ENVIRONMENTAL CODE

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BOOK I
Common provisions — Articles L121-1 to L110-2

Article L110-1
(Act no. 2002-276 of 27 February 2002 Article 132 Official Journal of 28 February 2002)

I. - Natural areas, resources and habitats, sites and landscapes, air quality, animal and plant species, and the biological diversity and balance to which they contribute are part of the common heritage of the nation.

II. - Their protection, enhancement, restoration, rehabilitation and management are of general interest and contribute to the objective of sustainable development which aims to satisfy the development needs and protect the health of current generations without compromising the ability of future generations to meet their own needs. They draw their inspiration, within the framework of the laws that define their scope, from the following principles:

1° The precautionary principle, according to which the absence of certainty, based on current scientific and technical knowledge, must not delay the adoption of effective and proportionate measures aiming to prevent a risk of serious and irreversible damage to the environment at an economically acceptable cost;

2° The principle of preventive and corrective action, as a priority at source, of damage to the environment, using the best techniques available at an economically acceptable cost;

3° The polluter pays principle, according to which the costs arising from measures to prevent, reduce or combat pollution must be borne by the polluter;

4° The principle of participation, according to which everybody has access to information relating to the environment, including information relating to hazardous substances and activities, and whereby the public is involved in the process regarding the development of projects that have a major impact on the environment or on town and country planning.

Article L110-2

The laws and regulations organise the individual's right to a healthy environment and contribute to ensuring a harmonious balance between urban zones and rural zones.

Each person has a duty to safeguard and to contribute to the protection of the environment.

Public bodies and private bodies must, in all their activities, comply with the same requirements.

TITLE I
General principles

TITLE II
Information and participation of citizens — Articles L121-1 to L126-1

CHAPTER I
Public participation in the drawing up of development or infrastructure projects having a major impact on the environment or Town and Country planning — Articles L121-1 to L121-15

SECTION I
Role of the National Public Debate Commission - Scope and purpose of public debate — Articles L121-1 to L121-2

Article L121-1
(Act no. 2002-276 of 27 February 2002 Article 134 Official Journal of 28 February 2002)

The National Public Debate Commission, an independent administrative authority, is responsible for ensuring the respect of the principle of public participation in the development of town and country planning or infrastructure projects of national interest of the State, local authorities, public establishments and private bodies, falling within categories of operations listed by Conseil d'Etat (the highest administrative court in France) decree, as soon as these projects are socioeconomically significant or have significant impacts on the environment or on town and country planning.

Public participation may take the form of a public debate. This debate covers the suitability, the objectives and the principal characteristics of the project.

Public participation is ensured throughout the entire development phase of a project, from the undertaking of preliminary studies through to the end of the public enquiry carried out as required by Chapter III of Title II of Book 1 of the present code or of Chapter I of Title I of the Code de l'expropriation pour cause d'utilité publique.

In addition, the National Public Debate Commission ensures the upkeep of good conditions for informing the public

throughout the implementation phase of the projects referred to it, up to the receipt of equipment and works.

This Commission advises the competent authorities and any developer, at their request, on any question relating to dialogue with the public throughout the development of the project.

The National Public Debate Commission is also entrusted with the role of issuing all and any opinions and recommendations of a general or methodological nature likely to encourage and develop dialogue with the public.

The National Public Debate Commission and individual commissions do not comment on the substance of the projects submitted to them.

Article L121-2

(Act no. 2002-276 of 27 February 2002 Article 134 Official Journal of 28 February 2002)

The provisions of the present Chapter are not applicable to town-planning documents and planning operations provided for by Book III of the Code de l'urbanisme. However, they may apply to certain investment projects of which the list is set by a Conseil d'Etat decree.

When the public debate is organised under the conditions provided by this Chapter, the provisions of Article L. 300-2 of the Code de l'urbanisme are not applicable.

SECTION II

Composition and operation of the National Public Debate Commission — Articles L121-3 to L121-7

Article L121-3

(Act no. 2002-276 of 27 February 2002 Article 134 Official Journal of 28 February 2002)

The National Public Debate Commission is composed of twenty-one members appointed for five years or for the duration of their term in office. Besides its President and two Vice Presidents, it comprises:

1° One Member of Parliament and one Senator appointed respectively by the President of the National Assembly and by the President of the Senate;

2° Six local councillors appointed by decree following a proposal by the associations representing the councillors concerned;

3° One member of the Conseil d'Etat, elected by the General Assembly of the Conseil d'Etat;

4° One member of the Cour de cassation, elected by the General Assembly of the Cour de cassation;

5° One member of the Cour des comptes, elected by the General Assembly of the Cour des comptes;

6° One member from the body of members of the administrative courts and the administrative appellate courts, appointed by decree following a proposal by the Higher Council of administrative courts and administrative appellate courts;

7° Two representatives of associations for the protection of the environment as approved under Article L. 141-1, exercising their activity on the French national territory as a whole, appointed by decree by the Prime Minister following a proposal by the Minister for the Environment;

8° Two representatives of consumers and users, appointed respectively by decree by the Prime Minister following a proposal by the Minister for the Economy and by the Minister for Transport;

9° Two qualified persons, one of whom has exercised functions as a commissaire enquêteur, respectively appointed by decree by the Prime Minister following a proposal by the Minister for Industry and the Minister for Town and Country Development.

The President and Vice-Presidents are appointed by decree.

The term of office of the members is renewable once.

The President and Vice-Presidents exercise their functions on a full time basis and receive remuneration.

The functions of other members allow them to receive an allowance.

Article L121-4

(Act no. 2002-276 of 27 February 2002 Article 134 Official Journal of 28 February 2002)

The Commission may benefit from serving civil servants put at its disposal. It may recruit contractual agents for operational needs.

Article L121-5

(Act no. 2002-276 of 27 February 2002 Article 134 Official Journal of 28 February 2002)

Members of the National Commission and the individual commissions may not participate in a debate or dialogue procedure relating to an operation if they have a personal interest in this operation or have functions preventing them from doing so.

Article L121-6

(Inserted by Act no. 2002-276 of 27 February 2002 Article 134 Official Journal of 28 February 2002)

The budget required for the running of the National Public Debate Commission is included in the general State budget following a proposal by the Prime Minister. The President of the Commission authorises expenditure. He/she has authority regarding services.

The provisions of the Law of 10 August 1922 relating to the organisation of the control of expenses do not apply to the expenditure of the Commission.

Article L121-7

(Inserted by Act no. 2002-276 of 27 February 2002 Article 134 Official Journal of 28 February 2002)

Each year, the National Public Debate Commission writes up a report summarising its activity. This report is given to the Government and to the Parliament. The report is made public.

SECTION III

Organisation of public debate — Articles L121-8 to L121-15

Article L121-8

(Inserted by Act no. 2002-276 of 27 February 2002 Article 134 Official Journal of 28 February 2002)

I. - The National Public Debate Commission is referred to for all infrastructure and town and country planning projects which, by their nature, their technical characteristics or their budgeted cost, insofar as it can be assessed in the development phase, meet the criteria or exceed the thresholds set by a Conseil d'Etat decree.

The developer or the public body responsible for the project submits to the Commission a file presenting the objectives and main characteristics of the project, including its social and economical impacts, the estimated cost, and an identification of the significant impacts of the project on the environment or on town and country planning.

II. - In addition, projects belonging to the categories defined in application of I but for which the budgeted cost is lower than the threshold set out in application of I, and which meet the technical criteria or go beyond the thresholds set by a Conseil d'Etat decree for each type of project, are made public by their developer or by the public body responsible for the project, who publishes their objectives and main characteristics.

In these cases, the developer or the public body responsible for the project and ten Members of Parliament may refer the project to the Commission; it may also be referred to by a body with territorial interest such as a Regional Council, a General Council, a Local Council, a Municipal Council or a public body dealing with inter-commune cooperation having competence in town and country planning management, or by one of the approved associations for the protection of the environment mentioned in Article L. 141-1 exercising their activity over the whole of the French national territory. This referral takes place within two months from the time when these projects are made public by the developer.

The developer submits a file to the National Public Debate Commission compiled in accordance with the second paragraph of I.

Article L121-9

(Inserted by Act no. 2002-276 of 27 February 2002 Article 134 Official Journal of 28 February 2002)

When the National Public Debate Commission is required to assume its role under Article L. 121-8, the Commission determines the terms of participation of the public in the decision-making process, under the following conditions:

I. - For each project, the Commission assesses whether a public debate must take place, based on the national interest of the project, its territorial influence, the socioeconomic issues relating to it, and its impacts on the environment or on town and country planning.

If the Commission believes that a public debate is necessary, it may either organise this debate itself, in which case it entrusts its coordination to an individual commission that it sets up for this purpose, or entrust the organisation of the debate to the developer or the public body responsible for the project. In this case, it defines the methods of organisation of the debate and ensures it runs smoothly.

If the Commission believes that a public debate is not necessary, it may recommend to the developer or the public body responsible for the project that a dialogue be organised in accordance with the methods that it proposes.

II. - The National Public Debate Commission decides within two months on the action to be taken following the referrals set out in I and II of Article L. 121-8.

It decides on the requests for a debate referred to it under Article L. 121-8 following a reasoned decision.

In the absence of an explicit decision within this time limit, the Commission is considered to have decided against a public debate or entrusted its organisation to the developer or the public body responsible for the project.

III. - The costs relating to the material organisation of a public debate are to be borne by the developer or the public body responsible for the project. However, the cost of supplementary assessments is to be borne by the National Public Debate Commission.

Article L121-10

(Inserted by Act no. 2002-276 of 27 February 2002 Article 134 Official Journal of 28 February 2002)

The Minister for the Environment, in conjunction with the Minister concerned, may call upon the National Public Debate Commission with a view to organising a public debate about general options regarding the environment or town and country planning.

Article L121-11

(Inserted by Act no. 2002-276 of 27 February 2002 Article 134 Official Journal of 28 February 2002)

The National Public Debate Commission draws up and publishes the calendar for the public debate, the duration of which may not exceed four months. This duration may be extended by two months by a reasoned decision of the National Public Debate Commission.

The National Public Debate Commission may ask the developer or the public body responsible to complete the file required for public debate. In this case, the time limit stipulated in the previous paragraph does not come into force until the complete file has been received by the National Public Debate Commission.

Within two months from the date on which the public debate closes, the President of the National Public Debate Commission publishes the minutes of the debate and makes a report on it.

Article L121-12

(Inserted by Act no. 2002-276 of 27 February 2002 Article 134 Official Journal of 28 February 2002)

Regarding projects falling within the scope of Article L. 121-8, there cannot be a decision to open the public enquiry stipulated by Article L. 123-1 until either the date from which a public debate may no longer be organised, or the date of publication of the report, or upon expiry of the time limit granted to the President of the National Public Debate Commission to proceed with this publication, and at the latest within a period of five years following these dates. Once this period has come to an end, the Commission may only decide to re-launch dialogue with the public if the factual and legal circumstances justifying the project have undergone substantial modifications.

Article L121-13

(Inserted by Act no. 2002-276 of 27 February 2002 Article 134 Official Journal of 28 February 2002)

When a public debate has been organised on a project, the developer or the public body responsible for the project decides, within a period of three months following publication of the report on the public debate and by means of a published notice, on the principle and the conditions of the continuation of the project. Where necessary, he or she specifies the principal modifications made to the project submitted for public debate. This notice is sent to the National Public Debate Commission.

When the developer or the public body responsible for the project is a local authority, this notice gives rise to a deliberation.

Article L121-14

(Inserted by Act no. 2002-276 of 27 February 2002 Article 134 Official Journal of 28 February 2002)

No irregularity with regard to the provisions of the present Chapter may be invoked when the notice by which the National Public Debate Commission has opted not to organise a public debate or the notice mentioned in Article L. 121-13 has become final.

Article L121-15

(Inserted by Act no. 2002-276 of 27 February 2002 Article 134 Official Journal of 28 February 2002)

A Conseil d'Etat decree specifies the conditions of application of the present Chapter.

CHAPTER II Environmental evaluation	Articles L122-1 to L122-11
SECTION I Impact studies	Articles L122-1 to L122-3

Article L122-1

(Act no. 2002-276 of 27 February 2002 Article 147 I Official Journal of 28 February 2002)
(Order no. 2004-489 of 3 June 2004 Article 1 I, II Official Journal of 5 June 2004)
(Act no. 2005-1319 of 26 October 2005 Article 1 Official Journal of 27 October 2005)

The town and country planning works or projects undertaken by a public authority or requiring authorisation or approval, along with the town planning documents, must respect environmental concerns.

Studies carried out prior to the implementation of town and country planning works or of construction works which may harm the natural environment by their dimensions or by their impact, must include an impact study enabling the assessment of their impacts. This impact study is sent for assessment to the competent State administrative authority in environmental matters by the authority responsible for authorising or approving these planning works or these construction works.

Without prejudice to the requirements of Articles L. 11-1-1 of the Code de l'expropriation pour cause d'utilité publique or L. 126-1 of this Code, relating to the reasoning of declarations of public utility and project declarations, as soon as a decision granting or refusing authorisation for the project submitted to the impact study has been made, the competent authority informs the public and, subject to the respect of national defence secrecy, puts the following information at the public's disposal:

- the content of the decision and the conditions attached to it, if applicable;
- the reasons behind the decision;
- the places where the impact study is available for consultation and, if applicable, the principal measures required to prevent, minimise, and, if possible, compensate for the major negative effects of the project.

Article L122-2

(Order no. 2000-914 of 18 September 2000 Article 12 1° Official Journal of 21 September 2000 in force on 1st January 2001)
(Order no. 2004-489 of 3 June 2004 Article 1 I, II Official Journal of 5 June 2004)

If a request, submitted to the administrative jurisdiction, against the authorisation or approval of a project as indicated in the second paragraph of Article L. 122-1 is based on the absence of an impact study, the juge des référés, when requested to suspend the challenged decision, grants the request as soon as this absence is noted.

Article L122-3

(Act no. 2002-276 of 27 February 2002 Article 147 II Official Journal of 28 February 2002)

(Order no. 2004-489 of 3 June 2004 Article 1 I, II Official Journal of 5 June 2004)
(Act no. 2005-1319 of 26 October 2005 Article 1 Official Journal of 27 October 2005)

I. - A Conseil d'Etat decree stipulates the methods of application of this Chapter.

II. - It sets, in particular:

1° The conditions under which environmental concerns are addressed within the existing regulatory procedures;

2° The content of the impact study, which contains as a minimum an analysis of the initial state of the site and its environment, a study of the modifications that the project would bring about, a study of its effects on health, and the measures envisaged to eliminate, minimise and, if possible, compensate for harmful consequences on the environment and health; in addition, for transport infrastructures, the impact study contains an analysis of the costs at community level resulting from pollutions and nuisances and the advantages induced for the community, along with an evaluation of the energy consumption resulting from the operation, particularly from the traffic movements that it causes or prevents;

3° The conditions under which the impact study along with the principal measures designed to prevent, minimise and, if possible, compensate for the major negative effects of the project are made public;

4° The restrictive list of works which, owing to their limited effect on the environment, are not subject to the impact study procedure;

5° The conditions under which the Minister for the environment may call or be called upon to express his/her opinion, for any impact study.

III It appoints the administrative authority referred to for its assessment in accordance with article L. 122-1 and determines the conditions under which this assessment is elaborated and placed at the disposal of the public.

SECTION II

Evaluation of certain plans and documents having a notable effect on the environment — Articles L122-4 to L122-11

Article L122-4

(Inserted by Order no. 2004-489 of 3 June 2004 Article 1 IV Official Journal of 5 June 2004)

I. The plans, diagrams, schedules and other planning documents featuring on a list set by a Conseil d'Etat decree and which, without authorising the works or prescribing town and country planning works, are applicable to the performance of such works or projects, must be subject to an environmental evaluation under the conditions set out by the present section.

