation Officer determines that the use of the agent is likely to achieve a net environmental benefit.

308. For the purposes of a particular research project pertaining to the use of a spill-treating agent in mitigating the environmental impacts of a spill, the minister responsible for the Environment Quality Act may authorize, and establish conditions for, the deposit of a substance or means used to treat spills, oil or oil surrogate in a marine environment if the Minister has obtained the Federal Minister's approval.

The minister responsible for the Environment Quality Act must not authorize the deposit of an oil surrogate unless that Minister determines that the oil surrogate poses fewer safety, health or environmental risks than oil.

No person contravenes an Act or regulation relating to the protection of living resources and in general the protection of human health and the environment by using a substance or means to treat spills or by depositing oil or an oil surrogate required for the research project and no person may be held liable for any damage caused by the use of such a substance, means, oil or oil surrogate if the conditions set out in the authorization are met.

309. The Minister must, as soon as possible after a list of spill-treating agents is established by regulation, notify the Federal Minister, the Régie and the Board of the making of the list and any amendment to it.

§3.—*Liability for discharges and other spills of petroleum*

310. If any discharge, emission or escape of petroleum that is authorized by regulation, or any spill, occurs in any portion of the petroleum resources joint management area

(1) the persons who are liable, by their fault, for the spill or the authorized discharge, emission or escape of petroleum or who are bound by law to make

reparation for injury caused by the fault of others who are their subordinates and who are liable for the spill or the authorized discharge, emission or escape of petroleum are solidarily liable for

(a) all actual loss or damage incurred by any person as a result of the spill or the authorized discharge, emission or escape of petroleum, or as a result of any action or measure taken in relation to the spill or the authorized discharge, emission or escape of petroleum;

(b) the costs and expenses reasonably incurred by the Régie, the Board, the Government, the Government of Canada or any other person in taking any action or measure in relation to the spill or the authorized discharge, emission or escape of petroleum; and

(c) all loss of non-use value relating to a public resource that is affected by the spill or the authorized discharge, emission or escape of petroleum or as a result of any action or measure taken in relation to the spill or the authorized discharge, emission or escape of petroleum; and

(2) the person who is required to obtain an authorization in respect of the work or activity from which the spill or the authorized discharge, emission or escape of petroleum emanated is liable, without proof of fault, up to \$1 billion, for the actual loss or damage, the costs and expenses and the loss of non-use value described in subparagraphs *a* to *c* of paragraph 1.

311. If, as a result of debris or as a result of any action or measure taken in relation to debris, there is a loss of non-use value relating to a public resource or if any person incurs actual loss or damage as a result of debris or if the Régie, the Board, the Government or the Government of Canada reasonably incurs any costs or expenses in taking any action or measure in relation to debris,

(1) the persons who are liable, by their fault, for the presence of debris or who are bound by law to make reparation for injury caused by the fault of others who are their subordinates and who are liable for the presence of debris are solidarily liable for that loss or damage and those costs and expenses; and

(2) the person who is required to obtain an authorization in respect of the work or activity from which the debris originated is liable, without proof of fault, up to \$1 billion, for that loss, actual loss or damage and those costs and expenses.

312. A person who is required to obtain an authorization for a work or activity and who retains, to carry on a work or activity in respect of which the authorization is required, the services of a contractor to whom paragraph 1 of section 310 or paragraph 1 of section 311 applies is solidarily liable with that contractor for any actual loss or damage, costs and expenses and loss of non-use value described in subparagraphs *a* to *c* of paragraph 1 of section 310 and in section 311.

313. Subject to section 14, the Government may, by regulation, increase the \$1 billion limit of liability set out in paragraph 2 of sections 310 and 311.

314. If a person is liable under paragraph 2 of section 310 or 311 with respect to an occurrence and the person is also liable under any other Act, without proof of fault, for the same occurrence, the person is liable up to the greater of the \$1 billion limit of liability and the limit up to which the person is liable under the other Act.

If the other Act does not set out a limit of liability, the \$1 billion limit does not apply.

315. Only the Government or the Government of Canada may bring an action to recover a loss of non-use value relating to a public resource that is affected by a spill, the authorized discharge, emission or escape of petroleum, or debris or by any action or measure taken in relation to the spill, authorized discharge, emission or escape of petroleum, or debris.

316. All claims under this subdivision may be sued for and recovered in any court of competent jurisdiction.

Those claims must rank in the following order:

(1) claims in favour of persons incurring actual loss or damage, without preference;

(2) claims to meet any costs and expenses described in section 310 or 311, without preference; and

(3) claims to recover a loss of non-use value relating to a public resource.

317. Subject to section 315, nothing in this subdivision suspends or limits

(1) any legal liability or remedy for an act or omission by reason only that the act or omission is an offence under this chapter or gives rise to liability under this subdivision;

(2) any recourse, indemnity or relief available at law to a person who is liable under this subdivision against any other person; or

(3) the operation of any applicable law or rule of law that is not inconsistent with this subdivision.

318. Proceedings to recover claims under this subdivision may be instituted within three years after the day on which the loss, damage, costs or expenses were incurred but in no case after six years from the day on which the spill or the discharge, emission or escape of petroleum occurred or, in the case of debris, from the day on which the installation or structure in question was abandoned or the material in question broke away or was jettisoned or displaced.

§4.—*Financial means of holders of an authorization*

319. An applicant for an authorization for the drilling for or development or production of petroleum must provide proof, in the prescribed form and manner, that it has the financial resources necessary to pay the \$1 billion limit of liability set out in paragraph 2 of sections 310 and 311.

If the Régie and the Board consider it necessary, they may determine a greater amount and require proof that the applicant has the financial resources to pay that greater amount.

320. An applicant for an authorization for a work or activity for any work or activity other than the drilling for or development or production of petroleum must provide proof, in the prescribed form and manner, that it has the financial resources necessary to pay an amount that is determined by the Régie and the Board.

321. When the Régie and the Board determine an amount under section 319 or 320, they are not required to consider any potential loss of non-use value relating to a public resource that would be affected by a spill or the authorized discharge, emission or escape of petroleum or as a result of debris.

322. The holder of an authorization for a work or activity must ensure that the proof referred to in sections 319 and 320 remains in force for the duration of the work or activity in respect of which the authorization is issued.

The holder must also ensure that the proof referred to in section 319 remains in force for a period of one year beginning on the day on which the Régie and the Board notify the holder that they have accepted the report submitted by the holder indicating that the last well in respect of which the authorization was issued is abandoned.

The Régie and the Board may reduce that one-year period and may decide that the proof referred to in section 319 that is to remain in force during that period is proof that the holder has the financial resources necessary to pay an amount that is less than the limit or amount referred to in section 319 and that is determined by the Régie and the Board.

§5.—*Financial responsibility of holders of an authorization*

323. An applicant for an authorization for a work or activity must provide proof of financial responsibility in the form of a letter of credit, a guarantee or an indemnity bond or in any other form satisfactory to the Régie and the Board,

(1) in the case of the drilling for or development or production of petroleum, in the amount of \$100 million or, if the Régie and the Board consider it necessary, in a greater amount that they determine; or

(2) in any other case, in an amount that is satisfactory to, and determined by, the Régie and the Board.

324. The holder of an authorization for a work or activity must ensure that the proof referred to in section 323 remains in force for the duration of the work or activity in respect of which the authorization is issued.

The holder must also ensure that the proof referred to in paragraph 1 of section 323 remains in force for a period of one year beginning on the day on which the Régie and the Board notify the holder that they have accepted the report submitted by the holder indicating that the last well in respect of which the authorization was issued is abandoned.

The Régie and the Board may reduce that one-year period and may decide that the proof that is to remain in force during that period is for an amount that is less than the amount referred to in paragraph 1 of section 323 and that is determined by the Régie and the Board.

325. The Régie and the Board may require that moneys in an amount not more than the amount prescribed for any case or class of cases, or determined by the Régie and the Board in the absence of regulations, be paid out of the funds available under the letter of credit, guarantee or indemnity bond or other form of financial responsibility provided under section 323 in respect of any claim for which proceedings may be instituted under subdivision 3 of this division, whether or not those proceedings have been instituted.

If payment is required under the first paragraph, it must be made in the manner, subject to any conditions and procedures and to or for the benefit of any persons or classes of persons that may be prescribed for any case or class of cases or as may be required by the Régie and the Board in the absence of regulations.

If a claim is sued for under subdivision 3 of this division, there is to be deducted from any award made as a result of the action on that claim any amount received by the claimant under this subdivision in respect of the loss, damage, costs or expenses claimed.

§6. — Powers of the Ministers

326. The Ministers may, by order, on the recommendation of the Régie and the Board, approve an amount that is less than the \$1 billion limit of liability set out in sections 310 and 311 or the amount referred to in paragraph 1 of section 323 in respect of an applicant for, or a holder of, an authorization for a work or activity.

327. If the Ministers approve an amount that is less than the \$1 billion limit of liability set out in sections 310 and 311 in respect of an applicant for an authorization for a work or activity, that applicant, for the purposes of

section 319, need only provide proof that it has the financial resources necessary to pay the adjusted amount approved by the Ministers.

328. No applicant for an authorization for a work or activity contravenes paragraph 1 of section 323 if that applicant provides proof of financial responsibility in the amount that is approved by the Ministers under this subdivision.

DIVISION IV

INQUIRIES

329. If a spill or debris or an accident or incident related to any work or activity to which this Title applies occurs or is found in any portion of the petroleum resources joint management area and results in death or injury or danger to public safety or the environment, the Ministers may direct an inquiry to be made and may authorize any person they consider qualified to conduct the inquiry.

330. The Ministers must, under prescribed circumstances, direct that an inquiry referred to in section 329 be made.

In such a case, the Ministers must ensure that the person who conducts the inquiry — the investigator — is not employed in a part of the Québec public service or the federal public administration for which either Minister is responsible.

331. For the purposes of an inquiry under section 329, the investigator has the powers and immunity conferred on commissioners appointed under the Act respecting public inquiry commissions, except the power to punish for contempt of court.

The investigator may, however, apply to a judge of the Superior Court to provide a response to the offending behaviour.

332. Every person who refuses or fails to comply with an order of the investigator, or who refuses to answer questions that the investigator has the legal authority to ask or to produce documents or other things that the investigator has the legal authority to request, or who undermines the conduct of the hearing is guilty of contempt of court.

333. The investigator must ensure that, to the extent feasible, the procedures and practices for the inquiry are compatible with investigation procedures and practices followed by any appropriate authority and, for those purposes, may consult with any of those authorities.

