

Regulations and other Acts

Gouvernement du Québec

O.C. 551-2020, 27 May 2020

Environmental Quality Act
(chapter Q-2)

Natural Heritage Conservation Act
(chapter C-61.01)

Bureau d'audiences publiques sur l'environnement — Rules of procedure applying temporarily for the period during which a public health emergency is declared to protect the health of the population

CONCERNING the Rules of procedure of the Bureau d'audiences publiques sur l'environnement applying temporarily for the period during which a public health emergency is declared to protect the health of the population

WHEREAS, pursuant to section 6.6 of the Environment Quality Act (chapter Q-2), the Bureau d'audiences publiques sur l'environnement shall adopt rules of procedure for the conduct of public hearings, targeted consultations and mediation sessions and that these rules must include the terms and conditions of public participation by any appropriate technological means;

WHEREAS, pursuant to second paragraph of section 6.6 of this act, these rules come into force after their approval by the Government;

WHEREAS, pursuant to the first paragraph of section 39 of the Natural Heritage Act (chapter C-61.01), before a proposal is made to the Government on permanent protection status for land set aside as a proposed aquatic reserve, biodiversity reserve or man-made landscape, the Minister of the environment and the Fight against Climate Change shall entrust the mandate to hold a public consultation, possibly to the Bureau;

WHEREAS, pursuant to section 40 of this Act, the provisions of sections 6.3 to 6.6 of the Environment Quality Act, with the necessary modifications, apply to consultations held by the Bureau;

WHEREAS, pursuant to section 118 of the Public Health Act (chapter S-2.2), the government may declare a public health emergency in all or part of the territory of Québec where a serious threat to the health of the population,

whether real or imminent, requires the immediate application of certain measures provided for in section 123 to protect the health of the population;

WHEREAS, by Order in Council 177-2020 dated 13 March 2020, the government declared a public health emergency and took certain measures to protect the health of the population;

WHEREAS, particularly by Order in Council 222-2020 dated 20 March 2020, the government prohibited, during the public health emergency and pursuant to section 123 of the Public Health Act, all indoor and outdoor assemblies, subject to exceptions therein;

WHEREAS, the public health emergency was renewed until 29 March 2020 by Order in Council 222-2020 dated 20 March 2020, until 7 April 2020 by Order in Council 388-2020 dated 29 March 2020, until 16 April 2020 by Order in Council 418-2020 dated 7 April 2020, until 24 April 2020 by Order in Council 460-2020 dated 15 April 2020, until 29 April 2020 by Order in Council 478-2020 dated 22 April 2020, until 6 May 2020 by Order in Council 483-2020 dated 29 April 2020, until 13 May 2020 by Order in Council 501-2020 dated 6 May 2020, until 20 May 2020 by Order in Council 509-2020 dated 13 May 2020, until 27 May 2020 by Order in Council 531-2020 dated 20 May 2020, until 3 June 2020 by Order in Council 544-2020 dated 27 May 2020;

WHEREAS, the members of the Bureau has adopted the Rules of procedure of the Bureau d'audiences publiques sur l'environnement applying temporarily for the period during which a public health emergency is declared to protect the health of the population during the extraordinary meeting of the members on 27 April 2020;

WHEREAS these rules of procedures applying temporarily are necessary in order for the Bureau to fulfill its mandates of public consultations or mediations entrusted by the Minister while respecting the measures taken during the public health emergency to protect the health of the population including the prohibition of indoor or outdoor assemblies;

WHEREAS, under section 12 of the Regulations Act (chapter R-18.1), a proposed regulation may be made or approved without having been published in the *Gazette officielle du Québec* pursuant to section 8 of this Act, if the authority making or approving it is of the opinion that the urgency of the situation requires it;

WHEREAS, under the first paragraph of section 18 of this Act, a regulation may come into force on the date of its publication in the *Gazette officielle du Québec* where the authority that has made it is of the opinion that the urgency of the situation requires it;

WHEREAS, under section 13 and the second paragraph of this Act, the reason justifying the absence of such publication shall be published with the regulation;

WHEREAS, the government is of the opinion that the following consequences of the public health emergency justify the absence of such publication and such coming into force of the Rules of procedure of the Bureau d'audiences publiques sur l'environnement applying temporarily for the period during which a public health emergency is declared to protect the health of the population:

— Social distancing measures, including the prohibition of assemblies resulting from the public health emergency declared by the government on 13 March 2020 and renewed since, implies that the Bureau has not been able to begin any public consultation since that date;

— Several projects, some of which can significantly contribute to economic recovery in the current context and others which are linked to the maintenance of essential public services or to public security, are consequently awaiting such a consultation required by the environmental assessment procedure provided for in sections 31.1 and following of the Environmental Quality Act (chapter Q-2) and cannot begin without obtaining the authorisations required at the end of this procedure;

— In the absence of an urgent resumption of the work of the Bureau according to the terms provided for in the Rules of procedure of the Bureau d'audiences publiques sur l'environnement applying temporarily for the period during which a public health emergency is declared to protect the health of the population, there will be an accumulation of projects in the environmental assessment procedure and there is a real risk that the Bureau will not be able to process all the mandates entrusted to it if the resumption of public consultations is delayed;

WHEREAS the Rules of procedure of the Bureau d'audiences publiques sur l'environnement applying temporarily for the period during which a public health emergency is declared to protect the health of the population should be approved;

IT IS ORDERED, accordingly, under the recommendation of the Minister of the Environment and the Fight against Climate Change:

THAT the Rules of procedure of the Bureau d'audiences publiques sur l'environnement applying temporarily for the period during which a public health emergency is declared to protect the health of the population, attached hereto, be approved.

YVES OUELLET,
Clerk of the Conseil exécutif

Rules of procedure of the Bureau d'audiences publiques sur l'environnement applying temporarily for the period during which a public health emergency is declared to protect the health of the population

Environmental Quality Act
(chapter Q-2, a. 6.6)

Natural Heritage Conservation Act
(chapter C-61.01, a. 39 and 40)

WHEREAS the Bureau d'audiences publiques sur l'environnement is entrusted with public hearings, targeted consultation and mediation mandates, despite the public health emergency declared in order to face the worldwide pandemic of the COVID-19.

WHEREAS measures to protect the health of the population were implemented following the public health emergency declaration, including the prohibition of assemblies.

WHEREAS the importance that the Bureau has the means to carry out with rigor and efficiency the mandates entrusted to it and the different ministries intend to collaborate efficiently with the Bureau's commissions of inquiry to this end.

1. During the period during which a public health emergency is declared to protect the health of the population, the Rules of procedure of the Bureau d'audiences publiques sur l'environnement are those adopted by Order in Council 572-2018 (chapter Q-2, r. 45.1) adapted in accordance with the sections of the hereby rules.

2. The notice described in section 8 of these rules may be published exclusively on the Internet site of the Bureau.

This notice shall not provide the details of the address of the consultation center located in the region where the project is likely to be carried out during the period where none of these centers is open to the public.

- 3.** The documents described in Section 11 of these rules are not required to be filed in a consultation centre of the region where the project is likely to be carried out, if such a center is not open.
- 4.** The public health emergency is acknowledged as exceptional circumstances for the purpose of Sections 17 and 18 of these rules.
- 5.** The commission may hold all the public sessions of its mandate using exclusively any appropriate technological means.
- 6.** For a mandate in respect of which all the public sessions are held exclusively using any appropriate technological means pursuant to Section 5 of the hereby rules, the accessibility of the sessions to the public prescribed in sections 23 and 26 of the Règles de procédure du Bureau d'audiences publiques sur l'environnement is understood to be the offering of diverse technological means of participating in these sessions and these works in order to be as inclusive and fair as possible, considering that the access to diverse technological means is not universal.

Moreover, prior technological means to facilitate the accessibility to the population may also be used.

- 7.** Section 28 of these rules does not apply. The person heading the commission may therefore name another commissioner to chair the public hearing and set the order in which the interventions will be heard and the speaking time of the participants.
- 8.** For the adjournment of a mandate whose public sessions are held exclusively using any appropriate technological means pursuant to Section 5 of the hereby rules, the date of resumption is not required to be posted on the door of the room where the session was to take place.
- 9.** These rules come into force on the date of their publication in the *Gazette officielle du Québec*. They will cease to have effect 60 days after the date on which ceases to apply the declaration of the public health emergency in order to face the worldwide pandemic of the COVID-19.

However, these rules will continue to apply to mandates which started during this period and that are still ongoing when the declaration of the public health emergency ceases to apply.