Such an evaluation must include:

1 The plans, diagrams, schedules and other planning documents adopted by the State, the local authorities or their groupings and the public establishments which depend on them, relating to agriculture, forest management, fishing, energy or industry, transport, waste management or water management, telecommunications, tourism or town and country planning, the purpose of which is to set recommendations or orientations with which the works and planning projects entering the field of application of the impact study must be compatible, in accordance with article L. 122-1;

2 The plans, diagrams, schedules and other planning documents adopted by the State, the local authorities or their groupings and the public establishments which depend on them, other than those mentioned in 1 of the present article, the purpose of which is to set recommendations or orientations with which the works and planning projects must be compatible if they are likely to have notable effects on the environment.

The list of documents mentioned in 2 is drawn up taking into account the nature of the works or projects to which they are applicable and the sensitivity of the environment in which they are to be performed.

II. The environmental evaluation of the plans, diagrams, schedules and other planning documents mentioned in articles L. 121-10 of the Code de l'Urbanisme and articles L. 4424-9 and L. 4433-7 of the Code Général des Collectivités Territoriales is governed by the provisions of articles L. 121-10 to L. 121-15 of the Code de l'Urbanisme.

III. The draft plans, diagrams, schedules and other planning documents which determine the use of small-surface territories are not submitted for the evaluation provided for by the present article unless their application is likely to have a notable effect on the environment, bearing in mind, notably, the sensitivity of the area, the purpose of the plan, or the content of the project.

IV. The plans and documents drawn up solely for the purposes of national defence or civil protection are not submitted for an environmental evaluation.

NB: See decree no. 2005-613 published in the Official Journal of 29 May 2005.

Article L122-5

(Inserted by Order no. 2004-489 of 3 June 2004 Article 1 IV Official Journal of 5 June 2004)

With the exception of those that are only of a minor nature, the modifications made to the plans and documents subject to the provisions of I of article L. 122-4 give rise either to a new environmental evaluation or to an update of the one made when they were drawn up.

Article L122-6

(Inserted by Order no. 2004-489 of 3 June 2004 Article 1 IV Official Journal of 5 June 2004)

The environmental evaluation includes the drawing-up of a report which identifies, describes and evaluates the notable effects which the implementation of the plan or document may have on the environment. This report presents the measures provided for to reduce and, where possible, to compensate for the notable negative effects that the application of the plan may cause to the environment. It sets out the other solutions envisaged and the reasons, notably from the point of view of environmental protection, why the project has been selected.

The environmental report contains the information which may reasonably be demanded, bearing in mind the knowledge and evaluation methods that exist on the date of drawing-up or revision of the plan or document, its content and its degree of precision and, where applicable, the existence of other documents or plans relating to all or part of the same geographical zone, or environmental evaluation procedures planned for a later stage.

Article L122-7

(Inserted by Order no. 2004-489 of 3 June 2004 Article 1 IV Official Journal of 5 June 2004)

The public entity responsible for drawing up a plan or a document submits to the competent State administrative authority in environmental matters for its assessment:

- either the draft plan or document drawn up in accordance with article L. 122-4, accompanied by the environmental report;

- or the reasoned decision not to carry out the environmental evaluation of a draft plan or document in accordance with III of article L. 122-4.

If it is not given within a period of three months, the opinion is considered as favourable.

The competent State administrative authority in environmental matters is consulted, where needs be, on the degree of accuracy of the information which the environmental report must contain.

Article L122-8

(Inserted by Order no. 2004-489 of 3 June 2004 Article 1 IV Official Journal of 5 June 2004)

The environmental report is made public before the adoption of the plan or the document.

The draft plan or document and the environmental report to which are annexed, where applicable, the assessments collected in accordance with article L. 122-7, are placed at the disposal of the public under the conditions set by a Conseil d'Etat decree.

When the draft plan or document is subject to a public enquiry, this enquiry replaces the placing at the disposal of the public within the meaning assigned by the present article.

Article L122-9

(Inserted by Order no. 2004-489 of 3 June 2004 Article 1 IV Official Journal of 5 June 2004)

The draft plans or documents the implementation of which is likely to produce notable effects on the environment of another member State of the European Community are transmitted to the authorities of this State, at the request of those authorities or at the initiative of the French authorities. The State concerned is invited to give its opinion within the period set by a Conseil d'Etat decree. In the absence of a response within this period, the opinion is considered as given.

When a draft plan or document the implementation of which is likely to produce notable effects on the national territory is sent for assessment to the French authorities by another State, it may be decided to consult the public on the project.

Article L122-10

(Inserted by Order no. 2004-489 of 3 June 2004 Article 1 IV Official Journal of 5 June 2004)

I. When the plan or document has been adopted, the authority which has ruled upon it informs the public, the competent State administrative authority in environmental matters and, where applicable, the authorities of the other consulted member States of the European Community. It places the following information at their disposal:

1 The plan or the document;

2 A declaration summarising:

- the way in which account was taken of the report drawn up in accordance with article L. 122-6 and the consultations carried out;

- the reasons for the choices set out by the plan or the document, bearing in mind the various solutions envisaged;

- the measures destined to evaluate the effects on the environment of the implementation of the plan or document.

II When a draft plan or document has not been subject to an environmental evaluation in accordance with III of article L. 122-4, the authority responsible for drawing it up informs the public of the reasons for this decision.

Article L122-11

(Inserted by Order no. 2004-489 of 3 June 2004 Article 1 IV Official Journal of 5 June 2004)

The conditions of application of the present section for each category of plan or document are specified, where needs be, by a Conseil d'Etat decree.

CHAPTER III Public enquiries relating to operations likely to affect the environment	Articles L123-1 to L123-16
SECTION I Scope and purpose of the public enquiry	Articles L123-1 to L123-3

Article L123-1

(Act no. 2002-276 of 27 February 2002 Article 138 Official Journal of 28 February 2002)

I - The implementation of developments, structures or works executed by public or private bodies is preceded by a public enquiry governed by the stipulations of this Chapter when, owing to their nature, their make-up or the character of

the zones concerned, these operations are likely to affect the environment. The list of the categories of operations mentioned in the previous paragraph and the technical thresholds and criteria used to define them are set by decrees approved by the Conseil d'Etat. These thresholds or criteria may be varied in order to take account of the sensitivity of the environment and of the zones benefiting from legislative or regulatory protection.

II - The decision to open a public enquiry on the project of a local authority, a group of local authorities or one of the public establishments falling under these authorities is made by the President of the decision-making body of the authority or establishment. However, when the enquiry takes place prior to a declaration of public utility, the decision is made by the competent State authority.

Article L123-2

When the laws and regulations subject the approval of town and country planning documents or the operations mentioned in L. 123-1 to a particular public enquiry procedure, the rules governing these enquiries remain applicable as long as they are not contrary to the provisions of this Chapter.

The works carried out in order to prevent a serious and immediate hazard are excluded from the scope of this Chapter.

Article L123-3

The purpose of the enquiry described in Article L. 123-1 is to inform the public and to collect its opinions, suggestions and counter-proposals following the impact study when this study is required, in order to give the competent authority all the information it requires.

SECTION II

Procedure and course of the public enquiry — Articles L123-4 to L123-16

Article L123-4

The enquiry mentioned in Article L. 123-1 is conducted, according to the nature and scale of the operations, by a commissaire enquêteur or an enquiry commission appointed by the President of the administrative tribunal or by the tribunal member delegated by the President for this purpose.

A list of suitable candidates is drawn up for each département by a commission chaired by the President of the administrative tribunal or by the magistrate delegated by the President. This list is made public and is revised at least once a year.

The President of the administrative tribunal appoints the commissaire enquêteur or the members of the enquiry commission from among the people on the list of suitable candidates. His/her choice is not limited to the lists of the départements included in the jurisdiction of the tribunal.

Article L123-5

On the request of the commissaire enquêteur or the President of the enquiry commission and when the specific nature of the enquiry demands it, the President of the administrative tribunal or the magistrate he/she has delegated may appoint an expert to assist the commissaire enquêteur or the President of the enquiry commission. The cost of this expertise is borne by the developer.

Article L123-6

Commissaires enquêteurs or members of the enquiry commission may not be appointed if they have a personal interest in the operation or have functions preventing them from being appointed, notably if those functions are performed within the authority, body or department in charge of the project development, the project supervision or the control of the operation concerned by the enquiry.

The provisions of the previous paragraph may be extended, under the conditions set by a Conseil d'Etat decree, to persons who have held these functions.

Article L123-7

At least fifteen days before the enquiry is opened and throughout its duration, the competent authority informs the public by all appropriate means, notably in the places concerned by the enquiry and, according to the scale and nature of the project, via the written press or by audiovisual communication, of the purpose of the enquiry, the names and capacities of the commissaire enquêteur or the members of the enquiry commission, the date on which the enquiry is opened, the place of the enquiry and its duration.

The duration of the enquiry must not be less than one month.

By a reasoned decision, the commissaire enquêteur or the President of the enquiry commission may prolong the enquiry for a maximum period of fifteen days.

Article L123-8

Notwithstanding the provisions of Title I of Act no. 78-753 of 17 July 1978 on various measures for the improvement of relations between the administration and the public and various administrative, social and fiscal provisions, the public enquiry file can be sent to the environmental protection associations approved under Article L. 141-1, at their own cost.

Article L123-9

(Act no. 2002-276 of 27 February 2002 Article 141 Official Journal of 28 February 2002)
(Act no. 2003-699 of 30 July 2003 Article 1 Official Journal of 31 July 2003)

The commissaire enquêteur or the President of the enquiry commission conducts the enquiry in such a way as to

enable the public to be fully aware of the project and to present its opinions, suggestions and counter-proposals.

He/she receives the developer of the operation concerned by the public enquiry.

He/she may receive all documents, visit the sites concerned, except for places of residence, after the competent authority has informed the owners and the occupants, hear all persons that he/she considers useful to hear, and convene the developer or his/her representatives as well as the interested administrative authorities.

Under his/her presidency, he/she may organise a meeting in order to provide and exchange information with the public in the presence of the developer. When the public enquiry relates to a request for authorisation concerning an establishment featuring on the list in IV of Article L. 515-8, this meeting is compulsory on the request of the mayor of the commune in which the facility will be located, or of the President of a public establishment for inter-commune cooperation competent in the field of economic development or town and country planning, the perimeter of which includes the territory of the commune on which the establishment will be installed (NB).

Subject to the provisions of Article L. 123-15, the developer communicates to the public the existing documents that the commissaire enquêteur or the President of the enquiry commission deems useful to inform the public correctly. In the event that the developer refuses to communicate these documents, his/her reasoned response is included in the enquiry file.

The commissaire enquêteur or the enquiry commission is available to meet people or representatives of associations who request to be heard.

NB: Act no. 2003-699 Article 81 I: This provision does not apply to enquiries opened prior to the publication of Act no. 2003-699.

Article L123-10

The report and reasoned conclusions of the commissaire enquêteur or the enquiry commission are made public. The report must indicate the counter-proposals produced during the enquiry as well as any responses by the developer, particularly with regard to documentation requests made to him/her.

Article L123-11

When an operation dependent on an administrative authorisation is submitted for a public enquiry governed by this Chapter, this authorisation may only result from an explicit decision.

Article L123-12

(Order no. 2000-914 of 18 September 2000 Article 12 2° Official Journal of 21 September 2000 in force on 1st January 2001)

The administrative juge des référés, called upon to suspend a decision made following unfavourable conclusions by the commissaire enquêteur or the enquiry commission, grants this request if, as its stands, it includes grounds for serious doubt as to the legality of this decision.

The provisions of the previous paragraph also apply when a decision has been made without the public enquiry required having taken place.

Any project of a local authority or a group of local authorities that has resulted in unfavourable conclusions by the commissaire enquêteur or the enquiry commission must be deliberated by the decision-making body of the authority or group concerned.

Article L123-13

If the developments or works that have been submitted for a public enquiry have not been undertaken within five years following the decision, a new enquiry must be conducted unless an extension of five years has been decided upon before this period expires under conditions set by a Conseil d'Etat decree.

This Article does not preclude the application of more restrictive provisions set out by the regulations specific to each operation.

Article L123-14

(Act no. 2002-276 of 27 February 2002 Article 142 Official Journal of 28 February 2002)

The developer must bear the costs of the enquiry, notably the remuneration of the commissaires enquêteurs and the members of the enquiry commissions, as well as the costs relating to the material means required for the organisation and running of the enquiry procedure put at the disposal of the commissaire enquêteur or the enquiry commission.

When requested to do so by the commissaire enquêteur or the President of the enquiry commission, the President of the administrative tribunal or the magistrate that he/she has delegated for this purpose orders the developer to pay an advance, the amount of which is set by the President of the administrative tribunal or the magistrate. The public enquiry may not be opened until this advance has been paid.

A Conseil d'Etat decree sets out the conditions under which, with the aim of guaranteeing the independence of the commissaires enquêteurs and the members of the enquiry commissions, the rules are set for their remuneration and for the methods of payment of the corresponding sums by the developers.

Article L123-15

The enquiry must be conducted in compliance with national security, commercial confidentiality, and all confidential matters protected by the law.

Article L123-16

The terms of application of this Chapter, notably the maximum time limits and the conditions governing the dates

and times of the enquiry, are set by decrees approved by the Conseil d'Etat.

CHAPTER IV

Right to access to information about the environment — Articles L124-1 to L124-8

Article L124-1

(Order no. 2001-321 of 11 April 2001 Article 9 II Official Journal of 14 April 2001)
(Order no. 2001-321 of 11 April 2001 Article 9 III Official Journal of 14 April 2001)
(Act no. 2005-1319 of 26 October 2005 Article 2 Official Journal of 27 October 2005)

The right of any person to have access to information about the environment held, received or drawn up by the public authorities mentioned in article L. 124-3 or on their behalf is exercised under the conditions defined by the provisions of Title I of Act no. 78-753 of 17 July 1978 covering various measures for the improvement of relations between the administration and the public and various administrative, social and fiscal provisions, subject to the provisions of the present chapter.

Article L124-2

(Order no. 2001-321 of 11 April 2001 Article 9 II Official Journal of 14 April 2001)
(Act no. 2005-1319 of 26 October 2005 Article 2 Official Journal of 27 October 2005)

Considered as information about the environment under the terms of the present chapter is any information available, irrespective of the medium, the subject of which is:

1 The state of environmental elements, notably the air, the atmosphere, the water, the soil, the land, landscapes, natural sites, coastal or marine zones and biological diversity, as well as the interaction between these elements;

2 The decisions, activities and factors, notably substances, energy, noise, radiation, waste, emissions, spills and other waste likely to have effects on the state of the elements described in 1;

3 The state of human health, safety and the living conditions of people, constructions and cultural heritage, providing that they can be altered by environmental elements, the decisions, activities or factors mentioned above;

4 The analyses of costs and advantages as well as the economic hypotheses used in the framework of the decisions and activities described in 2;

5 The reports drawn up by the public authorities or on their behalf on the application of the legislative and regulatory provisions relating to the environment.

Article L124-3

(Order no. 2001-321 of 11 April 2001 Article 9 II Official Journal of 14 April 2001)
(Act no. 2005-1319 of 26 October 2005 Article 2 Official Journal of 27 October 2005)

Any person who so requests receives information relating to the environment held by:

1 The State, the local authorities and their groupings, the public establishments;

2 The persons responsible for a public service assignment relating to the environment, providing that this information concerns the fulfilment of this assignment.

The bodies or institutions acting to exercise jurisdictional or legislative powers are not subject to the provisions of the present chapter.

Article L124-4

(Order no. 2001-321 of 11 April 2001 Article 9 II Official Journal of 14 April 2001)
(Act no. 2005-1319 of 26 October 2005 Article 2 Official Journal of 27 October 2005)

I. After assessing the interest of a communication, the public authority may reject the request for information relating to the environment if the consultation or communication interferes with:

1 The interests mentioned in article 6 of abovementioned Law no.78-753 of 17 July 1978, except for those described in the sixth and last paragraphs of I of that article;

2 The protection of the environment to which it relates;

3 The interests of the person who, without being constrained by a legislative or regulatory provision or by an act of an administrative or jurisdictional authority, has provided the information requested without agreeing to its divulgation;

4 The protection of information provided for by article 6 of Law no.51-711 of 7 June 1951 covering obligations, coordination and secrecy regarding statistics.