334. As soon as feasible after the conclusion of the inquiry, the investigator must submit a report to the Ministers, together with the evidence and other material that was before the inquiry.

The report must be jointly published by the Ministers within 60 days after the later of the days on which it was received.

The Ministers may supply copies of the published report in the manner and on any terms that they consider proper.

CHAPTER V

PRODUCTION ARRANGEMENTS

DIVISION I

INTERPRETATION

335. For the purposes of this chapter,

“pooled spacing unit” means the area that is subject to a pooling agreement or a pooling order;

“pooled tract” means the portion of a pooled spacing unit defined as a tract in a pooling agreement or a pooling order;

“pooling agreement” means an agreement to pool the interests of owners in a spacing unit and to provide for the operation or the drilling and operation of a well on that spacing unit;

“pooling order” means an order made under subdivision 2 of Division II of this chapter or as altered in accordance with sections 345 and 346;

“royalty interest” means any interest or right in, or the right to receive a portion of, any petroleum produced and saved from a field or pool or part of a field or pool or the proceeds from its sale, but does not include a working interest or the interest of any person whose sole interest is as a purchaser of petroleum from the pool or part of the pool;

“royalty owner” means a person, including the Government, who owns a royalty interest;

“spacing unit” means the area allocated to a well for the purpose of drilling for or producing petroleum;

“tract participation” means the share of production from a unitized zone that is allocated to a unit tract under a unit agreement or unitization order or the share of production from a pooled spacing unit that is allocated to a pooled tract under a pooling agreement or pooling order;

“unit agreement” means an agreement to unitize the interests of owners in a pool or part of the pool whose area is greater than the area of a spacing unit and includes a unit agreement as varied by a unitization order;

“unit area” means the area that is subject to a unit agreement;

“unit operating agreement” means an agreement, providing for the management and operation of a unit area and a unitized zone, that is entered into by working interest owners who are parties to a unit agreement with respect to that unit area and unitized zone and includes a unit operating agreement as varied by a unitization order;

“unit operation” means operations conducted under a unit agreement or a unitization order;

“unit operator” means a person designated as a unit operator under a unit operating agreement;

“unit tract” means the portion of a unit area that is defined as a tract in a unit agreement;

“unitization order” means an order made under section 359;

“unitized zone” means a geological formation that is within a unit area and subject to a unit agreement;

“working interest” means a right, in whole or in part, to produce and dispose of petroleum from a pool or part of a pool, whether the right is held as an incident of ownership in the petroleum or under a production licence, an agreement or another instrument, if the right is chargeable with and the holder of the right is obligated to pay or bear, either in cash or out of production, all or a portion of the costs in connection with the drilling for, recovery and disposal of petroleum from the pool or part of the pool.

DIVISION II

POOLING

§1.—Production licences in a same spacing unit

336. A person must not produce any petroleum within a spacing unit in which there are two or more production licences or two or more separately owned working interests unless a pooling agreement has been entered into in accordance with subdivision 2 of this division or is deemed to have been entered into in accordance with a pooling order.

The first paragraph does not prohibit the production of petroleum for testing in any quantities approved by the Chief Conservation Officer.

§2.—Voluntary pooling

337. The working interest owners who have separately owned working interests in a spacing unit and the royalty owners who own all the interests in

the spacing unit may pool their working interests and royalty interests in the spacing unit for the purpose of drilling for or producing, or both drilling for and producing, petroleum.

A copy of the pooling agreement and any amendment to it must be filed with the Chief Conservation Officer.

338. The Ministers may, on behalf of their respective governments, enter into a pooling agreement on any terms that they consider advisable and, despite anything in Title II, this Title or any regulations made under them, the pooling agreement is binding on the parties.

§3.—*Pooling order*

339. In the absence of a pooling agreement, the owner of a working interest in a spacing unit may apply for an order directing the other working interest owners and the royalty owners within the spacing unit to pool their interests in the spacing unit.

The application must be made to the Ministers, who must refer the application to the Oil and Gas Committee for the purpose of holding a hearing to determine whether a pooling order should be made.

340. Before the hearing, the applicant must provide the Committee, and any other interested parties that the Committee may direct, with a proposed pooling agreement and the working interest owners who have interests in the spacing unit to which the proposed pooling agreement relates must provide the Committee with any information that the Committee considers necessary.

The Committee must afford all interested parties an opportunity to be heard.

341. After the hearing, the Committee may order that all working interest owners and royalty owners who have an interest in the spacing unit are deemed to have entered into a pooling agreement as set out in the pooling order.

342. Every pooling order must provide

(1) for the drilling and operation of a well on the spacing unit or, if a well that is capable of or that can be made capable of production has been drilled on the spacing unit before the making of the pooling order, for the future production and operation of that well;

(2) for the appointment of an operator, from among the owners of working interests in a spacing unit, to be responsible for the drilling, operation or abandoning of the well whether it was drilled before or after the making of the pooling order;

(3) for the allocation to each pooled tract of its share of the production of the petroleum from the pooled spacing unit that is not required, consumed or

lost in the operation of the well, the allocation being on a prorated area basis unless it can be shown to the satisfaction of the Committee that such basis is unfair, in which case the Committee may make an allocation on some other more equitable basis;

(4) if no production of petroleum is obtained, for the payment by the applicant of all costs incurred in the drilling and abandoning of the well;

(5) if production is obtained, for the payment of the actual costs of drilling the well, whether it was drilled before or after the making of the pooling order, and for the payment of the actual costs of the completing, operation and abandoning of the well; and

(6) for the sale, by the operator, of the petroleum that is allocated under subparagraph 3 to a working interest owner if that working interest owner fails to take in kind and dispose of the production of that petroleum, and for the deduction from the proceeds of the sale, by the operator, of the expenses reasonably incurred in connection with the sale.

A pooling order may provide for a penalty for a working interest owner who does not, within the time specified in the order, pay the costs attributable to the working interest owner as their share of the cost of the drilling and completing of the well, but the penalty must not exceed an amount equal to one half of that working interest owner's share of the costs.

343. If a working interest owner does not, within the time specified in the pooling order, pay their share of the costs of the drilling, completing, operating and abandoning of the well, that portion of the costs and the penalty, if any, are recoverable only out of their share of production from the spacing unit and not in any other manner.

344. If a pooling order is made, all working interest owners and royalty owners who have interests in the pooled spacing unit are, on the making of the pooling order, deemed to have entered into a pooling agreement as set out in the pooling order and that order is deemed to be a valid contract between the parties who have interests in the pooled spacing unit and all its terms and provisions, as set out in the pooling order or as altered in accordance with sections 345 and 346, are binding on and enforceable against the parties to the pooling order.

345. The Committee must hear any application to vary, amend or terminate a pooling order if the application is made by the owners of more than 25 percent of the working interests in the pooled spacing unit, calculated on a prorated area basis.

The Committee may, in its discretion, order a hearing on the application of any working interest owner or royalty owner who has an interest in the pooled spacing unit.

346. After the hearing, the Committee may vary or amend the pooling order to supply any deficiency in the pooling order or to meet changing conditions and may vary or revoke any provision that it considers to be unfair or inequitable or it may terminate the pooling order.

If a pooling order is varied or amended, no change is to be made that will alter the ratios of tract participations between the pooled tracts as originally set out in the pooling order.

DIVISION III

UNITIZATION

347. Any one or more owners of a working interest in a pool or part of the pool whose area is more than the area of a spacing unit may, together with the royalty owners, enter into a unit agreement and operate their interests in accordance with the terms of the unit agreement or any amendment to it.

A copy of the unit agreement and any amendment to it must be filed with the Chief Conservation Officer.

348. The Ministers may, on behalf of their respective governments, enter into a unit agreement on any terms that they consider advisable.

In case of any inconsistency or conflict between the terms of the unit agreement and any regulations made under this Act, the terms of the unit agreement take precedence.

349. If a unit agreement filed under section 347 provides that a unit operator must be the agent or mandatary of the parties to the agreement with respect to their powers, duties and functions under this Title, the unit operator's exercise or performance of, or their failure to exercise or perform, those powers, duties and functions is attributed to the parties otherwise having those powers, duties and functions under this Title.

350. Despite anything in this Title, if, in the opinion of the Chief Conservation Officer, the unit operation of a pool or part of the pool would prevent waste, the Chief Conservation Officer may apply to the Committee for an order requiring the working interest owners concerned to enter into a unit agreement and a unit operating agreement.

351. If an application is made under section 350, the Committee must hold a hearing at which all interested persons are to be given an opportunity to be heard.

352. If, after the hearing, the Committee is of the opinion that the unit operation of a pool or part of the pool would prevent waste, the Committee may by order require the working interest owners concerned to enter into a unit agreement and a unit operating agreement.

353. If, within a period of not less than six months after the day on which the order is made, the working interest owners and royalty owners have not entered into a unit agreement and a unit operating agreement approved by the Committee, all drilling and production operations within the pool or part of the pool in respect of which the order was made must cease until a unit agreement and a unit operating agreement have been approved by the Committee and filed with the Chief Conservation Officer.

Despite the first paragraph, the Committee may permit the continued operation of the pool or part of the pool after the time specified in the order if the Committee is of the opinion that a unit agreement and a unit operating agreement are in the course of being entered into, but any continuation of operations must be subject to the conditions established by the Committee.

DIVISION IV

COMPULSORY UNITIZATION

354. One or more working interest owners who are parties to a unit agreement and a unit operating agreement and own in total 65 percent or more of the working interests in a unit area may apply for a unitization order with respect to the agreements.

The application must be made to the Ministers who must refer it to the Committee for the purpose of holding a hearing.

The application may be made by the unit operator or proposed unit operator on behalf of the working interest owners referred to in the first paragraph.

355. An application for a unitization order must contain

- (1) a plan showing the unit area to be made subject to the order;
- (2) one copy each of the unit agreement and the unit operating agreement;
- (3) a statement of the nature of the operations to be carried out; and
- (4) a statement showing
 - (a) with respect to each proposed unit tract, the names and addresses of the working interest owners and royalty owners in respect of that tract, and
 - (b) the tracts that are entitled to be qualified as unit tracts under the provisions of the unit agreement.

356. The unit agreement referred to in section 355 must include

- (1) a description of the unit area and the unit tracts included in the agreement;

(2) a provision respecting the allocation to each unit tract of a share of the production from the unitized zone that is not required, consumed or lost in the unit operation;

(3) a provision specifying that the share of the production from a unit area that has been allocated to a unit tract is considered to have been produced from that unit tract; and

(4) a provision specifying the manner in which and the circumstances under which the unit operation is to end.