II. Subject to the provisions of II of article L. 124-6, it may also reject:

1 A request bearing on documents in the process of being drawn up;

2 A request bearing on information that it does not hold;

3 A request formulated in too general a manner.

Article L124-5

(Inserted by Act no. 2005-1319 of 26 October 2005 Article 2 Official Journal of 27 October 2005)

I. When a public authority receives a request bearing on information relating to the factors mentioned in 2 of article L. 124-2, it indicates to its author, if the author so requests, the address where the author may be informed about the processes and methods used to elaborate the data.

II. The public authority may only reject a request for information relating to the emissions of substances into the environment if such a consultation or communication interferes with:

1 The conducting of French foreign policy, public security, or national defence;

2 The running of jurisdictional procedures or the search for infringements which may give rise to criminal sanctions;

3 Intellectual property rights.

Article L124-6

(Inserted by Act no. 2005-1319 of 26 October 2005 Article 2 Official Journal of 27 October 2005)

I. The rejection of a request for information relating to the environment is notified to the requester in writing, by means of a reasoned decision specifying the methods and deadlines for recourse. Article 5 of Law no.79-587 of 11 July 1979 relating to the reasoning behind administrative acts and the improvement of relations between the administration and the public does not apply.

II. When this rejection is based on 1 of II of article L. 124-4, this decision indicates the period within which the document will be completed, as well as the public authority responsible for drawing it up.

When this rejection is based on 2 of II of article L. 124-4, this decision indicates, where applicable, the public authority which holds this information.

A request may only be rejected on the basis of 3 of II of article L. 124-4 after the public authority has first invited the requester to make the request more specific and has helped the requester to do so.

Article L124-7

(Inserted by Act no. 2005-1319 of 26 October 2005 Article 2 Official Journal of 27 October 2005)

I. The public authorities take measures to enable the public to know about their right to access the information about the environment that the authorities hold, and make sure that the public can have access to the information sought. For this purpose, they draw up directories or lists of categories of information about the environment in their possession, accessible free of charge and indicating the place where this information is at the disposal of the public.

II. The public authorities make sure that the information about the environment that they have collected or have had collected for them is precise and up to date and can enable comparison. They ensure that this information is conserved in such a way as to allow it to be disseminated in electronic form.

Article L124-8

(Inserted by Act no. 2005-1319 of 26 October 2005 Article 2 Official Journal of 27 October 2005)

A Conseil d'Etat decree, drawn up after an assessment by the commission for access to administrative documents, specifies the methods of application of the present chapter. It defines the categories of information about the environment which must be subject to public dissemination within a period that it sets. It determines the methods by which the State and the local authorities give the public access to the lists of public establishments and other entities mentioned in article L. 124-3 attached to them or under their control.

CHAPTER V

Other modes of information — Articles L125-1 to L125-5

Article L125-1

(Inserted by Order no. 2001-321 of 11 April 2001 Article 9 I, II Official Journal of 14 April 2001)

I. - Each individual has the right to be informed about the harmful effects on human health and the environment of the collection, transport, treatment, storage and deposit of waste as well as about the measures taken to prevent or compensate for these effects.

II. - This right consists notably of:

1° The communication, by the operator of a waste disposal establishment, of the documents drawn up in the framework of the provisions of Chapter I of Title I of Book V, in order to measure the effects of its activity on public health and the environment and to indicate the measures taken to eliminate or minimise the harmful effects of the waste;

2° The creation of a local commission for information and monitoring on any waste disposal or storage site, on the initiative of either the Préfet or the municipal council of the commune of the site concerned or a neighbouring commune; this commission is made up in equal parts of representatives of the public administrations concerned, the operator, the local authorities, and the environmental protection associations concerned; on the request of the commission, the Préfet, who chairs the commission, orders the inspection operations that the commission deems necessary for its works within the framework of Title I or Title IV (Chapter I) of Book V; the documents drawn up by the operator of a waste disposal establishment to measure the effects of its activity on public health and the environment are sent to the commission; the cost of setting up and running the local commission for information and supervision is borne by the group specified in Article L. 541-43, when this group exists; in the absence of such a group, these costs are borne equally by the State, the local authorities and the operator;

3° The drawing up, by the communes or the public establishments for inter-commune cooperation or the mixed syndicates specified in Article L. 2224-13 of the Code général des collectivités territoriales, and by the Préfets, of documents for the evaluation of the measures undertaken to dispose of the waste for which they are responsible; these documents can be consulted freely.

III. - A Conseil d'Etat decree defines the conditions under which this right is exercised. More specifically, it sets the terms according to which this information is brought to the attention of the public.

IV. - The provisions contained in this Article apply without prejudice to the provisions of Act no. 78-753 of 17 July 1978 covering various measures for the improvement of relations between the administration and the public and various administrative, social and fiscal provisions.

Article L125-2

(Order no. 2001-321 of 11 April 2001 Article 9 I, II Official Journal of 14 April 2001)
(Act no. 2003-699 of 30 July 2003 Article 2, Article 40 Official Journal of 31 July 2003)
(Act no. 2001-811 of 13 August 2004 Article 102 II Official Journal of 17 August 2004)

Citizens have a right to information about the major risks to which they are subject in specific geographical areas and about the measures taken to safeguard them. This right applies to technological risks and to foreseeable natural disasters.

In the communes on the territory of which a plan for the prevention of foreseeable natural disasters has been prescribed or approved, the mayor informs the population at least once every two years, by means of public meetings or any other appropriate means, of the characteristics of the natural risk(s) known in the commune, the possible preventive and safeguarding measures, the provisions of the plan, the alert methods, the organisation of emergency procedures, the measures taken by the commune to manage the risk, and the guarantees provided for by Article L. 125-1 of the Code des assurances. This information is issued with the help of the competent State departments via elements brought to the knowledge of the mayor by the State representative in the département when the information concerns the measures undertaken in accordance with Act no. 2004-811 of 13 August 2004 for the modernisation of civil security, and does not cover the measures implemented by the mayor in accordance with Article L. 2212-2 of the Code Général des Collectivités Territoriales.

A Conseil d'Etat decree sets the conditions under which this right is exercised. It sets, notably, the terms under which the safeguarding measures are brought to public knowledge as well as the categories of sites on which the information is displayed.

The operator is obliged to participate in informing the public of the measures taken in the area surrounding the structures or installations concerned by a special contingency plan.

The Préfet sets up a local committee to provide and exchange information about risks for any industrial area containing one or more establishments featuring on the list in IV of Article L. 515-8. This committee may call on the skills of recognised experts, notably to carry out third-party expert assessments. It is kept informed of any incident or accident affecting the safety of the abovementioned establishments. It is given the means to perform its role by the State. The conditions of application of this paragraph, notably the rules governing the composition of the local committees for information and dialogue, are set by decree.

Article L125-3

(Inserted by Order no. 2001-321 of 11 April 2001 Article 9 I, II Official Journal of 14 April 2001)

Each individual has the right to be informed of the effects that the voluntary dissemination of genetically modified organisms as defined in Title III of Book V may have on public health or the environment, subject to respect of the confidentiality of information protected by the Law.

A Conseil d'Etat decree defines the terms under which the administrative authority informs the public about the effects that voluntary dissemination may have on public health or the environment. This decree also sets the obligations that may be imposed in this respect on the beneficiary of the authorisation, notably with regard to the payment of all or part of the corresponding costs.

Article L125-4

(Inserted by Order no. 2001-321 of 11 April 2001 Article 9 I, II Official Journal of 14 April 2001)

The right to information about air quality and its effects on health and the environment is granted to each individual on the whole of the territory. The State is the guarantor of this right, of the reliability of the information and of its dissemination. This right is exercised according to the terms defined in section 2 of Chapter I of Title II of Book II.

Article L125-5

(Act no. 2003-699 of 30 July 2003 Article 77 Official Journal of 31 July 2003)
(Order no. 2005-655 of 8 June 2005 Article 21 Official Journal of 9 June 2005)

I. - The purchasers or lessees of real-estate properties in the zones covered by a plan for the prevention of technological risks or by a plan for the prevention of foreseeable natural disasters, either prescribed or approved, or in the zones of seismicity defined by a Conseil d'Etat decree, are informed by the vendor or the lessor of the existence of the risks indicated by this plan or this decree.

For this purpose, a natural and technological risk status report is written up based on the information made available by the Préfet. Should the building be put up for sale, the status report is produced under the conditions and according to the methods provided for in articles L. 271-4 and L. 271-5 of the Code de la Construction et de l'Habitation.

II. - In the event of the rental of the building, the natural and technological risk status report is provided to the new lessee under the conditions and according to the methods provided for in article 3-1 of Law no.89-462 of 6 July 1989 for the improvement of tenancy relationships and modifying Law no.86-1290 of 23 December 1986.

III. - The Préfet draws up the list of communes in which the provisions of I and II are applicable and, for each commune concerned, the list of risks and documents to be taken into account.

IV. - When a building has undergone a disaster giving rise to the payment of an indemnity in accordance with Article L. 125-2 or Article L. 128-2 of the Code des assurances, the vendor or lessor of the building is obliged to inform the purchaser or lessee in writing of any disaster that has occurred during the period in which he or she has been the owner of the building or of which he or she has been informed, in accordance with these provisions. If the building is sold, this information is mentioned in the deed of sale.

V. - If the provisions of this Article are not respected, the purchaser or the lessee may request that the contract be

cancelled or ask the judge for the price to be reduced.

VI. - A Conseil d'Etat decree sets the conditions of application of this Article.

CHAPTER VI
Project declaration — Article L126-1

Article L126-1
(Inserted by Act no. 2002-276 of 27 February 2002 Article 144 Official Journal of 28 February 2002)

When a public project for works, developments or structures has been subject to a public enquiry in accordance with Chapter III of this Title, the State authority or the decision-making body of the local authority or the public establishment responsible for the project decides, via a project declaration, on the general interest of the projected operation.

The project declaration mentions the purpose of the operation as it appears in the file submitted for enquiry, and contains the reasons and considerations justifying its general interest. Where applicable, it indicates the nature of and the reasons for the main modifications which, without altering the economics of the project, are made to the project in the light of the results of the public enquiry.

If the project declaration does not take place within one year following the closure of the enquiry, the operation cannot be carried out without a new enquiry.

In the absence of a project declaration, no works authorisation may be issued.

If the work has not commenced within five years following the publication of the project declaration, the declaration becomes null and void. However, if there is no change to the factual or legal circumstances, this period can be renewed once for the same duration without a new enquiry by means of a project declaration taken in the same form as the initial declaration and issued before the expiry of the five-year period.

The project declaration is published under the conditions defined by a Conseil d'Etat decree.

TITLE III
Institutions — **Articles L131-3 to L132-2**

CHAPTER I
Institutions acting in the domain of environmental protection — Articles L131-3 to L131-8

SECTION I
Environment and Energy Management Agency — Articles L131-3 to L131-7

Article L131-3
(Order no. 2004-637 of 1 July 2004 Article 27 I Official Journal of 2 July 2004)

I. - The Environment and Energy Management Agency is a public State establishment of an industrial and commercial nature.

II. - This public establishment carries out actions such as the strategic planning and coordination of research activities, service provisions, information and incitement, in each of the following areas:

1° The prevention and control of air pollution;

2° The minimisation of waste production, its disposal, its recovery and its reuse, the protection of soils and the rehabilitation of polluted sites;

3° The redevelopment and supervision of a facility for the storage of final waste authorised after 14 July 1992, when these operations become necessary owing to a failure by or insufficient guarantees provided by the operator;

4° Energy and raw materials savings and the development of renewable energy sources, particularly of plant origin;

5° The development of clean, economical technologies;

6° Noise abatement operations.

III. - The Agency coordinates its actions with those conducted by the water agencies in areas of common interest.

IV. - To carry out its tasks, the Agency has a delegation in each region.

Article L131-4
(Order no. 2004-637 of 1 July 2004 Article 27 I Official Journal of 2 July 2004)

The Board of Directors of the Agency is made up of:

1° State representatives;

2° Members of Parliament;

3° Representatives of local authorities;

4° Qualified persons, representatives of the environmental protection associations approved under Article L. 141-1, and representatives of interested industrial boards;

5° Staff representatives under the conditions defined in paragraph two of Article 4 of Act no. 83-675 of 26 July 1983 relating to the democratisation of the public sector.

Article L131-5
(Order no. 2004-637 of 1 July 2004 Article 27 I Official Journal of 2 July 2004)

The Agency has a scientific board, the composition of which is decided upon jointly by the Ministers for the environment, research, and industry.

Article L131-6

(Order no. 2004-637 of 1 July 2004 Article 27 I Official Journal of 2 July 2004)

The Agency may attribute subsidies and repayable grant advances.

It may collect fees, notably on the inventions and new processes to which it has contributed, fees for services rendered, and the product of parafiscal taxes.

Article L131-7

(Order no. 2004-637 of 1 July 2004 Article 27 I Official Journal of 2 July 2004)

A Conseil d'Etat decree sets the conditions of application of Articles L. 131-3 to L. 131-6.

SECTION II

Public interest groups in the domain of the environment — Article L131-8

Article L131-8

(Order no. 2004-637 of 1 July 2004 Article 27 I Official Journal of 2 July 2004)

Public Interest Groups benefiting from incorporation status and financial autonomy may be set up between entities under public or private law including at least one legal entity under public law, in order to carry out together and for a fixed duration, activities in the domain of the environment, and to create or manage facilities, staff or services required for these activities.

The provisions of Article 21 of Act no. 82-610 of 15 July 1982 covering orientation and programming for technological research and development in France apply to these public interest groups. However, the director is appointed following advice from the Minister for the environment.

CHAPTER II

Provisions common to certain institutions — Articles L132-1 to L132-2

Article L132-1

(Act no. 2003-591 of 2 July 2003 Article 31 III 2° Official Journal of 3 July 2003)

(Act no. 2005-157 of 23 February 2005 Article 147 Official Journal of 24 February 2005)

The Environment and Energy Management Agency, the Coastal Protection Agency, the water agencies, the National Hunting and Wildlife Office and the National Monuments Centre may exercise the rights recognised as those of the civil party as regards the acts which directly or indirectly damage the interests that they have the role of defending and which constitute an infringement of the legislative provisions relating to the protection of nature and the environment, to the improvement of the living environment, to the protection of water, air, soils, sites and landscapes, and to town planning, or to those whose purpose is the control of pollution and nuisances, and of the enactments for their application.

Without prejudice to the indemnification for other damages suffered, the legal entities under public law mentioned in the previous paragraph which have taken part materially of financially, have a right to the reimbursement by the responsible parties of the expenses incurred by them.

The Chambers of Agriculture, the Regional Parks and the Regional Forest Ownership Committees may also exercise the rights recognised as those of the civil party under the conditions defined above.

Article L132-2

The representative farming and forestry syndicate organisations and the Chambers of Agriculture and the Regional Forest Ownership Committees are called upon within the framework of the laws and regulations in force to participate in the environmental or country planning action of the public authorities, when this action pertains to rural areas.

TITLE IV

Environmental protection associations — **Articles L141-1 to L142-3**

CHAPTER I

Approval of environmental protection associations — Articles L141-1 to L141-2

Article L141-1

(Act no. 2005-157 of 23 February 2005 Article 148 Official Journal of 24 February 2005)

If they have been exercising their activities for at least three years, the properly declared associations that exercise their statutory activities in the field of nature protection and the management of wild fauna, the improvement of the living environment, water protection, air, soils, sites and landscapes, and town planning, or those whose purpose is the control of pollution and nuisances and, in general, those working principally for the protection of the environment, may be awarded approval by the administrative authority.

In the départements of the Bas-Rhin, the Haut-Rhin and the Moselle, the approval procedure applies to associations registered for at least three years.

These associations are known as "approved environmental protection associations."

This approval is granted under the conditions stipulated by a Conseil d'Etat decree. It may be withdrawn when the association no longer fulfils the conditions required to grant it.

The associations exercising their activities in the fields mentioned in the first paragraph above and approved prior to 3 February 1995 are considered as approved in accordance with this Article.

The decisions made in accordance with this Article are subject to the procedures governing contentious matters.

Article L141-2

The environmental protection associations approved under Article L. 141-1 and the associations mentioned in Article L. 433-2 are called upon, within the framework of the laws and regulations in force, to participate in the environmental action of public bodies.