357. The unit operating agreement referred to in section 355 must make provision

(1) for the contribution or transfer to the unit, and any adjustment among the working interest owners, of the investment in wells and equipment within the unit area;

(2) for the charging of the costs and expenses of the unit operation to the working interest owners;

(3) for the supervision of the unit operation by the working interest owners through an operating committee composed of their duly authorized representatives and for the appointment of a unit operator to be responsible, under the direction and supervision of the operating committee, for the carrying out of the unit operation;

(4) for the determination of the percentage value of the vote of each working interest owner; and

(5) for the determination of the method of voting on any motion before the operating committee and the percentage value of the vote required to carry the motion.

358. If the Committee must hold a hearing at the request of the Ministers, all interested persons are to be given an opportunity to be heard.

359. The Committee may order that the unit agreement is a valid contract enuring to the benefit of all the royalty owners and working interest owners who have an interest in the unit area and binding on all those owners, and that the unit operating agreement is a valid contract enuring to the benefit of all the working interest owners who have an interest in the unit area and binding on all those owners, if the Committee finds that

(1) on the day on which the hearing begins, the unit agreement and the unit operating agreement have been executed by one or more working interest owners who own in total 65 percent or more of the total working interests in the unit area;

(2) on the day on which the hearing begins, the unit agreement has been executed by one or more royalty owners who own in total 65 percent or more of the total royalty interests in the unit area; and

(3) the unitization order applied for would accomplish the more efficient or more economical production of petroleum from the unitized zone.

Subject to section 361, the unit agreement and the unit operating agreement have the effect given to them by the unitization order.

In a unitization order, the Committee may vary the unit agreement or the unit operating agreement by adding, deleting or amending provisions.

360. Subject to section 361, a unitization order becomes effective on the day that the Committee indicates in the order, but that day must be not less than 30 days after the day on which the order is made.

361. If a unit agreement or unit operating agreement is varied by the Committee in a unitization order, the order becomes ineffective if, before the effective date, the applicant files with the Committee a notice withdrawing the application on behalf of the working interest owners or there are filed with the Committee statements in writing objecting to the order and signed

(1) in the case of the unit agreement by

(a) one or more working interest owners who own in total more than 25 percent of the total working interests in the unit area and were included within the group owning 65 percent or more of the total working interests as described in section 359; and

(b) one or more royalty owners who own in total more than 25 percent of the total royalty interests in the unit area and were included within the group owning 65 percent or more of the total royalty interests as described in section 359; or

(2) in the case of the unit operating agreement, by one or more working interest owners who own in total more than 25 percent of the total working interests in the unit area and were included within the group owning 65 percent or more of the total working interests as described in section 359.

If a unitization order becomes ineffective under this section, the Committee must immediately revoke the order.

362. A unitization order is not invalid by reason only of the absence of notice or of any irregularities in giving notice to any working interest owner and any royalty owner in respect of the application for the order or any proceedings leading to the making of the order.

363. A unitization order may be amended on the application of a working interest owner.

If an application is made, the Committee must hold a hearing at which all interested parties are to be given an opportunity to be heard.

The Committee may amend the unitization order in accordance with the amendment proposed if it finds that, on the day on which the hearing begins, one or more working interest owners who own in total 65 percent or more of the total working interests in the unit area and one or more royalty owners who own in total 65 percent or more of the total royalty interests in the unit area have consented to the proposed amendment.

364. No amendment is to be made under section 363 that will alter the ratios between the tract participations of those tracts that were qualified for inclusion in the unit area before the beginning of the hearing.

For the purposes of this section, the tract participations are to be those indicated in the unit agreement when it became subject to a unitization order.

365. After the day on which a unitization order comes into effect and while the order remains in force, a person must not carry on any operations within the unit area for the purpose of drilling for or producing petroleum from the unitized zone, except in accordance with the provisions of the unit agreement and the unit operating agreement.

366. The percentages of interests referred to in sections 354, 359, 361 and 363 must be determined

(1) in the case of royalty interests, on a prorated area basis; and

(2) in the case of working interests, on the basis of tract participations shown in the unit agreement.

DIVISION V

SPECIAL PROVISIONS

367. A pooled spacing unit that has been pooled in accordance with a pooling order and on which a well has been drilled may be included in a unit area as a single unit tract.

The Committee may make any amendments to the pooling order that it considers necessary to remove any conflict between the provisions of the pooling order and the provisions of any unit agreement, unit operating agreement or unitization order.

368. If a pooled spacing unit is included in a unit area, the provisions of any unit agreement, unit operating agreement and unitization order prevail over the provisions of the pooling order in the event of a conflict.

Despite the first paragraph,

(1) the share of the unit production that is allocated to the pooled spacing unit must in turn be allocated to the separately owned tracts in the pooled spacing unit on the same basis and in the same proportion as production actually obtained from the pooled spacing unit would have been shared under the pooling order;

(2) the costs and expenses of the unit operation that are allocated to the pooled spacing unit must be shared and borne by the owners of the working interests on the same basis and in the same proportion as would apply under the pooling order; and

(3) the credits allocated under a unit operating agreement to a pooled spacing unit for adjustment of investment for wells and equipment on the pooled spacing unit must be shared by the owners of the working interests in the same proportion as would apply to the sharing of production under the pooling order.

CHAPTER VI

APPEALS AND ADMINISTRATION

DIVISION I

APPEALS

369. Except as provided in this chapter, every decision or order of the Oil and Gas Committee is final and binding.

Any minutes or other record of the Committee or any other document issued by the Committee is, for the purposes of this division, considered to be a decision or an order of the Committee.

370. The Committee may of its own motion or at the request of the Ministers state a case, in writing, for the opinion of the Superior Court on any question that in the opinion of the Committee is a question of law or of the jurisdiction of the Committee.

The Court must hear and determine the case stated and remit the matter to the Committee with its opinion on it.

371. The Ministers may, at any time, in their discretion, of their own motion or at the request of any person concerned, vary or rescind any decision or order of the Committee, and any order that the Ministers make becomes a decision or order of the Committee and, subject to section 372, is binding on the Committee and on all parties.

372. An appeal lies from a decision or order of the Committee to the Superior Court on a question of law, on leave for the appeal being obtained from that Court.

The appeal is brought on application made with the Court within 30 days after the day on which the decision or order of the Committee sought to be appealed from was made or within any other time that the Court may allow.

373. If leave to appeal is granted by the Superior Court, any order of the Committee in respect of which the appeal is made must be stayed.

374. After the hearing of the appeal, the Superior Court must give its opinion to the Committee.

The Committee must make any order necessary to comply with that opinion.

375. Any order made by the Committee under the second paragraph of section 374 is subject to section 371 unless the order has already been varied or rescinded by the Ministers.

DIVISION II

SAFETY AND CONSERVATION OFFICERS

376. The Ministers must designate from among the officers and employees of the Régie and the Board an individual who has been recommended by the Régie and the Board as a safety officer or conservation officer for the purposes of the administration and enforcement of this Title.

The Ministers must make the designation within 30 days after the day on which they receive the name of the individual from the Régie and the Board.

377. As soon as possible after making a designation, the Ministers must notify the Régie and the Board, in writing, that the designation has been made or, if they are not satisfied that the person is qualified to exercise the powers and perform the duties and functions of a safety officer or a conservation officer, that the recommendation has been rejected.

378. The Régie and the Board must provide every safety officer and conservation officer and the Chief Safety Officer and the Chief Conservation Officer with a certificate of appointment or designation.

379. On entering any place referred to in section 380 or 381, a safety officer, the Chief Safety Officer, a conservation officer or the Chief Conservation Officer must, if so required, provide identification and produce the certificate of appointment or designation to the person in charge of the place.

380. A safety officer, the Chief Safety Officer, a conservation officer or the Chief Conservation Officer may, for the purpose of verifying compliance with

this Title, order any person who is in charge of a place that is used for any work or activity in respect of which this Title applies or a place in which that officer has reasonable grounds to believe that there is anything to which this Title applies

- (1) to inspect anything in the place;
- (2) to pose questions, or conduct tests or monitoring, in the place;
- (3) to take photographs or measurements, or make recordings or drawings, in the place;
- (4) to accompany or assist the officer while the officer is in the place;
- (5) to produce a document or another thing that is in their possession or under their control, or to prepare and produce a document based on data or documents that are in their possession or under their control, in the form and manner that the officer may specify;
- (6) to provide, to the best of their knowledge, information relating to any matter to which this Title applies, or to prepare and produce a document based on that information, in the form and manner that the officer may specify;
- (7) to ensure that all or part of the place, or anything located in the place, that is under their control, not be disturbed for a reasonable period that is established by the officer pending the exercise of any powers under this section; and
- (8) to remove anything from the place and to provide it to the officer, in the manner that the officer specifies, for examination, testing or copying.

381. A safety officer, the Chief Safety Officer, a conservation officer or the Chief Conservation Officer may, for the purpose of verifying compliance with this Title, and subject to section 386, enter a place that is used for any work or activity in respect of which this Title applies, or a place in which that officer has reasonable grounds to believe that there is anything to which this Title applies, and may for that purpose

- (1) inspect anything in the place;
- (2) pose questions, or conduct tests or monitoring, in the place;
- (3) take samples from the place, or cause them to be taken, for examination or testing, and dispose of those samples;
- (4) remove anything from the place, or cause it to be removed, for examination, testing or copying;

(5) while in the place, take or cause to be taken photographs or measurements, make or cause to be made recordings or drawings and use systems in the place that capture images or cause them to be used;

(6) use any computer system in the place, or cause it to be used, to examine data contained in or available to it;

(7) prepare a document, or cause one to be prepared, based on the data;

(8) use any copying equipment in the place, or cause it to be used, to make copies of the data;

(9) be accompanied while in the place by any person, or be assisted while in the place by any person, that the officer considers necessary; and

(10) meet in private with any person in the place, with the agreement of that person.

An officer who enters a place under the first paragraph may order any person in the place to do anything described in section 380.

382. Anything that is removed for examination, testing or copying must, if requested by the person from whom it was removed, be returned to that person after the examination, testing or copying is completed, unless it is required for the purposes of a prosecution under this Title.

383. The owner and every person who is in charge of a place that is entered by a safety officer, the Chief Safety Officer, a conservation officer or the Chief Conservation Officer under section 381, and every person found in that place, must give all assistance that is required to enable the officer to verify compliance with this Title and provide any documents, data or information that is required for that purpose.