CHAPTER II

Legal action of the associations — Articles L142-1 to L142-3

Article L142-1

Any association the purpose of which is the protection of nature and the environment may institute proceedings before the administrative tribunals for any grievance relating to this protection.

Any environmental protection association approved under Article L. 141-1 is considered as being entitled to act against any administrative decision with a direct relation to its purpose and its statutory activities and generating harmful effects on the environment on all or part of the territory for which it is approved.

Article L142-2

The approved associations mentioned in Article L. 141-2 may exercise the rights recognised as those of the civil party with regard to acts which directly or indirectly damage the collective interests that they defend and which constitute an infringement of the legislative provisions relating to the protection of nature and the environment, to the improvement of the living environment, to the protection of water, air, soils, sites and landscapes, to town planning, or those whose purpose is the control of pollution and nuisances, and of the enactments for their application.

This right is also granted, under the same conditions, to the associations which have been lawfully declared for at least five years at the date of the acts and which, by their Articles, propose the safeguarding of all or part of the interests described in Article L. 211-1, in relation to the acts constituting an infringement of the provisions relating to water, or the interests described in Article L. 511-1, in relation to the acts constituting an infringement of the provisions relating to classified facilities.

Article L142-3

When, in the domains mentioned in Article L. 142-2, several identified persons have suffered individual damages caused by the act of a single person and with a common origin, any association approved under Article L. 141-1 may, if it has been appointed by at least two of the persons concerned, seek redress before any tribunal on behalf of these persons.

The appointment may not be solicited. It must be given in writing by each person concerned.

Any person who has given his or her agreement for an action to be brought before a criminal court is considered, in this case, as exercising the rights recognised as those of the civil party, in accordance with the Code de procédure pénale. However, the notifications are addressed to the association.

The association which brings a legal action in accordance with the provisions of the previous paragraphs may claim for damages before the juge d'instruction or the tribunal having jurisdiction over the headquarters of the enterprise implicated or, failing this, of the place of the first infringement.

TITLE V

Financial provisions — **Articles L151-1 to L151-2**

SINGLE CHAPTER

General tax on polluting activities — Articles L151-1 to L151-2

Article L151-1

(Act no. 2000-1353 of 30 December 2000 Article 37 IV, VII Official Journal of 31 December 2000 in force on 1st January 2001)

(Act no. 2001-1276 of 28 December 2001 finance acts Article 60 I c Official Journal of 29 December 2001)

(Act no. 2002-1576 of 30 December 2002 special amending acts Article 24 I a Official Journal of 31 December 2002 in force on 1st January 2003)

The scope of the general tax on polluting activities is set by Article 266-6 of the Code des douanes, reproduced hereunder:

Art. 266-6. - I. - A general tax is levied on polluting activities, to be paid by the following persons or legal entities:

1. Any operator of a facility for the storage of household and similar waste or any operator of a facility for the disposal of special industrial waste by incineration, co-incineration, storage, and physical-chemical or biological

treatment, when these facilities are not exclusively used for the waste produced by the enterprise;

2. Any operator of a facility subject to authorisation under the terms of Book V (Title I) of the Code de l'environnement and having a maximum thermodynamic power when it is a combustion facility, a capacity when it is a household waste incineration facility, or a weight of the substances mentioned in Article 266-7 emitted in one year when the facility does not fall into the previous categories, which exceeds certain thresholds set by a Conseil d'Etat decree;

3. Any operator of aircraft or, failing this, their owner;

4. a. Any person who carries out a first delivery after national manufacture of lubricants likely to produce waste oils, or who delivers them on the domestic market in the event of purchase within the European Community, or who makes them available for consumption;

b. Any user of oils or lubricant preparations other than those described in a, producing waste oils, the disposal of which into the natural environment is prohibited;

5. Any person who delivers for the first time after national manufacture, or who delivers on the domestic market after purchase, importation or manufacture in another Member State of the European Community, or who makes available for consumption preparations for detergents, including auxiliary washing products or conditioning or softening products for linen respectively included in 4 a and in sections 34022090, 34029090 and 38091010 to 38099100 of the custom tariff;

6. a) Any person who delivers for the first time after national manufacture, or who delivers on the domestic market after purchase, importation or manufacture in another Member State of the European Community, or who makes available for consumption extraction materials which exist naturally in the form of grains or are obtained from crushed or fractionated rocks, the largest dimension of which is lower than or equal to 125 millimetres and the characteristics and uses of which are set by decree;

b) Any person who extracts, produces, or introduces from another Member State of the European Community the materials mentioned in a) for his or her own needs;

7. Any person who delivers for the first time after national manufacture, or who delivers on the domestic market after purchase, importation or manufacture in another Member State of the European Community, or who makes available for consumption pest-control products for agricultural use or similar products included in section 3808 of the customs tariff, which are authorised to be put on the market in accordance with Act no. 525 of 2 November 1943 relating to the organisation of the control of pest-control products for agricultural uses, and in the composition of which there are substances classified as hazardous in accordance with the criteria defined by the rulings made for the application of Article R. 231-51 of the Code du travail;

8. a. Any operator of an industrial or commercial establishment or a public establishment of an industrial and commercial nature having certain facilities that are subject to authorisation under the terms of Book V (Title I) of the Code de l'environnement;

b. Any operator of an establishment mentioned in a. whose activities, featuring on a list drawn up by a Conseil d'Etat decree after a decision by the Higher Council of Classified Facilities, generate, by their nature or their volume, particular risks for the environment.

II. - The tax does not apply:

1. To the special industrial waste disposal facilities exclusively assigned to reuse, or to the waste disposal facilities exclusively assigned to asbestos-cement;

2. a. To aircraft with a maximum mass at take-off lower than 2 tonnes;

b. To aircraft belonging to the State or participating in civil protection or fire-fighting tasks;

3. To the products mentioned in 6 of I of this Article and originating from recycling operations or presenting a dry matter content of at least 97% of silicon oxide;

4. To lubricants, to detergent preparations, including auxiliary washing preparations, to conditioning or softening products for linen, to extraction materials, to pest control products for agricultural use, or to the similar products mentioned in 5, 6 and 7 of I of this Article, when the first delivery after national manufacture consists in a direct consignment to a Member State of the European Community or in an export operation;

5. To the operation of classified facilities by the companies registered on the répertoire des métiers.

III - Deliveries of inert materials or waste are exonerated from the tax mentioned in I, subject to a limit of 20% of the total annual quantity of waste received per facility. Waste is considered inert when it does not decompose, does not burn and does not produce any physical or chemical reaction, is not biodegradable and does not degrade other materials with which it comes into contact in a way likely to bring about environmental pollution or to harm human health.

Article L151-2

The other provisions relating to the general tax on polluting activities mentioned in Article L. 151-1 are detailed in Articles 266-7 and following of the Code des douanes.

BOOK II
Physical environments

Articles L211-1 to L220-2

TITLE I
Water and aquatic environments

Articles L211-1 to L210-1

Article L210-1

(Act no. 2004-338 of 21 April 2004 Article 1 Official Journal of 22 April 2004)

ENVIRONMENTAL CODE

Water is part of the common heritage of the nation. Its protection, enhancement and development as a usable resource, with due respect to natural equilibriums, are of general interest.

The use of water belongs to all within the framework of laws and regulations as well as that of previously established rights.

The costs relating to the use of water, including the costs to the environment and the resources themselves, are borne by the users, taking into account the social, environmental and economic consequences and geographical and climatic conditions.

CHAPTER I

General principles and resource management — Articles L211-1 to L211-1-1

Article L211-1

(Act no. 2005-157 of 23 February 2005 Article 127 I Official Journal of 24 February 2005)
(Act no. 2005-781 of 13 July 2005 Article 41 Official Journal of 14 July 2005)

I. - The aim of the provisions of Chapters I to VII of the present Title is to provide for the balanced management of water resources; this balanced management aims to ensure:

1° The conservation of aquatic eco-systems, sites and wetlands; wetlands are defined as land, whether developed or not, which is usually flooded or waterlogged with salt, brackish or fresh water, either permanently or occasionally; vegetation, where it is present, consists predominantly of hygrophilous plants for at least part of the year;

2° Water protection and the fight against pollution due to effluent, drainage and other discharges, the direct or indirect deposit of materials of any kind, and more particularly by any act that may result in water degradation by modifying its physical, chemical, biological or bacteriological characteristics, whether it is surface water, underground water or sea-water within the boundaries of territorial waters;

3° The regeneration and restoration of the quality of such water;

4° The development and the protection of water resources;

5° The development of water as an economic resource and, in particular, for the development of the production of renewable electricity, as well as the distribution of this resource.

A Conseil d'Etat decree specifies the criteria selected for the application of 1.

II. - Balanced management must allow the following requirements to be satisfied or reconciled during various types of use, activities or work:

1° Public health, public safety and the provision of drinking water to the population

2° Requirements of the biological life within the receiving media, especially the fauna of the fish family.

3° Requirements for conservation and the free flow of water and the protection against floods;

4° Requirements of agriculture, fishing and marine culture, freshwater fishing, industry, energy production and in particular to ensure the safety of the electricity system, transport, tourism, the protection of sites, leisure activities and water sports as well as any other human activities legally carried out.

Article L211-2

I. - The general regulations for the conservation of the quality and distribution of surface water, underground water and seawater within the boundaries of territorial waters are determined by a Conseil d'Etat decree.

II. - They set out:

1° Quality norms and measures necessary for the restoration and conservation of that quality, depending on the various uses and cumulative uses of water;

2° The regulations for water distribution in order to reconcile the interests of various categories of users;

3° The conditions under which:

a) The effluent discharge, drainage discharge and other discharges, direct or indirect deposit of water or materials and in particular any act likely to alter the quality of water or that of the aquatic environment may be prohibited or regulated;

b) Necessary measures may be drawn up in order to preserve this quality and ensure the monitoring of wells and boreholes, whether in use or disused;

4° The conditions under which the sale or distribution of products or systems which, under foreseeable normal conditions of use, are likely to be harmful to the quality of the aquatic environment may be prohibited or regulated;

5° The conditions under which technical checks of facilities, works or operations are carried out by the authority in charge of policing waters, or discharges or the relevant activities and the conditions under which the cost of these checks can be allocated to the operator, owner or person in charge of operations in cases of infringement of the regulations. Where checks on substances of any nature, including radioactive substances, are not carried out by public laboratories, these must be carried out by certified laboratories.

Article L211-3

(Act no. 2005-157 of 23 February 2005 Article 128 I Official Journal of 24 February 2005)

I. - In addition to the general regulations mentioned in Article L. 211-2, national or particular stipulations with regard to certain parts of the territory are established by a Conseil d'Etat decree in order to ensure the protection of the principles set out in Article 211-1.

II. - These decrees determine in particular the conditions under which the authorities may:

1° Take measures to reduce or prohibit temporarily certain water uses to deal with a threat or the consequences of

accidents, drought, flood or to the risk of a shortage;

2° Set out, with due respect for the overall balance of rights and duties resulting from public service concessions granted by the State, special stipulations applicable to facilities, works and activities making use of water or which modify its level or flow and the conditions under which drilling work, water intakes, dams, works or discharge structures may be prohibited or regulated, more particularly in zones of resource protection, declared of public interest as a current or future supply of drinking water;

3° Set out particular provisions applicable to natural springs and sources of mineral water and to their protection;

4 Inside the wetlands defined in article L. 211-1:

a) Delimit zones known as "wetlands of particular environmental interest", the maintaining or restoration of which presents an interest to the integrated management of the catchment area, or a particular value in terms of tourism, ecology, landscapes or hunting. These zones may include the wetlands known as "strategic zones for water management" stipulated in article L. 212-5;

b) Draw up, notably by means of dialogue with the local authorities and their groupings, representatives of owners or their groupings, land operators or their representatives, approved nature protection associations, federations of approved fishing associations, federations of hunters, approved professional fishing associations, gathered together in a steering committee for the wetland, under the aegis of the local water commission if one exists, an action programme aiming to restore, protect, manage and redevelop in a sustainable way the zones defined in a;

c) Specify in this programme the practices to be promoted and the means provided to encourage their generalisation, make some of these practices compulsory and specify the methods by which these practices may, where applicable, benefit from aid when they are the cause of extra costs or losses of revenue.

Article L211-4

Water quality norms may be set by the competent state authorities in certain zones of the seas and oceans, saltwater marshes, estuaries and deltas up to the saltwater limit, in relation to their contribution to activities of exploitation and enhancement of the biological resources of these zones.

These activities may be regulated or prohibited depending upon these quality norms. This provision applies equally to the marketing of vegetable or animal products originating from these waters and intended for human consumption.

Article L211-5

The Préfet and the Mayor concerned must be informed as quickly as possible by any person having knowledge of an incident or accident representing a danger for public safety, the quality, the movement or the conservation of water.

The person having caused the incident or accident and the operator, or if there is no operator, the owner, must, as soon as they are aware of the incident or accident, take or cause to be taken all possible steps to end the cause of the danger or threat to the aquatic environment, assess the consequences of the incident or accident and remedy it.

The Préfet may prescribe to the abovementioned persons measures which must be taken in order to end the damage observed or to limit its gravity, and namely, the analyses to be carried out.

In case of non-compliance, and if there is a risk of pollution or of the destruction of the natural environment, or a threat to public health and the supply of drinking water, the Préfet may take or cause to be taken any necessary measures at the expense and risk of the persons responsible.

The Préfet and the Mayor concerned must inform the population by all appropriate means of the circumstances of the incident or accident, of its foreseeable effects, and of the measures taken to remedy it.

The employees of the public emergency and fire services have access to private property in order to put an end to the causes of danger or the threat to the aquatic environment and to prevent or limit the consequences of the incident or accident.

Without prejudice to compensation for other damage suffered, legal entities which intervened materially or financially are entitled to the reimbursement by the person or persons responsible for the incident or accident, of costs incurred by them. For this purpose, they may bring a civil action before the criminal jurisdictions referred to with regard to legal proceedings further to the incident or accident.

Article L211-6

Decisions taken in application of Article L. 211-5 may be deferred to the Administrative Courts under the conditions set out in Article L. 514-6.

Article L211-7

(Act no. 2003-699 of 30 July 2003 Article 55 II Official Journal of 31 July 2003)

I. - On condition that the provisions of Articles 5 and 25 of the Code du domaine public fluvial et de la navigation intérieure are respected, local authorities and their groups as well as mixed syndicates created in compliance with Article L. 5721-2 of the Code général des collectivités territoriales and the local Water Committee are authorised to use Articles L. 151-36 to L. 151-40 of the Code rural in order to undertake the study, the execution and the exploitation of any works, actions, structures or installations of a nature of general interest or of emergency, in the framework of the Water Management Scheme where this exists, providing for:

1° The development of a water basin or part of a water basin:

2° The maintenance and development of a waterway, canal, lake or water body, including access to the waterway, canal, lake or water body;

3° Water supply;

4° The control of rainwater and surface run-off water or the fight against soil erosion;

5° Protection against flooding or tidal damage;

6° The fight against pollution;

7 The protection and conservation of surface water and underground water;

8° The protection and restoration of sites, aquatic ecosystems and wetlands as well as associated woodland areas;

9° Hydraulic developments contributing to public safety;

10° The use, maintenance and development of existing hydraulic structures;

11° The putting into place and use of facilities to monitor water resources and the aquatic environment;

12° Consultation and coordination efforts in the field of water and aquatic environment management and protection in a sub-basin or group of sub-basins, or in an aquifer system, corresponding to a hydrographic unit.

I b. - Where a project described in 1°, 2° and 5° of I exceeding a financial threshold determined by decree is located within the perimeter of an établissement public territorial de bassin (a local public water basin authority) as described in Article L. 213-10, the Préfet requests the opinion of the president of the aforementioned authority. In the absence of a reply within a period of two months, this opinion is considered to be favourable.

II. - The study, execution and use of the said works may be granted in particular to mixed investment companies. The beneficiaries of the concession are entitled to receive the participation costs as provided for in Article L; 151-36 of the Code rural.

III. - One single public enquiry is held under the provisions of Article L. 151-37 of the Code rural and Articles L. 214-1 to L. 214-6 of the present Code and, if appropriate, of the declaration of public interest.