384. If the place referred to in section 381 is a marine installation or structure, as defined in the fifth paragraph of section 278, the person who is in charge of the marine installation or structure must provide to the safety officer, the Chief Safety Officer, a conservation officer or the Chief Conservation Officer, and to every person accompanying the officer, free of charge,

(1) suitable transportation between the usual point of embarkation on shore and the marine installation or structure, between the marine installation or structure and the usual point of disembarkation on shore, and between marine installations or structures; and

(2) suitable accommodation and food at the marine installation or structure.

385. A safety officer, the Chief Safety Officer, a conservation officer or the Chief Conservation Officer, as the case may be, must provide to the holder of an authorization for a work or activity written reports about anything inspected,

tested or monitored by or on the order of the officer for the purpose of verifying compliance with this Title in any place that is used for a work or activity in respect of which the authorization is issued.

386. If the place referred to in section 381 is living quarters,

(1) neither a conservation officer nor the Chief Conservation Officer is authorized to enter those quarters; and

(2) a safety officer or the Chief Safety Officer is not authorized to enter those quarters without the consent of the occupant except

(a) to execute a warrant issued under section 387, or

(b) to verify that those quarters, if on a marine installation or structure, as defined in the fifth paragraph of section 278, are in a structurally sound condition.

The safety officer or the Chief Safety Officer must provide reasonable notice to the occupant before entering living quarters under subparagraph *b* of subparagraph 2 of the first paragraph of this section.

Any locker in the living quarters that is fitted with a locking device and that is assigned to an occupant must not be opened by the safety officer or the Chief Safety Officer without the occupant's consent except under the authority of a warrant issued under sections 387 and 388.

For the purposes of this section and section 387, "living quarters" means sleeping quarters provided on a marine installation or structure, as defined in the fifth paragraph of section 278, and any room for the exclusive use of the occupants of those quarters that contains a toilet or urinal.

387. On *ex parte* application, a justice of the peace may issue a warrant authorizing a safety officer who is named in it or the Chief Safety Officer to enter living quarters subject to any conditions specified in the warrant if the justice is satisfied by information on oath that

(1) the living quarters is a place referred to in section 381;

(2) entry to the living quarters is necessary to verify compliance with this Title; and

(3) entry was refused by the occupant or there are reasonable grounds to believe that entry will be refused or that consent to entry cannot be obtained from the occupant.

388. The warrant may also authorize a locker described in the third paragraph of section 386 to be opened, subject to any conditions specified in the warrant, if the justice of the peace is satisfied by information on oath that

(1) it is necessary to open the locker to verify compliance with this Title;
and

(2) the occupant to whom the locker is assigned refused to allow it to be opened or there are reasonable grounds to believe that the occupant to whom it is assigned will refuse to allow it to be opened or that consent to opening it cannot be obtained from that occupant.

389. The officer who executes a warrant issued under section 387 must not use force unless the use of force has been specifically authorized in the warrant.

390. A warrant may be issued under section 387 by telephone or other means of telecommunication. An application for a telewarrant must be supported by information submitted by a safety officer or the Chief Safety Officer by one of those means.

Articles 96 and 99 to 103 of the Code of Penal Procedure (chapter C-25.1) apply, with any modifications that the circumstances require.

391. On *ex parte* application, a justice of the peace may issue a warrant if the justice is satisfied by information on oath that there are reasonable grounds to believe that there is in any place anything that provides evidence or information relating to the commission of an offence under this Title.

The warrant may authorize a safety officer, the Chief Safety Officer, a conservation officer or the Chief Conservation Officer, and any other person named in the warrant, to at any time enter and search the place and to seize anything specified in the warrant, subject to any conditions that may be specified in the warrant.

The warrant may also authorize the officer to do any of the following for the purposes of the search:

- (1) conduct examinations, tests or monitoring;
- (2) take samples for examination or testing, and dispose of those samples;
or
- (3) take photographs or measurements, make recordings or drawings and use systems in the place that capture images.

392. A safety officer, the Chief Safety Officer, a conservation officer or the Chief Conservation Officer may exercise the powers described in section 391 without a warrant if the conditions for obtaining the warrant exist but by reason of exigent circumstances it would not be feasible to obtain the warrant.

Exigent circumstances include circumstances in which the delay necessary to obtain a warrant would result in danger to human life or the environment or the loss or destruction of evidence.

393. A person authorized under this section to search a computer system in a place may

(1) use or require any person to use any computer system at the place to search any data contained in or available to the computer system;

(2) reproduce or cause to be reproduced any data in the form of a printout or other intelligible output;

(3) seize any printout or other output for examination or copying; and

(4) use or require any person to use any copying equipment in the place to make copies of the data.

394. Every person who is in charge of a place in respect of which a search is carried out must, on presentation of the warrant, permit the person carrying out the search to do anything described in section 393.

395. If the place that is searched is a marine installation or structure, as defined in the fifth paragraph of section 278, the person who is in charge of the marine installation or structure must provide to the person who is executing the warrant, free of charge,

(1) suitable return transportation between the marine installation or structure and any location from which transportation services to that marine installation or structure are usually provided, and between marine installations or structures; and

(2) suitable accommodation and food at the marine installation or structure.

396. A warrant may be issued under section 391 by telephone or other means of telecommunication on information submitted by a safety officer, the Chief Safety Officer, a conservation officer or the Chief Conservation Officer by one of those means.

Articles 96 and 99 to 103 of the Code of Penal Procedure apply, with any modifications that the circumstances require.

397. A thing seized may be stored in the place where it was seized or may, at the discretion of a safety officer, the Chief Safety Officer, a conservation officer or the Chief Conservation Officer, be removed to any other place for storage. The owner of the thing or the person who is lawfully entitled to possess it must pay the costs of storage or removal.

398. If a perishable thing is seized, a safety officer, the Chief Safety Officer, a conservation officer or the Chief Conservation Officer may destroy the thing or otherwise dispose of it in any manner the officer considers appropriate.

399. If a safety officer or the Chief Safety Officer, on reasonable grounds, is of the opinion that continuation of any work or activity related to the exploration or drilling for or the production, conservation, processing or transportation of petroleum is likely to result in serious bodily injury, the officer may order that the operation cease or be continued only in accordance with the terms of the order.

The officer who makes an order under the first paragraph must affix at or near the scene of the work or activity a notice of their order in the form approved by the Régie and the Board.

400. A safety officer's order expires 72 hours after it is made unless it is confirmed before that time by order of the Chief Safety Officer.

A safety officer who makes an order must immediately advise the Chief Safety Officer that the order has been made.

The Chief Safety Officer may modify or revoke the order.

401. The person carrying out the work or activity to which an order under section 399 makes reference or any person having a pecuniary interest in that work or activity may by notice in writing request the Chief Safety Officer to refer the order to the Régie and the Board for review.

The Régie and the Board must inquire into the need for the order and confirm it or set it aside, as the case may be. Their decision is final.

If an order has been referred to the Régie and the Board under this section, the burden of establishing that the order is not needed is on the person who requested that the order be so referred.

402. A person must not continue a work or activity in respect of which an order has been made by a safety officer or the Chief Safety Officer under section 399, except in accordance with the terms of the order or until the order has been set aside by the Régie and the Board under this section.

403. An order made by a safety officer or the Chief Safety Officer prevails over an order made by a conservation officer or the Chief Conservation Officer to the extent of any inconsistency between the orders.

DIVISION III

INSTALLATION MANAGER

404. Every holder of an authorization with respect to a work or activity for which a prescribed installation is to be used must put in command of the installation a manager who meets the prescribed qualifications. The installation manager is responsible for the safety of the installation and the persons at it.

405. Subject to this Act and any other Act, an installation manager has the power to do anything that is required to ensure the safety of the installation and the persons at it and, more particularly, may

- (1) give orders to any person who is at the installation;
- (2) order that any person who is at the installation be restrained or removed; and
- (3) obtain any information or documents.

406. In a prescribed emergency situation, an installation manager's powers are extended so that they also apply to each person in charge of a vehicle, ship, vessel or aircraft that is at the installation or that is leaving or approaching it.

DIVISION IV

PENAL PROVISIONS

407. Every person is guilty of an offence and liable to a fine of not more than \$6 million or, despite article 231 of the Code of Penal Procedure, to a maximum term of imprisonment of four years, or to both that fine and imprisonment, who

- (1) contravenes any provision of this Title or the regulations made under it;
- (2) makes any false entry or statement in any report, record or other document that is required by this Title or the regulations made under it, or by any decision or order made under this Title or those regulations;
- (3) destroys, mutilates or falsifies any report, record or other document that is required by this Title or the regulations made under it, or by any decision or order made under this Title or those regulations;
- (4) produces any petroleum from a pool or field under the terms of a unit agreement, as defined in Chapter V of this Title, or any amended unit agreement, before a copy of the unit agreement or amended unit agreement is filed with the Chief Conservation Officer;
- (5) undertakes or carries on a work or activity without an authorization or without complying with the approvals or requirements, determined by the Régie and the Board in accordance with the provisions of this Title or granted or prescribed by regulations made under this Title, of such an authorization;
- (6) fails to comply with a direction, requirement or order of a safety officer, the Chief Safety Officer, a conservation officer, the Chief Conservation Officer or an installation manager or with a decision or order of the Committee or the Régie and the Board made under this Title;

(7) hinders, or makes a false or misleading statement to, a safety officer, the Chief Safety Officer, a conservation officer or the Chief Conservation Officer acting in the performance of their duties or functions; or

(8) commits waste as defined in section 287.

Despite subparagraph 8 of the first paragraph, no person commits an offence by reason of committing waste as defined in paragraph 6 or 7 of section 287 unless that person has been ordered by the Régie and the Board to take measures to prevent the waste and has failed to comply.

408. In determining a punishment, the court must consider the following principles:

(1) the amount of the fine should be increased to account for every aggravating factor associated with the offence, including the aggravating factors set out in the second paragraph; and

(2) the amount of the fine should reflect the gravity of each aggravating factor associated with the offence.

The aggravating factors are the following:

(1) the offence caused harm or risk of harm to human health or safety;

(2) the offence caused damage or risk of damage to the environment or to environmental quality;

(3) the offence caused damage or risk of damage to any unique, rare, particularly important or vulnerable component of the environment;

(4) the damage or harm caused by the offence is extensive, persistent or irreparable;

(5) except in the case of an offence that is in respect of the contravention of the first paragraph of section 185 or of subparagraph 2 of the first paragraph of section 265 or the case of the offence of falsifying referred to in subparagraph 3 of the first paragraph of section 407, the offender committed the offence intentionally or recklessly;

(6) the offender knowingly failed to take reasonable steps to prevent the commission of the offence despite having the financial means to do so;

(7) by committing the offence or failing to take action to prevent its commission, the offender increased their revenue or decreased their costs or intended to increase their revenue or decrease their costs;

(8) the offender has a history of noncompliance with federal or provincial legislation that relates to safety or environmental conservation or protection; and

(9) after the commission of the offence, the offender

(a) attempted to conceal its commission;

(b) failed to take prompt action to prevent, mitigate or remediate its effects; or

(c) failed to take prompt action to reduce the risk of committing similar offences in the future.