IV. Subject to court rulings made res judicata, the right of access for maintenance machinery to the beds and the banks of non-national waterways, established in compliance with decree no. 59-56 of 7 January 1959 with reference to rights of way to the banks of non-navigable and non-floatable waterways are deemed valid and considered right of way as defined in Article L. 151-37-1 of the Code rural.

V. - The provisions of the present Article are applicable to works, actions, structures or facilities of the State.

VI. - A Conseil d'Etat decree determines the conditions of application of the present Article.

Article L211-8

In the event of a serious drought, which endangers the supply of drinking water, as registered by the minister for the policing of waterways, temporary variations to the regulations setting out the flows set aside for water companies in the water basins concerned may be ordered as and when necessary by the Préfet, following a consultation period with the operator, without giving rise to the payment of compensation money.

Article L211-9

A Conseil d'Etat decree sets out the conditions under which measures may be imposed for the construction and maintenance of public and private networks and facilities in order to avoid water wastage.

Article L211-10

Notwithstanding the provisions of Article 134 of the Code minier, the samples, documents and information of interest for research, production or the behaviour of underground water fall immediately into the public domain.

Article L211-11

The specific provisions relating to the quality of waters intended for human consumption are set out in the Code de la santé publique (Part 1, Book III, Title II, chapters I, II and IV).

Those relating to bathing waters are set out in the same Code (Part I, Book III, Title III, Chapter II and Article L. 1336-1).

Article L211-12

(Act no. 2003-699 of 30 July 2003 Article 48 Official Journal of 31 July 2003)

(Act no. 2005-157 of 23 February 2005 Article 132 II, III, IV Official Journal of 24 February 2005)

I. - Constraints may be placed to serve the public interest at the request of the State, of local authorities or groups of local authorities on land adjacent to a waterway or to the displacement of a waterway, or land situated in its water basin or in an estuary zone

II. - These constraints may have one or more of the following aims:

1° Create temporary storage areas for flood or surface run-off waters, through developments allowing their storage capacity to be artificially increased in order to reduce flooding or surface water run-off in areas located downstream;

2° Create or restore the mobility zones of the river bed upstream of urban areas in zones denominated as "waterway mobility zones" in order to protect or restore its essential hydrological and geomorphologic character;

3 Protect or restore the wetlands known as "strategic zones for water management", delimited in application of article L. 212-5.

III. The zones affected by the constraints described in 1 and 2 of II are delimited by decree of the préfecture. This decree is issued further to a public enquiry carried out in compliance with the Code de l'expropriation pour cause d'utilité publique. The zones affected by the constraints described in 3 of II are delimited in accordance with article L. 212-5.

IV. - In the temporary flood or surface run-off water storage areas mentioned in 1° of II, owners and operators may be obliged by decree of the préfecture to refrain from acts of any kind likely to hinder the correct functioning of, or the maintenance and protection of structures intended to allow the flooding of the zone. To this end, the decree issued by the préfecture may require a preliminary declaration to be submitted to the appropriate town and country planning authorities for works whose nature, size and location are likely to hinder the storage or flow of water if they do not fall under the authorisations or declarations required by the Code de l'Urbanisme.

The decree issued by the préfecture may also require a preliminary declaration for structures which, due to their

nature, size or location, are likely to hinder the storage or flow of water which do not fall under the scope of authorisations or declarations required by the Code de l'Urbanisme. The Préfet may, by reasoned decision, within two months of receipt of the declaration, refuse permission for such structures to be built or prescribe the necessary work. Work may not begin on these structures before the end of this period.

For works defined in the first paragraph of the present IV, as well as for works and structures requiring authorisation or a declaration as stipulated in the Code de l'Urbanisme and which are likely, because of their nature, size or location to hinder the storage or the flow of water, the competent authority in order to adjudicate on matters of town and country planning obtains the agreement of the Préfet who, upon receipt of the declaration, has a period of two months in which to oppose the works or to prescribe the necessary modifications. The works may not begin before the end of this period.

Moreover, the decree of the Préfet sets out the provisions necessary in a given period to remove any mobile machinery which may cause or suffer damage.

V. - In the waterway mobility zones mentioned in 2° of II, work on the protection of banks, dykes, flood protection banks and washout dykes, constructions and facilities and , in general, any works or structures likely to hinder the natural flow of the waterway may not be carried out. To this end, the decree issued by the Préfet may require a preliminary declaration to the competent town and country planning authorities for works which because of their nature, size or location, are likely to hinder the natural flow of the waterway, and do not fall under the scope of application of the authorisations or declarations required by the Code de l'Urbanisme.

The decree issued by the Préfet may also require a preliminary declaration for works which, because of their nature, size or location, are likely to hinder the natural flow of the waterway, and do not fall under the scope of application of the authorisations or declarations required by the Code de l'Urbanisme. The Préfet may, by reasoned decision, within a period of two months from receipt of the declaration, oppose the structures or prescribe the necessary works. Work on these structures may not begin before the end of this period.

For works as defined in the first paragraph of the present V, as well as for works and structures requiring authorisation or a declaration as stipulated in the Code de l'Urbanisme and which are likely, because of their nature, size or location, to hinder the natural flow of the waterway, the competent authority in order to adjudicate on matters of town and country planning obtains the agreement of the Préfet who has a period of two months from receipt of the declaration or the application to oppose the works or to prescribe the necessary modifications. The works may not begin before the end of this period.

V bis. - In the wetlands known as "strategic zones for water management" mentioned in 3 of II, the Préfet may, by means of a ruling, oblige the owners and operators to refrain from any act likely to damage the nature, the role and the maintenance and conservation of the zone, notably drainage, filling, or ploughing of grassland.

VI. - The decree issued by the Préfet may identify, where appropriate, any existing or missing elements which hinder the objective of the constraint, and whose removal, modification or implementation is made obligatory. The cost of the works and compensation for the prejudice which may result from these works must be met by the authority which requested the constraint. However, if the aforementioned elements belong to the State or state-owned institutions, the state must meet the cost of such works.

VII. - Where one of the purposes for which the constraint has been set up involves public bodies of facilities carrying out, works or activities, the owners and operators are required at all times to grant state employees responsible for their development, maintenance or use access to land within the perimeter of the zones concerned by the constraint.

VIII. - The declaration of constraints mentioned in I give rise to compensation for owners of land in zones affected if such constraints create a material, direct and undeniable prejudice. This compensation is to be paid by the authority which has requested the constraint. This compensation is determined, if no out-of-court settlement can be reached, by the competent compulsory purchase judge in the département.

IX. - Material damage affecting crops, cultivation, livestock (whether dead or alive), motorised land vehicles and buildings caused by flooding linked to the temporary storage of water in zones where constraints are present as mentioned in II give rise to compensation for the occupants.

However, persons or public bodies having contributed through their acts or negligence to the existence of damage are excluded from benefiting from compensation proportionately to the extent to which the said damages can be apportioned to them. This compensation shall be paid by the authority which requested the declaration of constraint affecting the zone.

Damage affecting crops, cultivation, buildings and livestock (whether dead or alive), belonging to agricultural holdings are assessed within the framework of local protocols of agreement. Where these do not exist, damage is assessed in accordance with the provisions of Article L.361-10 of the Code rural.

X. - For a period of ten years beginning on the date of publication of the decree issued by the Préfet which declares the realisation of the works mentioned in VI or, if such works are not necessary, beginning on the date of publication of the decree issued by the Préfet declaring one or more of the constraints mentioned in I, the owner of a plot of land which is the object of one of these constraints may demand its partial or total acquisition by the local authority which has requested the declaration of constraint.

This right of abandonment is exercised in accordance with the provisions of Articles L. 230-1 and in compliance with the Code de l'Urbanisme. The owner may, at the same time, demand partial or total acquisition of other plots of land if the existence of the constraint compromises their use or operation in conditions similar to those existing before the declaration of the constraint.

XI. - In the zones mentioned in II, the communes or public institutions cooperating between communes may declare a right of pre-emption under the conditions defined Article L. 211-1 of the Code de l'Urbanisme. They may delegate this right to the local authority having requested the declaration of constraint.

XII. - A Conseil d'Etat decree determines the conditions of application of the present Article.

Article L211-13

(Act no. 2003-699 of 30 July 2003 Article 53 of the Official Journal of 31 July 2003)
(Act no. 2005-157 of 23 February 2005 Article 132 V, VI, VII, VIII Official Journal of 24 February 2005)

I. - Notwithstanding any other provisions to the contrary, the State, the local authorities or their groupings which have acquired land located in temporary flood and surface run-off water storage areas or in mobility zones as defined in Article 211-12 of the present Code may, on the drawing-up or renewal of rural leases defined in Title I of Book IV of the Code rural referring to this land, prescribe methods of ground use to the acquirer in order to prevent flooding or to avoid the aggravation of potential damage.

I bis. - Notwithstanding any other provisions to the contrary, the State, the local authorities or their groupings which have acquired land located in strategic zones for water management mentioned in article L. 211-12 may, on the drawing-up or renewal of the rural leases defined in Title I of Book IV of the Code rural referring to this land, prescribe methods of ground use to the acquirer in order to preserve or restore the land's nature or role.

II. - Notwithstanding Title I of Book IV of the Code rural, the administrative tribunal alone is competent to settle disputes over leases drawn up or renewed under Title I and I bis.

Article L211-1-1

(Inserted by Law no. 2005-157 of 23 February 2005 Article 127 II Official Journal of 24 February 2005)

The protection and the sustainable management of the wetlands defined in article L. 211-1 are of public interest. National, regional and local policies for the development of rural territories and the allocation of public aid take account of the particular difficulties of conserving, operating and ensuring the sustainable management of wetlands and of their contribution to the policies for the protection of biological diversity, the landscape, water resource management and the prevention of flooding, notably by means of adapted agriculture, extensive farming, forestry management, hunting, fishing, and tourism. For this purpose, the State and its public establishments, the regions, the départements, the communes and their groupings ensure, each in its own area of competence, that the various public policies on these territories are consistent. For the application of X of article L. 212-1, the State makes sure that this consistency is taken into account in the water development and management schemes.

CHAPTER II Planning	Articles L212-1 to L212-7
SECTION I Water management master plans	Articles L212-1 to L212-2-3

Article L212-1

(Act no. 2004-338 of 21 April 2004 Article 2 Official Journal of 22 April 2004)
(Act no. 2005-781 of 13 July 2005 Article 43 Official Journal of 14 July 2005)

I. - The administrative authority defines the basins or groups of basins, determining, where applicable, the groundwater masses and the inland and territorial maritime waters attached to them.

II. - The competent water basin agency proceeds, in each basin or group of basins:

1 To the analysis of its characteristics and the impact of activities on the status of the waters, as well as an economic analysis of water uses; these analyses are re-examined periodically;

2 To the drawing-up and regular updating of one or more registers listing:

- the zones subject to particular legislative or regulatory provisions enforcing specific European Community legislation relating to the protection of surface water and groundwater or the conservation of habitats or species directly dependent on water;

- the current or future water catchment areas destined for drinking water supply.

III. - Each basin or group of basins has one or more water management master plans setting the fundamental guidelines for balanced water management as provided in article L. 211-1 and the objectives in terms of quality and quantity of water. The plan takes into account the evaluation by geographical zone of the hydroelectric potential established in application of article 6 of Law no. 2000-108 of 10 February 2000 relating to the modernisation and development of the public electricity service.

IV. - The quality and quantity objectives set by the water management master plans correspond:

1 For surface water except for artificial water masses or those greatly modified by human activity, to a good ecological and chemical state;

2 For artificial surface water masses or those greatly modified by human activity, to a good ecological potential and a good chemical state;

3 For groundwater masses, to a good chemical state and a balance between abstractions and the renewal capacity of each of them;

4 To the prevention of the deterioration of the quality of water;

5 To the particular requirements defined for the zones described in 2 of II, notably in order to reduce the treatment required to produce water for human consumption.

V. - The objectives mentioned in IV must be achieved at the latest by 22 December 2015. However, if it appears

that, for technical or financial reasons or reasons relating to natural conditions, the objectives mentioned in 1, 2 and 3 of IV cannot be achieved within this period, the water management master plan may set longer deadlines, providing reasoning is given, without such postponements exceeding the period corresponding to two updates of the water management master plan.

VI. - When the achievement of the objectives mentioned in 1, 2 and 3 of IV is impossible or disproportionately expensive considering the expected benefits, derogatory objectives may be set by the water management master plan, with reasoning given.

VII. - Modifications to the physical characteristics of the waters or the exercise of new human activities may justify, under the conditions defined by the decree stipulated in XIII, reasoned derogations from the objectives mentioned in 1 to 4 of IV and in VI.

VIII. - The water management master plan indicates how the costs relating to the use of water are borne by the users, distinguishing as a minimum the industrial sector, the farming sector and domestic use. This data is updated when the master plan is updated.

IX. - The master plan determines the developments and necessary provisions to prevent deterioration and ensures the protection and improvement of the state of waters and aquatic environments, in order to achieve and respect the quality and quantity objectives mentioned in IV to VII.

X. - The water management master plan determines the inland and territorial maritime waters and the sub-basins or groups of sub-basins for which a water management scheme defined in article L. 212-3 is required in order to respect the fundamental guidelines and objectives set in application of the present article, and sets the period within which the water management scheme must be drawn up and revised. Failing this, the administrative authority decides upon the perimeter and time frame according to the methods provided for in article L. 212-3.

XI. - The programmes and administrative decisions in the domain of water must be compatible or made compatible with the provisions of the water management master plans.

XII. - In the cases of basins or groups of basins extending beyond the border, their delimitation provided for in I, the objectives mentioned in IV, and the developments and provisions described in IX are defined in coordination with the competent foreign authorities.

XIII. - A Conseil d'Etat decree sets the methods of application of the present article.

Article L212-2

(Act no. 2004-338 of 21 April 2004 Article 3 Official Journal of 22 April 2004)

I. - The competent water basin agency in each basin or group of basins draws up and updates the water management master plans and monitors their application.

II. - The water basin agency collects the observations of the public on the draft water management master plan.

It then submits the draft, modified if necessary to take account of the observations of the public, for the opinion of the Conseils Régionaux and Conseils Généraux, the public territorial establishments, and the consular chambers concerned. These opinions are considered to be favourable if they are not given within a period of four months after the transmission of the draft. The water basin agency may modify the draft to take the opinions given into account.

III. - The water management master plan is adopted by the water basin agency and approved by the administrative authority. It is held at the disposal of the public.

IV. - It is updated every six years.

V. A Conseil d'Etat decree specifies the methods of application of the present article. It sets the conditions under which the administrative authority replaces the water basin agency if it appears that the missions entrusted to it cannot be fulfilled within the periods stipulated, and sets the procedure for this purpose.

Article L212-2-1

(Inserted by Law no. 2004-338 of 21 April 2004 Article 4 Official Journal of 22 April 2004)

The administrative authority draws up and periodically updates, for each basin or group of basins, a several-year programme of measures contributing to the achievement of the objectives and provisions of the water management master plan. This programme and its updates are submitted to the water basin agency for its opinion.

Article L212-2-2

(Inserted by Law no. 2004-338 of 21 April 2004 Article 4 Official Journal of 22 April 2004)

The administrative authority draws up and periodically updates, for each basin or group of basins and after the opinion given by the water basin agency, a programme for the monitoring of the water status.

Article L212-2-3

(Inserted by Law no. 2004-338 of 21 April 2004 Article 4 Official Journal of 22 April 2004)

In the cases of basins or groups of basin extending beyond the border, the administrative authority draws up the programmes provided for in articles L. 212-2-1 and L. 212-2-2 in coordination with the competent foreign authorities.

SECTION II

Water management schemes — Articles L212-3 to L212-7

Article L212-3

In a sub-basin or group of water-basins corresponding to a hydrographic unit or to a aquifer system, a water management scheme determines the general objectives for the use, enhancement and quantitative and qualitative

protection of surface and underground water resources and of aquatic ecosystems as well as the protection of wetlands, in accordance with the principles set out in Article L. 211-1.

Its perimeter is determined by the water management scheme mentioned in Article L. 212-1; where this is absent, it is decided by the Préfet further to consultation with or based on proposals by the local authorities, further to consultation of the water basin agency.