The absence of an aggravating factor is not a mitigating factor.

For the purposes of subparagraphs 2 to 4 of the first paragraph, “damage” includes loss of use value and non-use value.

If the court is satisfied of the existence of one or more of the aggravating factors set out in the second paragraph but decides not to increase the amount of the fine because of that factor, it must give reasons for that decision.

409. Penal proceedings for offences under this Act or the regulations made under it may be instituted at any time within five years after the day on which the offence was committed.

410. If a corporation commits an offence under this Title, any of the following individuals who directed, authorized, assented to, acquiesced in or participated in the commission of the offence is a party to and guilty of the offence and is liable on conviction to the punishment provided for the offence whether or not the corporation has been prosecuted or convicted:

(1) an officer, director or agent or mandatary of the corporation; and

(2) any other individual exercising managerial or supervisory functions in the corporation.

411. In a prosecution for an offence under this Title, it is sufficient proof of the offence to establish that it was committed by an employee or an agent or mandatary of the defendant, whether or not the employee or the agent or mandatary is identified or has been prosecuted for the offence.

412. In a prosecution for an offence under this Title, other than a contravention of section 185 or of subparagraph 2 of the first paragraph of section 265 and other than an offence of falsifying referred to in subparagraph 3 of the first paragraph of section 407, it is a defence for the defendant to prove that they exercised all due diligence and took all necessary precautions to prevent the commission of the offence.

413. If an individual is convicted of an offence under this Title, no imprisonment may be imposed in default of payment of any fine of \$300,000 or less imposed as punishment.

414. If a person is found guilty of an offence under this Title, the court may, having regard to the nature of the offence and the circumstances surrounding its commission, in addition to any other punishment that may be imposed under this Title, make an order that has any or all of the following effects:

(1) prohibiting the offender from committing an act or engaging in an activity that may, in the opinion of the court, result in the continuation or repetition of the offence;

(2) directing the offender to take any action that the court considers appropriate to remedy or avoid any harm to the environment that results or may result from the act or omission that constituted the offence;

(3) directing the offender to carry out environmental effects monitoring in the manner established by the Régie and the Board or directing the offender to pay, in the manner specified by the court, an amount of money for the purposes of environmental effects monitoring;

(4) directing the offender to make changes to their environmental management system that are satisfactory to the Régie and the Board;

(5) directing the offender to have an environmental audit conducted by a person of a class specified by the Régie and the Board and at the times specified by the Régie and the Board and directing the offender to remedy any deficiencies revealed during the audit;

(6) directing the offender to publish, in the manner specified by the court, the facts relating to the commission of the offence and the details of the punishment imposed, including any orders made under this section;

(7) directing the offender to pay to the Régie and the Board an amount of money that the court considers appropriate for the purpose of conducting research, education and training in matters related to the protection of the environment, conservation of petroleum resources or safety of petroleum operations;

(8) directing the offender to notify, at the offender's own cost and in the manner specified by the court, any person aggrieved or affected by the offender's conduct of the facts relating to the commission of the offence and of the details of the punishment imposed, including any orders made under this section;

(9) directing the offender to perform community service, subject to any reasonable conditions that may be imposed by the court;

(10) directing the offender to post a bond or deposit an amount of money that the court considers appropriate with the court office to ensure that the offender complies with any prohibition, direction, requirement or condition that is specified in the order;

(11) directing the offender to pay, in the manner specified by the court, an amount of money to environmental, health or other groups to assist in their work;

(12) directing the offender to pay, in the manner specified by the court, an amount of money to an educational institution including for scholarships for students enrolled in studies related to the environment;

(13) requiring the offender to comply with any conditions that the court considers appropriate in the circumstances for securing the offender's good conduct and for preventing the offender from repeating the same offence or committing another offence under this Title; and

(14) prohibiting the offender from taking measures to acquire an interest or from applying for any new licence or other authorization under this Act during any period that the court considers appropriate.

415. An order made under section 414 comes into force on the day on which the order is made or on any other day that the court may determine. It must not continue in force for more than three years after that day.

416. If an offender does not comply with an order requiring the publication of facts relating to the offence and the details of the punishment, the Régie and the Board may, in the manner that the court directed the offender, publish those facts and details and recover the costs of publication from the offender.

If the Régie and the Board incur publication costs under the first paragraph, the costs constitute a debt due to the Régie and the Board and may be recovered in any court of competent jurisdiction.

417. Subject to the second paragraph, if a court has made, in relation to an offender, an order under section 414, the court may, on application by the offender or the Régie and the Board, require the offender to appear before it and, after hearing the offender and the Régie and the Board, vary the order in one or any combination of the following ways that the court considers appropriate because of a change in the offender's circumstances since the order was made:

(1) by making changes to any prohibition, direction, requirement or condition that is specified in the order for any period or by extending the period during which the order is to remain in force, not exceeding one year; or

(2) by decreasing the period during which the order is to remain in force or by relieving the offender of compliance with any condition that is specified in the order, either absolutely or partially or for any period.

Before making an order under this section, the court may direct that notice be given to any persons that the court considers to be interested and may hear any of those persons.

418. If an application made under the first paragraph of section 417 in relation to an offender has been heard by a court, no other application may be made under that paragraph in relation to the offender except with leave of the court.

419. If a person is convicted of an offence under this Title and a fine that is imposed is not paid when required or if a court orders an offender to pay an amount under section 414 or 417, the prosecutor may, by filing the conviction or order, as the case may be, enter as a judgment the decision relating to the fine or order, and costs, if any, in the Superior Court.

The judgment is enforceable against the person in the same manner as if it were a judgment rendered against them in that Court in civil proceedings.

420. If a person is guilty of an offence under this Title, a court may, in addition to any other penalty it may impose, order that person to comply with the provisions for the contravention of which that person has been convicted.

421. If an offence under this Title is committed on more than one day or is continued for more than one day, the person who committed it is liable to be convicted for a separate offence for each day on which it is committed or continued.

422. A prosecution for the offence of waste may be instituted for that offence only with leave of the Régie and the Board.

423. In any penal prosecution for an offence under this Title, a copy of any order or other document purporting to have been made under this Title and purporting to have been signed by the person authorized under this Title to make that order or document is, in the absence of any evidence to the contrary, proof of the matters set out in the order or document.

424. Even if a prosecution has been instituted in respect of an offence under this Title, the Ministers may commence and maintain an action to enjoin the committing of any such offence.

425. No civil remedy for any act or omission is suspended or affected by reason that the act or omission is an offence under this Title.

426. In any proceedings in respect of an offence under this Title, an information may include more than one offence committed by the same person

and all those offences may be tried concurrently and one conviction for any or all those offences may be made.

DIVISION V

ADMINISTRATIVE MONETARY PENALTIES

§1.— *General powers*

427. Subject to section 14, the Government may make regulations

(1) designating as a violation that may be proceeded with in accordance with this division

(a) the contravention of any specified provision of this Title or of any of its regulations,

(b) the contravention of any direction, requirement, decision or order, or of any direction, requirement, decision or order of a specified class of directions, requirements, decisions or orders, made under this Title, or

(c) the failure to comply with any term, condition or requirement of

i. an operating licence or authorization or any specified class of operating licences or authorizations under this Title, or

ii. any approval, leave or exemption or any specified class of approvals, leave or exemptions granted under this Title;

(2) respecting the determination of, or the method of determining, the amount payable as the penalty, which may be different for individuals, for each violation; and

(3) respecting the service of documents required or authorized under section 432 or 438 or the second paragraph of section 441, including the manner and proof of service and the circumstances under which documents are considered to be served.

The amount that may be determined by the Government under subparagraph 2 of the first paragraph as the penalty for a violation must not be more than \$25,000, in the case of an individual, and \$100,000, in the case of any other person.

428. The Régie and the Board may

(1) establish the form of notices of violation;

(2) designate persons or classes of persons who are authorized to issue notices of violation;

(3) establish, in respect of each violation, a short-form description to be used in notices of violation; and

(4) designate persons or classes of persons to conduct reviews under section 440.

§2.—Rules applicable to violations

429. Every person who contravenes or fails to comply with a provision, direction, requirement, decision or order, or term or condition the contravention of which, or the failure to comply with which, is designated as a violation by a regulation made under subparagraph 1 of the first paragraph of section 427 commits a violation and is liable to a penalty of an amount to be determined in accordance with the regulations.

The purpose of the penalty is to promote compliance with this Title and not to punish.

430. If a corporation commits a violation, any director, officer, or agent or mandatary of the corporation who directed, authorized, assented to, acquiesced in or participated in the commission of the violation is a party to the violation and is liable to a penalty of an amount to be determined in accordance with the regulations, whether or not the corporation has been proceeded against in accordance with this Title.

431. In any proceedings under this division against a person in relation to a violation, it is sufficient proof of the violation to establish that it was committed by an employee or agent or mandatary of the person, whether or not the employee or agent or mandatary is identified or proceeded against in accordance with this Title.

432. If a person designated under paragraph 2 of section 428 believes on reasonable grounds that a person has committed a violation, the designated person may issue a notice of violation and cause it to be served on the person.

433. The notice of violation must

- (1) name the person that is believed to have committed the violation;
- (2) set out the relevant facts surrounding the violation;
- (3) set out the amount of the penalty for the violation;
- (4) inform the person of their right to request a review with respect to the amount of the penalty or the facts of the violation, and of the period within which that right is to be exercised;
- (5) inform the person of the manner of paying the penalty set out in the notice; and

(6) inform the person that, if they do not exercise their right to request a review or if they do not pay the penalty, they will be considered to have committed the violation and that they are liable to the penalty set out in the notice.

434. A person named in a notice of violation does not have a defence by reason that the person exercised due diligence to prevent the commission of the violation or reasonably and honestly believed in the existence of facts that, if true, would exonerate the person.

435. A violation that is committed or continued on more than one day constitutes a separate violation for each day on which it is committed or continued.