Article L212-4

I. - For the development, the revision and the control of the application of the water management scheme, a local water committee is created by the Préfet.

II. - It is composed as follows:

1° One half of the committee consists of representatives of the local authorities and local public institutions who appoint the president of the committee.

2° One quarter consists of representatives of the users, local owners, professional organisations and associations concerned. These associations must have been legally declared for at least 5 years on the date of the creation of the committee and, by virtue of their Articles of association, entirely or partially protect the principles set out in Article 211-1;

3° One quarter consists of representatives of the State and of its public institutions.

Article L212-5

(Act no. 2005-781 of 13 July 2005 Article 43 Official Journal of 14 July 2005)

The Water Management Scheme reports on the state of water resources and of the aquatic environment. It catalogues the various ways in which existing water resources are used.

It takes account of guidelines and programmes provided by the State, local authorities and their groupings, mixed syndicates, public institutions, other public bodies as well as mixed investment companies and professional associations as approved under Order no. 2004-632 of 1st July 2004 relating to professional associations of owners having influence on the quality, distribution or use of water resources. The scheme also takes account of the evaluation by geographical zone of the hydroelectric potential established in application of I of article 6 of abovementioned Law no. 2000-108 of 10 February 2000.

It subsequently sets out the priorities to be taken into consideration in order to achieve the objectives defined in Article L.212-3, taking into account the protection of the natural aquatic environment, the need to enhance water resources, the foreseeable evolution of rural spaces, the urban and economic environment and the equilibrium which must be ensured between various uses of water. It evaluates the economic and financial means necessary for its implementation.

It may delimit, with a view to their protection or restoration, the wetlands known as "strategic zones for water management" located inside the wetlands defined in article L. 211-1 and contributing significantly to the protection of drinking water resources or the achievement of the objectives of the water management scheme in terms of the good state of the water. The methods for delimiting these strategic zones are defined by decree.

It must be compatible with the guidelines laid down by the master plan mentioned in Article L.212-1.

Article L212-6

(Act no. 2004-338 of 21 April 2004 Article 5 Official Journal of 22 April 2004)

The draft water management scheme is drawn up or revised by the local water commission, where applicable within the period set by the water management master plan in application of X of article L. 212-1. However, if the draft has not been drawn up or revised on expiry of this period, it may be drawn up or revised by the administrative authority. The draft is submitted for the opinion of the general councils (Conseils Généraux), the Regional Councils (Conseils Régionaux), the public territorial establishments of the basin, the consular chambers and the water basin agency concerned. The water basin agency ensures the harmonisation of the water management schemes falling within its competence.

The scheme is made public by the administrative authority with, as an annexe, the opinions of the bodies consulted. This file is made available to the public for a period of two months.

At the end of this period, the water management scheme, if necessary modified in order to take account of observations made by the public, the opinions of the communes, the general councils, the regional councils and the water basin agency, is approved by the administrative authority. It remains available to the public.

When the scheme has been approved, the decisions taken relating to water by the administrative authorities and applicable within the perimeter which it defines must be compatible or made compatible with this scheme. Any other administrative decisions must take account of the provisions of the scheme.

The local water commission has knowledge of works, documents or programmes falling within the perimeter of the water management scheme and decisions referred to in the previous paragraph.

Article L212-7

As and when required, the conditions of application of Articles 212-3 to L. 212-6 are determined by decree.

CHAPTER III
Administrative and financial structures — Articles L213-1 to L213-20

SECTION I
National Water Agency — Article L213-1

Article L213-1

The role of the National Water Agency is:

1° To give an opinion on the geographical areas surrounding the basins and groups of basins

2° To give an opinion on all national and major regional projects concerning the development and distribution of water;

3° To give an opinion on any problem common to two or more water basin committees or water administration authorities;

4° In general, to collect the necessary documentation and to formulate opinions on matter covered by chapters I to VII of the present Title.

SECTION II

Water basin agencies — Articles L213-2 to L213-4

Article L213-2

I. - A water basin agency is set up in each basin or group of basins. This agency is made up of:

1° Representatives of the regions and local authorities located wholly or partly in the basin;

2° Representatives of users and of competent persons;

3° Representatives appointed by the State, in particular from socio-professional groups.

II. - The representatives of the two former categories hold at least two thirds of the total number of seats.

III. - This organisation is consulted about the suitability of works and developments in the public interest envisaged in its area of jurisdiction, on disputes arising between the authorities or interested groups and more generally on any matters relating to chapters I to VII of the present Title.

IV. - A Conseil d'Etat decree determines the conditions of application of the present Article.

Article L213-3

In each water basin, the Préfet of the region where the water agency has its headquarters implements and coordinates state policy regarding the policing and management of water resources in order to ensure the unity and consistency of decentralised actions of the State in this domain in the various regions and départements concerned.

The decrees provided for in Article L 211-2 stipulate the conditions of intervention of the Préfet coordinating the basin, in particular those concerning the management of crisis situations, as well as all and any means required to fulfil the roles entrusted to him or her in accordance with chapters I to VII of the present Title.

Article L213-4

In each overseas département, a water basin committee, in addition to the jurisdiction conferred upon it under Article L. 213-2, is associated with the implementation of the administrative structures which prove necessary and, if appropriate, the development of adaptations intended to facilitate the enforcement within the départment of the provisions of chapters I to IV, VI and VII of the present Title.

SECTION III

Water administration authorities — Articles L213-5 to L213-7

Article L213-5

I. - In each basin or group of basins, a water administration authority, a public administrative institution endowed with civil status and financial autonomy, has the task of facilitating the various actions of public interest within the basin or group of basins.

II. -Each authority is overseen by a board comprising of:

1° A president appointed by decree;

2° Representatives of the regions and local authorities located wholly or partly in the basin;

3° Representatives of the users;

4° Representatives of the State and, where appropriate, qualified persons;

5° A representative of the staff of the authority

III. - The categories specified in 2°, 3° and 4° of II have an equal number of seats.

Article L213-6

(Act no. 2004-1485 of 30 December 2004 Article 121 II finance acts rectification for 2004 Official Journal of 31 December 2004)

(Act no. 2005-95 of 9 February 2005 Article 2 Official Journal of 10 February 2005)

(Act no. 2005-157 of 23 February 2005 Article 196 Official Journal of 24 February 2005)

The authority contributes, particularly through State funding, to the implementation of studies, research and works of public interest in the basins and to covering their operating costs.

The agency grants subsidies and refundable cash advances to public bodies and private organisations for work of public interest to be carried out in the basin or group of basins where this work is done directly by them and is of a nature which allows the water authority's financial costs to be reduced.

The authority allocates subsidies in capital to the local authorities and their groupings for the fulfilment of drinking water supply and sewerage works in the rural communes.

Respecting the international undertakings of France and in the framework of agreements submitted for the opinion of the water basin agency, the authority may conduct international cooperation actions in the domains of water and sewerage, within the limit of 1% of its resources, where applicable, and following the statutory laws in force for each category of personnel, with the assistance of its officers.

The several-year programme of the water authority takes into account the developments carried out by farmers in the mountainous zones for the prevention of water pollution in the basins located upstream from the current or future catchment areas destined for drinking water supply, as well as those defined as mountainous zones in the framework of concerted action programmes required to achieve the quality objectives defined by a water management scheme or by the water management master plan.

Article L213-7

A Conseil d'Etat decree sets the conditions of application of Articles 213-5 to L. 213-6.

SECTION IV

National Water Fund Article L213-8

Article L213-8

(Act no. 2002-1575 of 30 December 2002 Article 44 II Official Journal of 31 December 2002)

(Act no. 2003-1311 of 30 December 2003 Article 38 finance act for 2004 Official Journal of 31 December 2005)

As stated in Article 58 of the finance law of the year 2000 (Act no. 99-1172 of 30 December 1999) reproduced hereafter:

"I. - Repealed

II. - A water solidarity contribution has been set up since 1 January 2000, paid to the State by the water authorities; its amount is set each year by the finance law.

This contribution is paid to the Chief Accountant of the Treasury of the place where each water authority has its headquarters, in the form of a single payment to be made before 15 February of each year.

This contribution is collected in accordance with the provisions applied to State debts not concerning taxation, property, fines or other financial penalties.

The amount of the water solidarity contribution is entered as compulsory expenditure in the initial budget of the water authorities."

SECTION V

Local water committees Article L213-9

Article L213-9

In order to facilitate the achievement of objectives set out in a water management scheme, the local authorities concerned and their groups exercising all or part of their jurisdiction detailed in Article L. 211-7 may combine to form a local water committee.

This public institution is composed and operates in accordance with the provisions governing one of the public institutions mentioned in titles I and II and in books IV and VII of the fifth part of the Code général des collectivités territoriales.

The associations and syndicates of bodies having activities relating to water may be associated with its work, in a consultative capacity.

Within the scope of its intervention, the local water committee may exercise all or part of the jurisdiction detailed in Article L. 211-7.

It draws up and adopts a multi-annual intervention programme, having first obtained the assent of the local water committee.

The conditions of application of the present Article are set by decree.

SECTION VI

Organisations acting in the capacity of the developer Article L213-10

Article L213-10

(Act no. 2003-699 of 30 July 2003 Article 46 Official Journal of 31 July 2003)

(Act no. 2005-157 of 23 February 2005 Article 136 II Official Journal of 24 February 2005)

In order to facilitate, at the level of a hydrographic basin or sub-basin, flood prevention and balanced water resource management, as well as the protection and management of wetlands, the local authorities concerned and their groupings can combine to form an établissement public territorial de bassin (local water-basin public institution).

This public institution is composed and operates, depending on each case, in accordance with the provisions of the Code Général des Collectivités Territoriales governing institutions set up in application of Articles L. 5421-1 to L. 5421-6 or Articles L. 5721-1 to L. 5721-8 of the same Code.

The Préfet coordinating the basin sets the scope of intervention of this public institution by decree and further to an opinion from the water basin committee and local authorities concerned and, where appropriate, after obtaining the opinion of the local water committee.

The conditions of application of the present Article are set by a Conseil d'Etat decree.

SECTION VII

Article L213-13

(Inserted by Act no. 2003-660 of 21 July 2003 Article 54 I, II Official Journal of 22 July 2003)

I. - A water office is set up in each overseas département. It is a local public institution operating in an administrative capacity, and attached to the département.

In liaison with the water-basin committee, and in accordance with the principles of the management of resources and natural environments as defined in Article L. 110-1, the water office is responsible for facilitating the various actions of general public interest in the field of water management and aquatic environment management. Without prejudice to the jurisdiction granted to the State and to local authorities, it performs the following tasks:

a) The study and supervision of water resources, aquatic environments and coastlines as well as the uses thereof;

b) Advice and technical assistance to developers, training and information in the field of water management and aquatic environment management.

c) On a proposal by the water-basin committee, the scheduling and funding of actions and works.

II. - The water office is governed by a board comprising:

1° Representatives of the region, the département, the communes, as well as public institutions of inter-commune cooperation or mixed syndicates having jurisdiction in the domain of water;

2° Representatives of State services in the département

3° Representatives of users and socio-professional groups

4° Representatives of approved consumer and environmental protection associations;

5° Qualified persons in the domain of water, aquatic environments and coastlines.

The members designated in 1° represent at least 50% of the board.

A representative of the personnel sits on the board with a consultative vote.

The office is presided over by the president of the Conseil Général.

The director of the office is appointed, further to the opinion of the Préfet, by decision of the president of the Conseil Général.

The Préfet exercises the functions of commissioner of the government within the water office.

III. - The personnel of the office is recruited and managed within the framework of the legislative and regulatory provisions applicable to the local civil service.

IV. - The resources of the office come from:

1° Water taxes, following a proposal by the water-basin committee and in the framework of a multi-annual intervention programme:

2° Fees for services rendered;

3° Subsidies

4° Financial resources provided for by the laws and regulations in force.

Legal and budgetary control of the actions of the office is carried out in accordance with the provisions of Article 3241-1 of the Code général des collectivités territoriales.

Article L213-14

(Inserted by Act no. 2003-660 of 21 July 2003 Article 54 I, III Official Journal of 22 July 2003)

I. - In cases where the water-basin committee entrusts the water office, in accordance with the provisions of c of I of Article L. 213-13, with the scheduling and funding of actions and works, the water office decides on a multi-annual intervention programme which determines the scope and conditions of its intervention and forecasting the amount of expenditure and revenue necessary for its implementation.

II. - Following a proposal by the water-basin committee and within the framework of the multi-annual programme mentioned above, the office sets and receives water tax from persons or bodies using water drawn from the natural environment. The tax is calculated by applying a rate based on the purpose for which the water is drawn, to the volume of water used.

III. - In cases where it is set, the water tax is calculated according to the volume of water taken from the natural environment in the course of a year. It is payable by the person or body having drawn the water. The obligations of declaration to which those who draw water from the natural environment are subject, are set by decree.

IV. - The rate of water taxes is set by a decision of the board of the water office after having obtained the assent of the water-basin committee, within the following limits:

- for water drawn for use as drinking water supply: between 0.5 euro cents per cubic metre and 5 euro cents per cubic metre:

- for water drawn for irrigation of farmland: between 0.1 euro cents per cubic metre and 0.5 euro cents per cubic metre:

- for water drawn for other economic activities: between 0.25 euro cents per cubic metre and 2.5 euro cents per cubic metre:

When the water is drawn for a variety of purposes, the water tax is calculated proportionately to the volumes used for each purpose.

When the water drawn is intended for public distribution, the bodies drawing the water must share the cost of the water tax equally among the consumers.

V. - The following are exempt from this water tax:

1° Water drawn from the sea;

2° Mine drainage water, as well as water which it has become necessary to draw in order to allow underground works, insofar as the water drawn is not used directly for domestic, industrial or agricultural purposes;

3° Water drawn for purposes linked to fish-farming

4° Water drawn in order to re-supply natural environments

5° Water drawn for fire-fighting purposes

6° Water drawn for purposes of the production of renewable energies

7° Underground water drawn during drainage carried out in order to keep buildings or works dry.

VI. - The tax is not due if the volume of water drawn is less than 50 000 cubic metres per year.

VII. - In the absence of measurement of volumes drawn, the tax is calculated on an estimated volume depending on the activity.

The value of the estimated volumes specific to the activity is determined under conditions set by decree, after having obtained the opinion of the national water committee.

Article L213-15

(Inserted by Act no. 2003-660 of 21 July 2003 Article 54 I, III Official Journal of 22 July 2003)

I. - The water office may inspect all of the elements allowing the verification of the water tax base. Inspection may be carried out on the basis of documents, and on site.

II. - The office may request the necessary documents to be produced as well as any other useful justification in order to verify the volume of water drawn.

III. - Inspection on site is carried out under the responsibility of the employees of the water office, empowered by its director. The office informs the payer that, during the inspections, he or she may have the assistance of an advisor of his or her choice.

IV. - The office informs the payer of the results of the inspection.

V. - The conditions of application of the present Article are set by decree.

Article L213-16

(Inserted by Act no. 2003-660 of 21 July 2003 Article 54 I, III Official Journal of 22 July 2003)

I. - The office has rights of communication allowing it to obtain knowledge, or if necessary, copies of documents held by third parties in order to them for the purposes of tax assessment or water tax inspection.

II. - State administrative bodies, local authorities, state-owned enterprises, as well as establishments or organisations of any kind under the control of administrative authority, must provide the office, on its request, with the service documents in their possession which are necessary for assessment and inspection purposes without being able to cite professional secrecy.

III. - The professional secrecy obligation as defined in Article 226-13 of the Code pénal applies to any persons required in the course of their duties or responsibilities to intervene in the tasks of assessment, inspection, collection or litigations in connection with these taxes.

Article L213-17

(Inserted by Act no. 2003-660 of 21 July 2003 Article 54 I, III Official Journal of 22 July 2003)

I. - As a matter of regular procedure, taxes are automatically due by persons:

1° Who have not produced a declaration of the elements necessary for their calculation on the date determined in application of Article L. 213-14, after a period of thirty days following a preliminary formal notification made to them by the office:

2° Who have failed to reply to requests for information, justifications or clarifications presented on the basis of Article L.213-15;

3° Who have refused to submit to inspections or have obstructed the course of such inspections.