436. Proceeding with any act or omission as a violation under this Title precludes proceeding with it as an offence under this Title, and proceeding with it as an offence under this Title precludes proceeding with it as a violation under this Title.

437. No notice of violation is to be issued more than two years after the day on which the matter giving rise to the violation occurred.

§3.—Reviews

438. A person who is served with a notice of violation may, within 30 days after the day on which it is served, or within any longer period that the Régie and the Board allow, make a request to the Régie and the Board for a review of the amount of the penalty or the facts of the violation, or both.

439. At any time before a request for a review in respect of a notice of violation is received by the Régie and the Board, a person designated under paragraph 2 of section 428 may cancel the notice of violation or correct an error in it.

440. On receipt of a request made under section 438, the Régie and the Board must conduct the review or cause the review to be conducted by a person designated under paragraph 4 of section 428.

The review must not be conducted by the person who issued the notice of violation.

441. The purpose of the review is to determine, as the case may be, whether the amount of the penalty for the violation was determined in accordance with the regulations or whether the person committed the violation, or both.

A determination on the request for review must be rendered in writing and include reasons. A copy of the determination and reasons is served on the person who requested the review.

If, following the review, it is determined that the amount of the penalty for the violation was not determined in accordance with the regulations, the amount of the penalty must be corrected.

If, following the review, it is determined that the person who requested the review committed the violation, that person is liable to the amount of the penalty as set out in the notice of violation or to the amount as corrected under the third paragraph.

A determination made under this section is final and binding and, except for judicial review by the Superior Court, is not subject to appeal or to review by any court.

442. If the facts of a violation are reviewed, the person who issued the notice of violation must establish, on a preponderance of evidence, that the person named in it committed the violation identified in it.

§4.—Presumption

443. If a person pays the amount of the penalty set out in a notice of violation, the person is deemed to have committed the violation and proceedings in respect of it are ended.

444. A person that neither pays the amount of the penalty imposed nor requests a review within the period referred to in section 438 is deemed to have committed the violation and is liable to the penalty.

§5.—Recovery of penalties

445. A penalty constitutes a debt due to the State and may be recovered in the Superior Court.

No proceedings to recover the debt are to be instituted more than five years after the day on which the debt becomes payable.

446. The Régie and the Board may issue a certificate of non-payment certifying the unpaid amount of any debt referred to in section 445.

447. Filing a certificate of non-payment issued under section 446 with the office of the Superior Court has the same effect as a judgment of that Court for a debt of the amount specified in the certificate and all related filing costs.

§6.—General provisions

448. In the absence of evidence to the contrary, a document that appears to be a notice issued under section 432 is presumed to be authentic and is proof of its contents in any proceeding in respect of a violation.

449. The Régie and the Board may make public the nature of a violation, the name of the person who committed it and the amount of the penalty.

CHAPTER VII

REGULATORY POWERS

450. Subject to section 14, the Government may make any regulations that may be considered necessary for carrying out the purposes of this Title.

TITLE IV

AMENDING PROVISIONS

ACT TO IMPLEMENT THE ACCORD BETWEEN THE GOVERNMENT OF CANADA AND THE GOVERNMENT OF QUEBEC FOR THE JOINT MANAGEMENT OF PETROLEUM RESOURCES IN THE GULF OF ST. LAWRENCE

451. Section 224 of this Act is amended by inserting “, taking into account any prescribed factors and any factors the Régie and the Board consider appropriate,” after “unless they determine”.

452. Section 305 of this Act is amended

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

“(2) other than in the case of a small-scale test that meets the prescribed requirements, the Chief Conservation Officer approves in writing the use of the agent in response to the spill and it is used in accordance with any requirements set out in the approval;”;

(2) by adding the following paragraph after paragraph 3:

“(4) the agent is used in accordance with the regulations.”

453. Section 307 of this Act is replaced by the following section:

“307. Other than in the case of a small-scale test, the Chief Conservation Officer must not approve the use of a spill-treating agent unless the Officer determines, taking into account any prescribed factors and any factors the Officer considers appropriate, that the use of the spill-treating agent is likely to achieve a net environmental benefit.”

TAXATION ACT

454. Section 1 of the Taxation Act (chapter I-3) is amended by inserting the following definition in alphabetical order:

““Gulf of St. Lawrence petroleum resources joint management area” means the submarine areas of the part of the Gulf of St. Lawrence situated within the limits described in Schedule I to the Act to implement the accord between the Government of Canada and the Government of Quebec for the joint management of petroleum resources in the Gulf of St. Lawrence (*insert the year and chapter number of that Act*).”

455. Section 27 of the Act is amended by replacing the first paragraph by the following paragraph:

“27. Any corporation not contemplated in section 22 and not resident in Canada that disposes in a taxation year of taxable Québec property (other than property situated in the Gulf of St. Lawrence petroleum resources joint management area) shall pay a tax at the rate established in subsection 1 of section 771 on the amounts described in subparagraphs *d, e, f, h* and *l* of the first paragraph of section 1089 that are applicable to the corporation and on the amount by which the aggregate of its taxable capital gains exceeds the aggregate of its allowable capital losses from the disposition of such property.”

456. The Act is amended by inserting the following section after section 27:

“27.1. Despite the first paragraph of section 22 and the second paragraph of section 27, a corporation that has an establishment situated in the Gulf of St. Lawrence petroleum resources joint management area is not required to pay a tax under this Part in respect of all or part of the tax established under subsection 1 of section 771, which part is the proportion that its business carried on in the Gulf of St. Lawrence petroleum resources joint management area is of the aggregate of its business carried on in Canada or in Québec and elsewhere, as determined by regulation.”

457. Section 1029.6.0.1 of the Act is amended by adding the following paragraph after paragraph *e*:

“(f) no corporation may be deemed to have paid an amount to the Minister for a taxation year under this chapter in respect of a cost, an expenditure or any costs incurred by the corporation in the Gulf of St. Lawrence petroleum resources joint management area if, by operation of a federal law, an amount is deemed to have been paid to the Minister of National Revenue under this chapter in respect of the cost, expenditure or costs.”

MINING ACT

458. Section 174 of the Mining Act (chapter M-13.1) is amended by adding the following paragraph at the end:

“If the holder of an exploration licence conducts extended extraction or formation flow tests, he must pay royalties or any other form of payment prescribed by regulation. For that purpose, the holder shall prepare and send to the Minister a report in accordance with the form and content and on the dates determined by regulation.”

459. Section 204 of the Act is amended by striking out “, which shall not be less than 5% nor more than 17% of the well head value of the petroleum, natural gas or brine extracted” in the second paragraph.

460. Section 306 of the Act is amended

(1) by replacing paragraph 14 by the following paragraph:

“(14) fix the amount of the royalty payable under the second paragraph of section 140, the first paragraph of section 155 or the second paragraph of section 174 or 204, as well as the terms and conditions of payment, the interest rate on sums owing and the penalties payable in case of non-payment and, in the case of section 174, any other form of payment;”;

(2) by inserting the following paragraph after paragraph 17:

“(17.1) determine the form and content of the report referred to in section 174 and the dates on which it must be sent to the Minister;”.

461. Section 310 of the Act is amended by replacing the second sentence in the second paragraph by the following sentence: “In the case of sections 174 and 204, the amount of the royalty may also vary according to whether the mineral substances are extracted on land, in a marine environment or in any other part of the territory.”

ACT RESPECTING THE MINISTÈRE DES RESSOURCES NATURELLES ET DE LA FAUNE

462. Section 17.12.12 of the Act respecting the Ministère des Ressources naturelles et de la Faune (chapter M-25.2) is amended by replacing subparagraph 5 of the first paragraph by the following subparagraph:

“(5) a hydrocarbon management component, whose purpose is to finance

(a) activities necessary for the purposes of Divisions IX to XIII of Chapter III of the Mining Act (chapter M-13.1), of the other provisions of that Act accessory to those divisions, and of the regulations made under them;

(b) activities necessary for geoscience knowledge acquisition and dissemination, and research and development in petroleum, natural gas, underground reservoirs and brine; and

(c) activities relating to the administration of the Act to implement the accord between the Government of Canada and the Government of Quebec for the joint management of petroleum resources in the Gulf of St. Lawrence (*insert the year and chapter number of that Act*) and the regulations made under that Act.”

463. Section 17.12.19 of the Act is amended, in the first paragraph,

(1) by inserting the following subparagraph after subparagraph 1:

“(1.1) the sums collected under Chapter III of Title I of the Act to implement the accord between the Government of Canada and the Government of Quebec for the joint management of petroleum resources in the Gulf of St. Lawrence (*insert the year and chapter number of that Act*);”;

(2) by inserting the following subparagraph after subparagraph 2:

“(2.1) the fines paid by offenders against the Act to implement the accord between the Government of Canada and the Government of Quebec for the joint management of petroleum resources in the Gulf of St. Lawrence or the regulations;”.

ENVIRONMENT QUALITY ACT

464. Section 31.0.1 of the Environment Quality Act (chapter Q-2) is amended by inserting the following subparagraph after subparagraph 1 of the first paragraph:

“(1.1) the fees payable by a person who follows the environmental impact assessment and review procedure for an activity referred to in section 31.8.2. The fees shall be fixed on the basis of the costs incurred by the procedure;”.

465. The Act is amended by inserting the following section after section 31.0.1:

“31.0.2. The Minister may, by order,

(1) establish a list of substances or means authorized for use in treating a discharge of contaminants, which substances or means may vary according to the characteristics of the environment and the contaminants discharged; and

(2) determine the cases and conditions in which those substances and means may be used.”

466. The Act is amended by inserting the following heading after the heading of Division IV.1 of Chapter I:

“§1.—*General regime*”.

467. Section 31.1 of the Act is amended by inserting “Subject to subdivision 2,” at the beginning and by inserting “provided for in this subdivision” after “procedure”.

468. The Act is amended by replacing “division” in the first paragraph of section 31.6 and in the introductory clause of the second paragraph of section 31.8.1 by “subdivision”.

469. The Act is amended by inserting the following after section 31.8.1:

“§2.—*Regime applicable to certain activities in the Gulf of St. Lawrence*

“**31.8.2.** No person may undertake an activity prescribed by regulation and governed by the Act to implement the accord between the Government of Canada and the Government of Quebec for the joint management of petroleum resources in the Gulf of St. Lawrence (*insert the year and chapter number of that Act*) without having first followed the environmental impact assessment and review procedure provided for in this subdivision and obtained an authorization for a work or activity issued under section 213 of that Act.

“**31.8.3.** Sections 31.2 to 31.4 and 31.8 apply, with the necessary modifications, to this subdivision.

“**31.8.4.** If the environmental impact assessment statement is considered satisfactory by the Minister, the Minister shall submit it to the Régie de l’énergie and recommend that the Régie authorize the activity conditionally or unconditionally, unless the Minister is of the opinion that carrying on the activity involves unacceptable risks or impacts for the environment or the social milieu, in which case the Minister shall submit to the Government a question as to whether those risks or impacts are justifiable in the circumstances.

If the Régie de l’énergie does not intend to follow the Minister’s recommendation, it must consult with the Minister. If, following the consultation, the Régie is inclined to maintain its position, it shall give the Minister, in writing, the reasons for its not following the Minister’s recommendation before making a decision on an application for an authorization for a work or activity under section 213 of the Act to implement the accord between the Government of Canada and the Government of Quebec for the joint management of petroleum resources in the Gulf of St. Lawrence (*insert the year and chapter number of that Act*).

“**31.8.5.** Once the Minister has submitted to the Government the question as to whether the risks or impacts are justifiable in the circumstances, the Government may, if it deems them not justifiable, decide that the activity cannot be authorized. The Minister shall then inform the Régie de l’énergie that it will not be sent any recommendation to authorize the activity.

If the Government deems those risks or impacts justifiable in the circumstances, the Minister shall recommend that the Régie de l’énergie authorize the activity subject to specified conditions. The second paragraph of section 31.8.4 applies in such a case.

“**31.8.6.** If an activity referred to in section 31.8.2 is also subject to an environmental assessment procedure prescribed under an Act of a legislative authority other than the Parliament of Québec, the Minister may make an agreement with any competent authority to coordinate environmental assessment procedures, which may include the establishment of a unified procedure. The

making of such an agreement is subject to the second, third and fourth paragraphs of section 31.8.1, with the necessary modifications.”

470. The Act is amended by inserting the following heading before section 31.9:

“§3.—*Regulatory powers*”.

471. Section 31.9 of the Act is amended, in the first paragraph,

(1) by inserting “or the activities or classes of activities to which section 31.8.2 applies” after “applies” in subparagraph *a*;

(2) by replacing “or in section 31.1” in subparagraph *c* by “, 31.1 or 31.8.2”;

(3) by replacing “to the environmental impact assessment and review procedure” in subparagraph *c.1* by “to an environmental impact assessment and review procedure provided for in this division”;

(4) by inserting “or section 31.8.5, or the recommendation of the Minister under section 31.8.4 or the second paragraph of section 31.8.5,” after “31.5” in subparagraph *c.1*.

472. Section 46.1 of the Act is amended by adding the following paragraph after the second paragraph:

“For greater certainty, it is understood that every emitter who carries on or operates a business, facility or establishment whose activities are governed by the Act to implement the accord between the Government of Canada and the Government of Quebec for the joint management of petroleum resources in the Gulf of St. Lawrence (*insert the year and chapter number of that Act*) is subject to the first paragraph.”

ACT RESPECTING THE RÉGIE DE L'ASSURANCE MALADIE DU QUÉBEC

473. Section 34 of the Act respecting the Régie de l'assurance maladie du Québec (chapter R-5) is amended by adding the following subparagraph after subparagraph *e* of the seventh paragraph:

“(f) in respect of the wages paid or deemed to be paid by an employer in relation to an employee who reports for work at an establishment situated in the Gulf of St. Lawrence petroleum resources joint management area, within the meaning of section 1 of the Taxation Act (chapter I-3).”

474. Section 34.0.0.1 of the Act is amended by adding the following paragraphs after paragraph *c*:

“(d) an employee who reports for work at an establishment of his employer situated in the Gulf of St. Lawrence petroleum resources joint management area, within the meaning of section 1 of the Taxation Act (chapter I-3), means

i. in respect of wages not described in subparagraph ii, an employee who reports for work at that establishment for the employee’s regular pay period to which the wages relate;

ii. in respect of wages that are paid as a premium, an increase with retroactive effect or a vacation pay, that are paid to a trustee or custodian in respect of the employee or that do not relate to a regular pay period of the employee, an employee who ordinarily reports for work at that establishment;

“(e) where, during a regular pay period of an employee, the employee reports for work at an establishment of his employer situated in the Gulf of St. Lawrence petroleum resources joint management area and at an establishment of his employer situated outside that area, the employee is deemed for that period, in respect of wages not described in subparagraph ii of paragraph d,

i. except where subparagraph ii applies, to report for work only at the establishment situated in the Gulf of St. Lawrence petroleum resources joint management area;

ii. to report for work only at the establishment situated outside the Gulf of St. Lawrence petroleum resources joint management area where, during that period, he reports for work, for less than 50% of working time, at an establishment of his employer situated in the Gulf of St. Lawrence petroleum resources joint management area; and

“(f) where an employee ordinarily reports for work at an establishment of his employer situated in the Gulf of St. Lawrence petroleum resources joint management area and at an establishment of his employer situated outside that area, the employee is deemed, in respect of wages described in subparagraph ii of paragraph d, to ordinarily report for work only at the establishment situated in the Gulf of St. Lawrence petroleum resources joint management area.”

ACT RESPECTING THE RÉGIE DE L’ÉNERGIE

475. The Act respecting the Régie de l’énergie (chapter R-6.01) is amended by adding the following section after section 173:

“174. The Government may, subject to the terms and in the manner it determines, grant a subsidy to the Régie to provide for the performance of its obligations under the Act to implement the accord between the Government of Canada and the Government of Quebec for the joint management of petroleum resources in the Gulf of St. Lawrence (*insert the year and chapter number of that Act*).”

ACT RESPECTING THE QUÉBEC SALES TAX

476. Section 520 of the Act respecting the Québec sales tax (chapter T-0.1) is amended

(1) by inserting the following subparagraph after subparagraph *a* of paragraph 2:

“(a.1) payable by an employer in respect of an employee who reports for work at an establishment of the employer situated in the Gulf of St. Lawrence petroleum resources joint management area, within the meaning of section 1 of the Taxation Act (chapter I-3); or”;

(2) by adding the following paragraph after paragraph 17:

“(18) the damage insurance premium attributable to a risk that might occur in the Gulf of St. Lawrence petroleum resources joint management area, within the meaning of section 1 of the Taxation Act.”

REGULATION RESPECTING THE TAXATION ACT

477. The Regulation respecting the Taxation Act (chapter I-3, r. 1) is amended by inserting the following section after section 771R3:

“771R3.1. For the purposes of section 27.1 of the Act, the proportion that a corporation’s business carried on in the Gulf of St. Lawrence petroleum resources joint management area is of the aggregate of its business carried on in Canada or in Québec and elsewhere is to be determined as if this Title were read as if “in Québec” and “outside Québec” were replaced wherever they appear by “in the Gulf of St. Lawrence petroleum resources joint management area” and “outside the Gulf of St. Lawrence petroleum resources joint management area”, respectively.”

TITLE V

SPECIAL EXPLORATION LICENCES

478. Despite sections 71 to 84 and subject to section 479, one year after the coming into force of this section, to replace a licence to explore for petroleum, natural gas and underground reservoirs issued under section 166 of the Mining Act (chapter M-13.1) and referred to in Schedule II, the Ministers must issue to the licence holder an exploration licence under this Act for the corresponding portion of the petroleum resources joint management area.

479. In the event of a dispute concerning the limits of the petroleum resources joint management area adjacent to an area subject to a licence referred to in Schedule II, a replacement licence must not be issued under section 478, having regard to the circumstances, until the dispute between the parties is resolved under this Act.

An exploration licence that is issued under section 478 following the resolution of a dispute referred to in the first paragraph must give effect to any amendment to the limits of the petroleum resources joint management area.

TITLE VI

MISCELLANEOUS AND FINAL PROVISIONS

480. In order to perform the duties and functions provided for in this Act, the Régie may exercise the powers assigned to it under the Act respecting the Régie de l'énergie (chapter R-6.01), to the extent that they are not inconsistent with this Act.

481. The minister who is responsible for the management of natural resources is responsible for the administration of this Act.

482. The provisions of this Act come into force on the date or dates to be set by the Government, except sections 451 to 453, which come into force five years after the date of assent to this Act or, in the interval, on the date or dates to be set by the Government.

SCHEDULE I
(Section 2)

PETROLEUM RESOURCES JOINT MANAGEMENT AREA

(Except where otherwise indicated, all latitudes and longitudes are determined according to NAD27.)

The limits of the petroleum resources joint management area, excluding any island, islet or rock up to their low-water line, are described as follows:

Beginning at the intersection formed by the limit between Québec and Newfoundland and Labrador and the low-water line;

thence in a southerly direction, following the prescribed limit or limits to point 2047 located at the intersection of the parallel of latitude $51^{\circ}11'56''$ North and the meridian of longitude $57^{\circ}07'11''$ West;

thence southwesterly, in a straight line to point 2046 located at the intersection of the parallel of latitude $50^{\circ}59'55''$ North and the meridian of longitude $57^{\circ}44'14''$ West;

thence southwesterly, in a straight line to point 2045 located at the intersection of the parallel of latitude $50^{\circ}34'27''$ North and the meridian of longitude $58^{\circ}11'27''$ West;

thence southwesterly, in a straight line to point 2044 located at the intersection of the parallel of latitude $49^{\circ}50'55''$ North and the meridian of longitude $58^{\circ}56'29''$ West;

thence southwesterly, in a straight line to point 2043 located at the intersection of the parallel of latitude $48^{\circ}46'53''$ North and the meridian of longitude $60^{\circ}28'40''$ West;

thence southerly, in a straight line to tripoint 2015 located at the intersection of the parallel of latitude $47^{\circ}45'41.8''$ North and the meridian of longitude $60^{\circ}24'12.5''$ West (NAD83);

thence southwesterly, in a straight line to point 2014 located at the intersection of the parallel of latitude $47^{\circ}25'24''$ North and the meridian of longitude $60^{\circ}45'49''$ West;

thence southwesterly, in a straight line to point 2013 located at the intersection of the parallel of latitude $47^{\circ}19'46''$ North and the meridian of longitude $60^{\circ}59'34''$ West;

thence southwesterly, in a straight line to point 2012 located at the intersection of the parallel of latitude $47^{\circ}00'35''$ North and the meridian of longitude $61^{\circ}21'05''$ West;

thence southerly, in a straight line to point 2048 located at the intersection of the parallel of latitude 46°50'24" North and the meridian of longitude 61°24'01" West;

thence due west, to point 2010 located at the intersection of the parallel of latitude 46°50'24" North and the meridian of longitude 62°18'03" West;

thence northwesterly, in a straight line to point 2026 located at the intersection of the parallel of latitude 47°08'23" North and the meridian of longitude 62°59'14" West;

thence northwesterly, in a straight line to point 2027 located at the intersection of the parallel of latitude 47°36'21" North and the meridian of longitude 63°19'56" West;

thence northwesterly, in a straight line to point 2042 located at the intersection of the parallel of latitude 48°13'14" North and the meridian of longitude 63°47'33" West;

thence due west, to point 2041 located at the intersection of the parallel of latitude 48°13'14" North and the meridian of longitude 64°25'22" West;

thence northeasterly, in a straight line to a point located on the low-water line at the southeasterly extremity of the cape named Cap d'Espoir;

thence along the said low-water line to its intersection with latitude 48°51'22" North near longitude 64°12'04" West located near Cap des Rosiers (QC) (point A);

thence northwesterly, along the geodesic to the point on the low-water line of Anticosti Island located to the most westerly point of said island, said point located approximately at latitude 49°51'49" North and longitude 64°31'29" West (point B);

thence northeasterly, along the geodesic to the intersection of the low-water line of the eastern shore of Rivière Saint-Jean and the low-water line of the Gulf of St. Lawrence, said intersection located approximately at latitude 50°16'54" North and longitude 64°19'59" West (point C);

thence in a general northeasterly direction along the low-water line to the point of beginning.