II. - In the case of automatic taxation ex officio, extra charges faced by the taxpayer are subject to a penalty increase of 10%.

III. - In the case of automatic taxation ex officio, the taxpayer is informed of the bases or elements used in calculating the taxes at least thirty days before a collection notice is issued, specifying the terms and conditions used to determine these bases and elements and the amount of tax due, as well as the possibility for the taxpayer to present his or her observations within the same period.

This notice interrupts prescription.

Article L213-18

(Inserted by Act no. 2003-660 of 21 July Article 54 I, III Official Journal of 22 July 2003)

Total or partial omissions observed in the basis of assessment of water taxes, insufficiencies, inaccuracies or errors of taxation may be corrected by the office up to the end of the third year following that during which the water tax is due.

Article L213-19

(Inserted by Act no. 2003-660 of 21 July 2003 Article 54 I, III Official Journal of 22 July 2003)

The office may pronounce, ex officio, on a tax allowance or rebate of taxes and penalties which were not due.

The office may grant full or partial rebates of taxes and penalties following a reasoned request by the taxpayer.

Article L213-20

(Inserted by Act no. 2003-660 of 21 July 2003 Article 54 I, III Official Journal of 22 July 2003)

The director of the office determines and makes enforceable the revenue orders relating to the water tax.

The tax is collected by the accountant of the water office in the same way as for direct contributions.

The collection date is the starting point of time periods referred to in the present Article.

The due payment date is set as being the last day of the month following the date of issue of the collection notice.

The payment deadline is set as being the 15th day of the second month following the date of issue of the collection notice. If payment is not received by this date, the amount due is increased by 10%.

Water taxes or surcharges of less than 100 euros are not collected.

CHAPTER IV

Activities, installations and use — Articles L214-1 to L214-16

SECTION I

Authorisation or declaration policies — Articles L214-1 to L214-7-1

Article L214-1

(Order no. 2005-805 of 18 July 2005 Article 1 Official Journal of 19 July 2005)

The following are subject to the provisions of Articles L. 214-2 to 214-6: installations not appearing in the nomenclature of classified facilities, structures, works and activities carried out for non-domestic purposes by any person or body, public or private, and resulting in the drawing of surface or underground water, whether returned or not, or in a change in the level or method of flow of water or discharges, the destruction of spawning grounds, zones for the growth or feeding of pisciculture fauna, runoff, direct or indirect discharges or deposits, chronic or periodic, even if these are not pollutant.

Article L214-2

(Order no. 2005-805 of 18 July 2005 Article 2 Official Journal of 19 July 2005)

The installations, structures, works and activities referred to in L. 214-1 are defined in a nomenclature, determined by a Conseil d'Etat decree after having obtained the opinion of the national water committee, and subject to authorisation or declaration depending on the level of risk they represent and the seriousness of their effects on water resources and aquatic ecosystems, bearing in mind, notably, the existence of the zones and perimeters established for the protection of water and aquatic environments.

This decree also defines the criteria of domestic use, and particularly the volume of water below which the use of water is considered domestic, as well as other uses whose impact on the aquatic environment is too weak to justify their being subject to authorisation or declaration.

Article L214-3

(Order no. 2005-805 of 18 July 2005 Article 3 Official Journal of 19 July 2005)

I. - The following are subject to authorisation by the administrative authorities: installations, structures, works and activities likely to represent a threat to public health and safety, to have an adverse effect on the free flow of water, to reduce water resources, to increase the risk of flooding noticeably, to cause serious damage to the quality or diversity of the aquatic environment, notably to pisciculture populations.

The prescriptions necessary for the protection of the interests mentioned in Article L. 211-1, the means of supervision, the terms and conditions of technical inspections and the means of intervention in the event of an incident or accident are set by an authorisation ruling and potentially by complementary documents drawn up after this authorisation.

II. - The following are subject to declaration: installations, structures, works and activities which, even if they are not likely to represent such a risk, must nevertheless respect the prescriptions set out in application of Articles L. 211-2 and L 211-3.

Within a period set by a Conseil d'Etat decree, the administrative authority may oppose the projected operation if it appears that it is incompatible with the provisions of the water management master plan or the water management scheme, or causes harm to the interests mentioned in article L. 211-1 to such an extent that no prescription may remedy it. The works may not commence until this period has expired.

If respect of the principles mentioned in Article L 211-1 is not guaranteed by the implementation of the prescriptions enacted in application of articles L. 211-2 and L. 211-3, the administrative authority may, at any moment, impose, by decree, any specific prescriptions necessary.

III. - The conditions under which the prescriptions referred to in I and II are established, modified and communicated to third parties, are set by decree.

IV. - A Conseil d'Etat decree sets the conditions under which several requests for authorisation and declaration relating to connected operations or those of the same activity may by subject to a joint procedure.

Article L214-4

(Act no. 2005-781 of 13 July 2005 Article 43 Official Journal of 14 July 2005)

I. - Authorisation is granted after a public enquiry and, where appropriate, for a fixed period of time. The conditions under which the renewal of authorisations and the authorisation of works, installations or activities of a temporary nature and not having a significant and lasting effect on the natural environment may be granted without a preliminary public enquiry are set by decree.

II. - The authorisation may be withdrawn or modified, without compensation by the State exercising its legal powers,

in the following cases:

1° In the interest of public health, and in particular when this withdrawal or modification is necessary for the supply of drinking water to the population:

2° To prevent or halt flooding or in the event of a threat to public safety;

3° In the event of a major threat to the aquatic environment, and particularly when aquatic environments are subject to hydraulic conditions which are incompatible with their conservation.

4° In cases where structures or installations are abandoned or are no longer regularly maintained

III. Justification of any refusal, withdrawal or modification of authorisation must be provided to the applicant.

IV. A decree sets the conditions under which the authorisations of works or activities of a temporary or periodic nature and not having a major, lasting effect on the natural environment are granted, without a preliminary public enquiry, to authorised hydroelectricity companies which make this request for the duration of the title. The provisions of the decrees in force on the date of publication of Law no. 2005-781 of 13 July 2005 relating to programmes and setting the guidelines for energy policy, will be repealed if they do not conform to the provisions of the decree described above.

Article L214-5

The regulations relating to water for hydroelectric firms fall jointly under Article 10 of the Law of 16 October 1919 relating to the use of hydraulic energy and Articles l. 214-1 to L. 214-6.

These regulations may be subject to modifications, without affecting, however, the overall balance of the concession.

Article L214-6

(Order no. 2005-805 of 18 July 2005 Article 3 Official Journal of 19 July 2005)

I. - In all cases, the rights of third parties are and remain reserved.

II. - Installations, structures and activities declared or authorised in application of legislation or regulations relating to water prior to 4 January 1992 are considered as declared or authorised in application of the provisions of the present section. The same is true of installations and structures benefiting from a right granted by deed.

III. - Installations, structures and activities which, not entering into the field of application of II, have, from 4 January 1992, by virtue of the nomenclature provided by article L. 214-2, been subject to an obligation of declaration or authorisation which has not been satisfied, may continue to operate if the operator or, failing this, the owner, has provided the administrative authority with the information stipulated by article 41 of Decree no.93-742 of 29 March 1993, at the latest by 31 December 2006.

However, if it appears that the operation of these installations and structures or the continuation of these activities presents a risk of serious harm to the interests mentioned in article L.211-1, the administrative authority may demand a declaration or a request for authorisation.

IV. - Installations, structures, activities or works which, after being properly commissioned or undertaken, are to be subject to declaration or authorisation by virtue of a modification of the nomenclature provided for in article L. 214-2, may continue to operate if the operator, or failing this the owner, has made itself known to the administrative authority, or if it makes itself known within a period of one year from the date on which the new obligation has been established.

The information that must be provided to the administrative authority and the measures that the authority may impose in order to safeguard the interests mentioned in article L. 211-1 are specified by a Conseil d'Etat decree.

V. - The provisions of II and III apply subject to rulings having the force of res judicata made before the date of publication of Order no. 2005-805 of 18 July 2005.

VI. - The installations, structures and activities described by II, III and IV are subject to the provisions of the present section.

Article L214-7

The installations subject to authorisation or declaration in application of Title I of Book V are subject to the provisions of Articles L. 211-1, L. 212-1 to L. 212-7, L. 214-8, L. 216-6 and L. 216-13. Individual and regulatory measures for the application of Title I of Book V set the rules applicable to classified facilities having an impact on the aquatic environment, notably with regard to their discharges and consumption.

Article L214-8

Installations subject to authorisation or declaration in accordance with Articles 214-1 to 214-6 allowing surface water to be drawn for non-domestic purposes or discharges, as well as any underground pumping installation, must be equipped with appropriate means of measurement or evaluation.

Their operators or, in the absence of operators, their owners, must implement the fitting and operation, keep the corresponding data for three years, and hold the data at the disposal of the administrative authority as well as of public bodies, a list of which is set by decree.

Existing installations must have been brought into compliance with the provisions of the present Article within a period of five years from the 4th of January 1992.

The provisions of this Article also apply to classified facilities in application of Title I of Book V.

Article L214-9

I. - In cases where hydraulic development works, other than those permitted or authorised in application of the aforementioned Law of 16 October 1919, have as their purpose or consequence the regulation of the flow of a non-national waterway or the increase of its flow during the low water period, all or part of the artificial flow may be assigned, by virtue of a declaration of public interest, for a section of the aforementioned waterway and for a fixed period

of time, to certain purposes, without prejudice to the application of Article L. 211-8.

II. - The declaration of public interest is considered to be an authorisation in accordance with the present sub-section and set, under the conditions provided for by decree, as well as the prescriptions relating to its installation and operation:

1° An assigned flow, determined in consideration of the resources available at different times of year and attributed as a priority to the beneficiary of the declaration of public interest;

2° The prescriptions judged necessary in order to ensure the passage of all or part of the assigned flow in the section in question, in the most rational and least damaging conditions for the other users of the aforementioned waterway and with all due respect for aquatic ecosystems.

III. - The provisions of the present Article are also applicable to hydraulic redevelopment works authorised before 4 January 1992.

Article L214-10

The decisions made in application of L. 214-1 to L. 214-6 and L. 214-8 may be deferred to the administrative courts under the conditions provided for by Article L 514-6.

Article L214-11

The conditions under which the spreading of agricultural effluent may be authorised are set by decree.

Article L214-7-1

(Inserted by Law no. 2005-157 of 23 February 2005 Article 127 III Official Journal of 24 February 2005)

When the Préfet considers it necessary for the application of articles L. 214-1 and L. 214-7, he or she may proceed to the delimitation of all or part of the wetlands defined in article L. 211-1, in coordination with the local authorities and their groupings.

A Conseil d'Etat decree sets the conditions of application of the present article.

SECTION II

Use of vessels and boating craft — Articles L214-12 to L214-13

Article L214-12

In the absence of an approved water management scheme, the use of non-motorised leisure vessels is permitted within the laws and regulations of the police and the rights of local residents.

The Préfet may, after consultation with the parties concerned, regulate on non-national waterways or sections of non-national waterway, the use of non-motorised leisure vessels or the practice of tourism, leisure and water sports in order to safeguard the principles mentioned in Article L. 211-1.

The civil liability of local residents on non-national waterways may only be engaged with regard to damage caused or suffered as a result of the use of non-motorised leisure vessels or the practice of tourism, leisure and water sports in the event of wrongful acts by such local residents.

Article L214-13

The use of motorised vessels on a non-national waterway, or on a section of such waterway may be prohibited or regulated by decree of the Préfet, after having obtained the opinion of the department responsible for the policing of the waterway, either for safety or health reasons, or at the request of a local resident where this use results in serious disturbance to the enjoyment of the rights of the local resident.

SECTION III

Wastewater disposal — Article L214-14

Article L214-14

The provisions relating to wastewater disposal are set out in the Code de la santé public (part 1, Book III, Title III, Chapter I, Articles L. 1331-1 to L. 1331-16) and in the Code général des collectivités territoriales (part 2, Book II, Title II, Chapter IV, sections 1 and 2).

SECTION IV

The price of water — Articles L214-15 to L214-16

Article L214-15

(Act no. 2002-92 of 22 January 2002 Article 27 Official Journal of 23 January 2002)

All water bills include an amount calculated according to the volume actually consumed by the subscriber to a water distribution service, and may, moreover, include an amount calculated independently of this volume, in consideration of the service's fixed charges and the characteristics of the consumer supply line.

However, the Préfet may exceptionally, under the conditions set by a Conseil d'Etat decree, at the request of the Mayor or the president of the public institution of inter-commune cooperation or of the presidents of the mixed syndicates referred to in Article L 5721-2 of the Code général des collectivités territoriales having competence for the distribution of water, if water resources are naturally abundant, and if the number of users connected to the network is sufficiently low, or if the commune usually experiences large variations in the size of its population, authorise the implementation of pricing which does not relate in direct proportion to the total volume consumed.

In Corsica, the implementation of the pricing policy provided for by the previous paragraph is authorised, according to the same conditions, by the Assemblée de Corse, at the request of the Mayor, of the president of the public institution of inter-commune cooperation or of the president of the competent mixed syndicate.

Article L214-16

Article L. 214-15 does not apply to the local authority of Saint-Pierre-et-Miquelon.

CHAPTER V

Provisions specific to non-national waterways — Articles L215-1 to L215-24

SECTION I

The rights of local residents — Articles L215-1 to L215-6

Article L215-1

Local residents may use running water which flows past or through their property only within the limits defined by law. In exercising this right they must comply with the provisions of the regulations and authorisations issued by the administration.

Article L215-2

The beds of non-national waterways belong to the owners of the two banks.

If the two banks belong to different owners, each owns half of the bed, along a line supposed drawn in the centre of the waterway, unless otherwise stipulated.

Each local resident has the right to remove from the part of the bed belonging to him or her, all natural products, and to remove sand and stones from the silt, on condition that this does not modify the water behaviour and that the resident clears the waterway in compliance with the regulations set by Articles L. 215-14 to 215-24.

The rights acquired by local residents or other concerned persons or bodies with regard to parts of the waterway used for purposes of access to their property are and remain reserved.

Article L215-3

Where the waterway is disused, either due to natural reasons or further to works legally carried out, each local resident may freely reclaim the use of it within the limits defined by the previous Article.

Article L215-4

Where the course of a non-national waterway changes naturally, the owners of the land upon which the waterway establishes its new bed must accept the passage of this water without compensation; they may however, in the year following the change of course, take measures to re-establish the former course of the waterway.

Resident owners of the abandoned bed enjoy the same faculty and may, within a period of one year, carry out the works necessary to re-establish the original course.

Article L215-5

Where, after work legally ordered, it is necessary to widen the bed or open a new bed, the owners of the occupied land will receive compensation for the resulting right of way.

In determining this compensation, the respective locations of each resident relative to the axis of the new bed are taken into account, and the boundaries of the properties remaining determined in accordance with the provisions of the second paragraph of Article L. 215-2, unless stipulated otherwise.

Buildings, courtyards and gardens adjoining dwellings are exempt from the right of way.

Litigations giving rise to the application of the second paragraph of the present Article and the settlement of compensation are decided by the tribunal d'instance.

Article L215-6

Ownership of alluviums, water-relays, aggradations, isles and islands which form in non-national waterways is and remains regulated by the provisions of Articles 556, 557, 559, 561 and 562 of the Code civil.

SECTION II

Policing and conservation of waters — Articles L215-7 to L215-13

Article L215-7

The administrative authority is responsible for the conservation and the policing of non-national waterways. It takes all measures necessary in order to ensure the free flow of water.

In all cases, the rights of third parties are and remain reserved.

Article L215-8

The general regime of these waterways is determined, if appropriate, in such a way as to reconcile the interests of the various categories of water users with all due respect to the property and for existing rights and practices, after public interest enquiry, by decision of the minister responsible for the waterway or section of the waterway.

Article L215-9

The resident owner of a non-national waterway may only carry out works above or adjoining this waterway on condition that these works do not compromise water flow or cause any damage whatsoever to neighbouring property.