Bays

In the case of bays along the coasts, the low-water line in this description is replaced by a straight line, more specifically,

Baie La Malbaie is excluded from the petroleum resources joint management area by enclosing it from a point on the low-water line in the vicinity of the cape named Cap Percé, said point located approximately at the intersection of

the parallel of latitude 48°31'23" North and the meridian of longitude 64°11'43" West (NAD83); thence northerly, to a point on the low-water line in the vicinity of the point named Pointe Verte, said point located approximately at the intersection of the parallel of latitude 48°36'59" North and the meridian of longitude 64°10'27" West (NAD83);

Baie de Gaspé is excluded from the petroleum resources joint management area by enclosing it from a point on the low-water line in the vicinity of the place named Pointe-Saint-Pierre, said point located approximately at the intersection of the parallel of latitude 48°37'34" North and the meridian of longitude 64°10'04" West (NAD83); thence northerly, to a point on the low-water line in the vicinity of the cape named Cap de la Vieille, said point located approximately at the intersection of the parallel of latitude 48°44'55" North and the meridian of longitude 64°09'47" West (NAD83);

In any bay where a straight closing line of 10 kilometres or less may be drawn between points on the low-water line of the bay so that the area of the bay landward of the closing line is greater than that of a semi-circle whose diameter is the closing line, the limit of the petroleum resources joint management area is the straight closing line. For the purposes of this paragraph,

(a) "bay" includes creek, cove and basin;

(b) the straight closing line must be drawn so as to enclose a maximum area of the bay; and

(c) the area of the bay must be calculated as including any islands or parts of islands lying landward of the straight closing line but as excluding any area above the low-water line along the shore of the bay.

Indentations, river mouths, inlets and ports

Where the coast is deeply indented and cut into, the low-water line in this description is replaced by one or more straight lines joining the appropriate points so as to enclose the indentations. The drawing of those lines must not depart to any appreciable extent from the general direction of the coast and must not exceed 10 kilometres. The sea areas lying within the lines must be sufficiently closely linked to the land.

In the case of rivers and inlets, the low-water line in this description is replaced by a straight line across the mouth of the river or inlet between points on the low-water line of the banks of the river or inlet. The drawing of the line must not exceed 10 kilometres.

Any permanent installations that form an integral part of a port system and that extend beyond the low-water line or straight line establishing the limits of the petroleum resources joint management area, as well as any roadsteads, are excluded from the petroleum resources joint management area.

SCHEDULE II
(Section 478)

LICENCE TO EXPLORE FOR PETROLEUM, NATURAL GAS AND
UNDERGROUND RESERVOIRS ISSUED UNDER SECTION 166 OF
THE MINING ACT

LICENCE	AREA
1996PG963	25,000 ha
1996PG964	25,000 ha
1997PG483	24,995 ha
1997PG484	16,703 ha
1997PG485	15,074 ha
1997PG486	20,146 ha
1997PG487	14,682 ha
1997PG488	13,070 ha
1997PG489	23,009 ha
1997PG490	23,089 ha

AN ACT TO IMPLEMENT THE ACCORD BETWEEN THE
GOVERNMENT OF CANADA AND THE GOVERNMENT OF
QUEBEC FOR THE JOINT MANAGEMENT OF PETROLEUM
RESOURCES IN THE GULF OF ST. LAWRENCE

	SECTIONS
TITLE I	GENERAL PROVISIONS 1-59
CHAPTER I	PURPOSE, SCOPE AND INTERPRETATION 1-8
CHAPTER II	ADMINISTRATIVE COORDINATION AND DECISION-MAKING PROCEDURES 9-45
DIVISION I	MINISTERIAL COORDINATION 9-14
DIVISION II	REGULATORY COORDINATION 15-30
DIVISION III	OIL AND GAS COMMITTEE 31-45
CHAPTER III	COST RECOVERY 46-47
CHAPTER IV	SETTLEMENT PROCEDURE FOR DISPUTES 48-58
CHAPTER V	REGULATORY POWERS 59
TITLE II	PETROLEUM RESOURCES 60-205
CHAPTER I	DEFINITIONS AND GENERAL PROVISIONS 60-69
DIVISION I	DEFINITIONS 60
DIVISION II	GENERAL PROVISIONS 61-64
DIVISION III	GENERAL RULES RESPECTING INTERESTS 65-69
CHAPTER II	ISSUANCE AND CANCELLATION OF INTERESTS 70-148
DIVISION I	CALL FOR BIDS 70-84
DIVISION II	PETROLEUM EXPLORATION 85-123
	§1. — <i>Exploration licences</i> 85-94
	§2. — <i>Declaration of significant discovery</i> 95-106
	§3. — <i>Significant discovery licences</i> 107-112
	§4. — <i>Drilling orders</i> 113-123
DIVISION III	PRODUCTION 124-146
	§1. — <i>Declaration of commercial discovery</i> 124-129

	§2. — <i>Development orders</i>	130-134
	§3. — <i>Production licences</i>	135-145
	§4. — <i>Subsurface storage licences</i>	146
DIVISION IV	CANCELLATION OF INTERESTS	147-148
CHAPTER III	ROYALTIES	149-154
CHAPTER IV	TRANSFERS, ASSIGNMENTS AND REGISTRATION	155-183
DIVISION I	DEFINITIONS, TRANSFERS AND ASSIGNMENTS	155-157
DIVISION II	REGISTER	158-183
CHAPTER V	DISCLOSURE OF INFORMATION	184-204
CHAPTER VI	REGULATORY POWERS	205
TITLE III	PETROLEUM OPERATIONS	206-450
CHAPTER I	DEFINITIONS AND GENERAL PROVISIONS	206-210
DIVISION I	DEFINITIONS	206
DIVISION II	GENERAL PROVISIONS	207-210
CHAPTER II	OPERATIONS	211-252
DIVISION I	PROHIBITIONS AND LIMITATIONS	211-212
DIVISION II	LICENCES AND AUTHORIZATIONS	213-252
	§1. — <i>Operating licences and authorizations for work or activity</i>	213-222
	§2. — <i>Safety of works and activities</i>	223
	§3. — <i>Spill-treating agent</i>	224
	§4. — <i>Financial requirements</i>	225
	§5. — <i>Development plan</i>	226-231
	§6. — <i>Declarations</i>	232-234
	§7. — <i>Certificates</i>	235-240
	§8. — <i>Site plans and location maps</i>	241
	§9. — <i>Benefits plan approval</i>	242-244
	§10. — <i>Jurisdiction and powers of the Régie and the Board</i>	245-249
	§11. — <i>Keeping and production of documents</i>	250
	§12. — <i>Extended formation flow tests</i>	251-252

CHAPTER III	TRAFFIC, TOLLS AND TARIFFS	253-272
DIVISION I	DEFINITIONS AND POWERS OF THE RÉGIE AND THE BOARD	253-254
DIVISION II	TRANSMISSION TARIFF	255-266
DIVISION III	TRANSMISSION OF OIL OR GAS	267-271
DIVISION IV	REGULATORY POWERS	272
CHAPTER IV	REGULATION OF OPERATIONS	273-334
DIVISION I	GENERAL	273-286
DIVISION II	WASTE	287-294
DIVISION III	SPILLS AND DEBRIS	295-328
	§1. — <i>General provisions</i>	295-304
	§2. — <i>Spill-treating agents</i>	305-309
	§3. — <i>Liability for discharges and other spills of petroleum</i>	310-318
	§4. — <i>Financial means of holders of an authorization</i>	319-322
	§5. — <i>Financial responsibility of holders of an authorization</i>	323-325
	§6. — <i>Powers of the Ministers</i>	326-328
DIVISION IV	INQUIRIES	329-334
CHAPTER V	PRODUCTION ARRANGEMENTS	335-368
DIVISION I	INTERPRETATION	335
DIVISION II	POOLING	336-346
	§1. — <i>Production licences in a same spacing unit</i>	336
	§2. — <i>Voluntary pooling</i>	337-338
	§3. — <i>Pooling order</i>	339-346
DIVISION III	UNITIZATION	347-353
DIVISION IV	COMPULSORY UNITIZATION	354-366
DIVISION V	SPECIAL PROVISIONS	367-368
CHAPTER VI	APPEALS AND ADMINISTRATION	369-449
DIVISION I	APPEALS	369-375
DIVISION II	SAFETY AND CONSERVATION OFFICERS	376-403
DIVISION III	INSTALLATION MANAGER	404-406
DIVISION IV	PENAL PROVISIONS	407-426
DIVISION V	ADMINISTRATIVE MONETARY PENALTIES	427-449
	§1. — <i>General powers</i>	427-428
	§2. — <i>Rules applicable to violations</i>	429-437
	§3. — <i>Reviews</i>	438-442
	§4. — <i>Presumption</i>	443-444

	§5. — <i>Recovery of penalties</i>	445-447
	§6. — <i>General provisions</i>	448-449
CHAPTER VII	REGULATORY POWERS	450
TITLE IV	AMENDING PROVISIONS	451-477
TITLE V	SPECIAL EXPLORATION LICENCES	478-479
TITLE VI	MISCELLANEOUS AND FINAL PROVISIONS	480-482
SCHEDULE I		
SCHEDULE II		