Article L215-10

I. - The authorisations or permits granted for the creation of structures or factories on non-national waterways may be revoked or modified without compensation from the State exercising its legal powers in the following cases:

1° In the interests of public health, and notably when the revocation or modification is necessary for the supply of drinking water of population centres, or is the consequence thereof;

2° In order to prevent or halt floods:

3° In cases covered by the general regulations provided for in Article L. 215-8;

4° When they concern structures establishing or regulating the water plan or establishments or factories which, as of 30 March 1993, have not been maintained for more than twenty years; any public authority or institution concerned may, in the event of default by the person or body holding the permission or authorisation, and in their place, after a demand issued by the Préfet, carry out works which are the consequence of the revocation or modification of the permit or authorisation, and pursue, against the holder of the permit or authorisation, the reimbursement of these works;

5° For environmental protection purposes, and in particular when these authorisations subject natural aquatic environments to critical hydraulic conditions which are not compatible with their conservation under the terms and conditions set by a Conseil d'Etat decree.

II. - The provisions of I are applicable to permits or authorisations granted in accordance with Articles L. 214-1 to 214-6, or before these provisions came into force, as well as to legally declared establishments and to companies authorised under the terms of Title III of the Law of 16 October 1919 relating to the use of hydraulic energy.

III. - The conditions of application of 4° of I are set by a Conseil d'Etat decree.

Article L215-11

The owners or operators of mills and factories, even if they are authorised or are legally declared, are liable for degradation caused to pathways and property.

Article L215-12

Mayors can, by authority of the Préfet, take all necessary measures in order to ensure the supervision of waterways.

Article L215-13

The deviation of the waters of a non-national waterway, of an underground spring, undertaken for reasons of public interest by a public authority or its representative, by a syndicate or by any other public institution, is authorised by an act declaring the works of public interest.

SECTION III
Clearing, maintenance, widening and straightening — Articles L215-14 to L215-24

Subsection 1
Clearing and maintenance — Articles L215-14 to L215-19

Article L215-14

Without prejudice to Articles 556 and 557 of the Code civil and the provisions of chapters I, II, IV, VI and VII of the present Title, the resident owner is obliged to clear the waterway regularly in order to re-establish its natural width and depth, to maintain the bank by pruning and coppicing of the vegetation, to remove obstructions and debris and to conserve the fauna and flora in order to respect the correct functioning of aquatic ecosystems.

Article L215-15

Clearing and maintenance of non-national waterways as well as associated structures is carried out in accordance with existing regulations or local practices.

However, resident landowners are obliged to have cleared matter on their land only if their composition is not incompatible with the protection of the soil and water, in particular with regard to heavy metals and other toxic elements they may contain.

The Préfets are responsible, under the authority of the competent minister, for taking the measures necessary to implement these regulations and practices.

Article L215-16

Where there are no existing regulations or local practices, the provisions regulating the syndicates are applied.

When it appears necessary to create a group of syndicates, whether they are authorised or created ex officio, in order to ensure proper care either of the basin to which a non-national waterway belongs, or a part of this basin, or merely of the waterway itself, or a section of the waterway, a syndicate of the various associations may be created ex officio under the conditions set by a Conseil d'Etat decree notwithstanding the absence of unanimous consent of the associations concerned.

The present Article is applied without prejudice to the provisions of Article L. 211-7

Article L215-17

In all cases, the roles for the distribution of sums necessary for the payment of clearing or maintenance work on structures are defined under the supervision of the Préfet and rendered enforceable by the Préfet.

Collection is carried out in the same ways and with the same guarantees as for direct contributions.

The prerogative thus created is ranked immediately after that of the Public Treasury.

Article L215-18

All litigations relating to the implementation of work, to the distribution of expenditure and to applications for reduction or discharge formulated by taxpayers are brought before the administrative courts.

Article L215-19

(Act no. 2003-699 of 30 July 2003 Article 58 Official Journal of 31 July 2003)

For the duration of the works, landowners must allow civil servants and employees, companies and workers, as well as the machinery strictly necessary for the implementation of the works to have free passage over their land, to a maximum width of six metres.

Developed land or land enclosed by walls as of 3 February 1995 as well as courtyards and gardens adjoining dwellings are exempt from right of passage with regard to machinery.

As far as is possible, this right is exercised along the bank of the waterway, with due respect for existing trees and plantations.

Subsection 2
Widening, regularisation and straightening — Article L215-20

Article L215-20

Without prejudice to the provisions of Articles L. 214-1 to 214-9, the implementation of widening, regularisation or straightening of non-national waterways is conducted in accordance with Articles L. 215-16 to L. 215-18.

Subsection 3
Common provisions — Articles L215-21 to L215-24

Article L215-21

I. - A multi-annual programme of maintenance and management, known as a plan simple de gestion (basic management plan), may be submitted to the Préfet for approval by any landowner residing along a non-national waterway or any syndicate of resident landowners.

II. - The benefit of aid provided by the State and its public institutions relating to clearing, maintenance and the restoration of waterways is granted in priority to landowners who draw up or subscribe to a plan simple de gestion.

III - The Préfet grants approval after obtaining the opinion, where appropriate, of the local water committee set up in accordance with Article L. 212-4.

IV. - The plan comprises:

1° A description of the initial condition of the waterway, of its bed, its banks, and the flora and fauna;

2° An annual programme of clearing and maintenance work, and, if necessary, a programme of restoration work, specifying, in particular, the techniques used and the consequences for the environment.

3° A funding plan for maintenance, management, and, if appropriate, restoration works.

V. - The plan is valid for a period of five years, potentially renewable.

Article L215-22

If the works of clearing, maintenance, widening, regularisation and straightening are related to issues of public health, the act which makes them compulsory may, after an assessment by the Conseil Général concerned, make part of the expenditure payable by the communes whose territory has been sanitised.

In this case, the same act determines which are the communes concerned, and determines the proportion of the expenditure to be borne by each.

Article L215-23

Landowners residing along disused irrigation canals of which the ownership has reverted from the authorised syndicates to the landowners, must maintain their function of providing flow for rain water.

Article L215-24

The conditions of application of the present section are set, wherever possible, by a Conseil d'Etat decree.

CHAPTER VI
Sanctions — Articles L216-1 to L216-13

SECTION I
Administrative sanctions — Articles L216-1 to L216-2

Article L216-1

(Act no. 2005-157 of 23 February 2005 Article 132 IX Official Journal of 24 February 2005)

I. - Independently of legal proceedings, in the event of failure to observe the provisions set out in Articles L. 211-2, L. 211-3, L. 211-5, L. 211-7, L. 214-1 to L. 214-9, L. 214-11 and L. 214-12 or the regulations and individual rulings made in order to enforce these Articles, the Préfet issues demands that they be satisfied within a fixed period of time.

II. - If, at the end of the defined period, the operator or, in the absence of an operator, the owner of the installation has not complied with this injunction, the Préfet may:

1° Oblige him or her to deposit with a public accountant a sum equivalent to the estimated cost of the works to be carried out, which will be returned progressively as and when the work is carried out; this sum is recovered, where appropriate, according to the same principles as for state debts not affected by tax and property,

2° Order the implementation of the stipulated measures ex officio, without prejudice to Article 211-5, at the expense of the person concerned. The sums deposited in accordance with the provisions laid out above may be used to settle expenditure resulting from the official implementation.

3° Suspend, where appropriate, the authorisation pending the implementation of the conditions imposed.

Article L216-2

Decisions taken in application of Article L. 216-1 may be deferred to the administrative courts in accordance with Article L. 514-6.

SECTION II Criminal provisions	Articles L216-3 to L216-13
Subsection 1 Investigation of offences	Articles L216-3 to L216-5

Article L216-3

(Act no. 2003-591 of 2 July 2003 Article 31 III 3° Official Journal of 3 July 2003)
(Act no. 2005-157 of 23 February 2005 Article 132 IX Official Journal of 24 February 2005)

I. - The following are responsible for the identification and investigation of infringements of Articles L. 211-2, L. 211-3, L. 211-5, L. 211-7, L. 211-12, L. 214-1 to L. 214-9, L. 214-11 to L. 214-13, L. 216-6 to L. 216-8 and L. 216-10 to L. 216-12, in addition to the enactments and decisions for their application:

1° The civil servants and sworn agents, commissioned for this purpose under the conditions set out by a Conseil d'Etat decree, belonging to the State departments responsible for the environment, agriculture, industry, town and country planning, transport, the sea, health, defence, competition, consumer protection and the repression of fraud;

2° The agents mentioned in Article L. 514-5;

3° The engineers and technicians of the laboratoire central and health inspectors form the préfecture de police;

4° Customs officers

5° The civil servants and agents, sworn and commissioned for this purpose from the National Hunting and Wildlife office

6° Researchers, engineers and technicians, sworn agents of the Institut français de recherche pour l'exploitation de la mer;

7° Port officers and deputy port officers

8° Engineers serving in the National forestry office and its sworn agents, referred to in Article L. 122-7 of the Code forestier

9° Sworn agents of the national parks and nature reserves

II. - Rangers commissioned for the purpose may be authorised to investigate the offences mentioned in the present Article under the conditions set by decree.

Article L216-4

With a view to identifying and investigating offences, the agents mentioned in Article L. 216-3 have access to the premises, facilities and places where the operations at the source of the offences, excluding homes and the parts of premises serving as private dwelling places by the persons concerned. Owners and operators must allow them access. The agents may only have access to these premises between 8 am and 8 pm, or outside these times if the establishment is open to the public, or when an activity is in progress.

The Procureur de la République must be informed prior to any operations envisaged with a view to identifying offences. He or she may oppose these operations.

Article L216-5

(Act no. 2003-591 of 2 July 2003 Article 31 III 3 Official Journal of 3 July 2003)
(Act no. 2005-157 of 23 February 2005 Article 132 IX Official Journal of 24 February 2005)
(Order no. 2005-805 of 18 July 2005 Article 5 Official Journal of 19 July 2005)

Infringements of the provisions of Articles L. 211-2, L. 211-3, L. 211-5, L. 211-7, L. 211-12, L. 214-1 to L. 214-9, L. 214-11 to L. 214-13, L. 216-6 to L. 216-8 and L. 216-10 to L. 216-12 and enactments for their application are subject official reports which have probative force unless proven otherwise.

Official reports must, on pain of being declared null and void, be sent within five days following the date upon which they are completed, to the Procureur de la République. A copy is also given, within the same period, to the interested party and the administrative authority. Furthermore, within the same period of time, a copy is sent to the President of the

local federation of approved fishing and fish-farming associations and to the President of the approved professional freshwater fishing association when the infringement results in the destruction of spawning grounds or the zones of growth or feeding of the pisciculture fauna, or in seriously harming the ecological continuity or the minimum flow of the water course.

Subsection 2
Criminal sanctions — Articles L216-6 to L216-13

Article L216-6
(Order no. 2000-916 of 19 September 2000 Article 3 Official Journal of 22 September 2000 in force on 1st January 2002)

The act of disposing of, discharging or letting flow into surface, underground or seawater within the limits of territorial boundaries, directly or indirectly, one or more substances of any kind whose actions or reactions cause, even if only temporarily, harmful effects on health, fauna and flora, with the exception of damage referred to in Articles 218-73 and L. 432-2, or significant modifications to the normal regimen of water supply or limitations in the use of bathing waters, is punishable by two years of imprisonment and a fine of 75 000 euros. When the discharge is authorised by decree, the provisions of this paragraph are applicable only if the prescriptions of the aforementioned decree are not respected.

The court may also oblige the convicted person to restore the aquatic environment in accordance with the procedure set out in Article L. 216-9.

These same penalties and measures are applicable in the event of discharge or abandonment of waste in large quantities in surface or underground waters or in seawater within the boundaries of territorial limits, on beaches or in coastal areas. These provisions are not applied to discharges from ships at sea.

Article L216-7
(Order no. 2000-916 of 19 September 2000 Article 3 Official Journal of 22 September 2000 in force 1st January 2002)

Without prejudice to the responsibility incurred with regard to the beneficiary of the affected flow, failure to respect the stipulations defined by the declaration of public interest mentioned in Article L. 214-9 is punishable by a fine of 12 000 euros.

Article L216-8
(Order no. 2000-916 of 19 September 2000 Article 3 Official Journal of 22 September 2000 in force 1st January 2002)

I. - Without due authorisation for an act, an operation, an installation or a structure, the following are punishable by two years of imprisonment and a fine of 18 000 euros:

1° Committing such an act;

2° Directing or carrying out such an operation

3° Operating such an installation or structure;

4° Implementing or participating in the implementation of such an installation or structure.

II. - For repeat offences, the fine is increased to 150 000 euros.

III. In the event of a conviction, the court may order that the operations and use of the structure or installation be halted. Temporary enforcement of this decision may be ordered.

IV. - The court may also demand the measures described in the previous paragraph and demand that the site be returned to its original condition, within the framework of the procedure set out in Article L. 216-9.

V. The court handling proceedings for an infringement of the obligation of declaration may order that the operation be halted, or that the use of the installation or structure be prohibited, in accordance with the procedure described in Article L. 216-9

Article L216-9
(Order no. 2000-916 of 19 September 2000 Article 3 Official Journal of 22 September 2000 in force on 1st January 2002)

In the event of proceedings for infringements of the provisions of Articles L. 216-6 and L. 216-8 or for an infringement of the obligation of declaration or any other obligation resulting from the Articles mentioned in Article L. 216-5, or from the regulations or individual rulings for their application, the court may, after having declared the accused guilty, decide to adjourn the imposition of the penalty, while enjoining the accused to respect the stipulations with regard to which the offence has occurred.

The court stipulates a period of time in which these obligations must be carried out. It can add to the injunction a periodic penalty payment the rate and duration of which are fixed by the court. The amount ranges from 15 euros to 3000 euros per day of delay in the execution of the imposed measures.

The adjournment may only be declared once. It may be ordered even if the accused does not appear in person. In any event, the decision may be accompanied by the temporary execution.

At the subsequent hearing, if the obligations stipulated in the injunction have been carried out within the required time period, the court may either declare the guilty party exempt from the penalty or impose the penalties provided for.

If there has been a delay in carrying out the obligations, the court will liquidate the periodic penalty payment where appropriate, and impose the penalties provided for.

If the obligations have not been carried out, the court will liquidate the periodic penalty payment where appropriate, and impose the penalties provided for, and may then order that the obligations be carried out without any further ruling

required and at the expense of the person convicted of the offence.

The decision with regard to the penalty is taken no later than one year after the decision of adjournment.

The rate of the periodic penalty payment as set by the decision of adjournment may not be modified.

For the purposes of the liquidation of the periodic penalty payment, the courts determine the non-execution of the obligations by taking into account, where appropriate, the occurrence of any events for which the convicted person is not deemed responsible.

Article L216-10

(Order no. 2000-916 of 19 September 2000 Article 3 Official Journal of 22 September 2000 in force 1st January 2002)

The use of an installation or structure or the realisation of works in breach of a measure intended to put the aforementioned out of service, a measure of withdrawal or suspension of an authorisation or removal of an installation or a measure of prohibition pronounced in application of the provisions mentioned in Article L. 216-5, is punishable by a penalty of two years of imprisonment and a fine of 150 000 euros.

The same penalties are applicable for the continuing operation or use of an installation or structure without complying with the summons issued by the Préfet, demanding the respect, at the end of a fixed period of time, of the technical prescriptions provided for by the authorisation or regulations to enforce the provisions mentioned in Article L. 216-5.

Preventing agents from carrying out their roles, as specified in Articles L. 211-2 and L. 216-3, is punishable by a penalty of six months imprisonment and a fine of 7 500 euros.

Article L216-11

In the event of a conviction for an infringement of the provisions mentioned in Article L. 216-5, the court may order, at the expense of the person convicted, the complete or partial publication of its decision and potentially the publication of a message, the terms of which shall be explicitly set by the court, informing the public of the grounds for and the content of its decision, in one or more publications which it designates, as well as publicly displaying the decision under the conditions set out in Article 131-35 of the Code pénal. However, the costs of this publicity may not exceed the amount of the fine incurred.

Article L216-12

I. - Legal entities may be declared responsible under the conditions specified in Article 121-2 of the Code pénal for infringements of the provisions mentioned in Article 216-5.

II. - The penalties incurred by legal entities are:

1° A fine, in accordance with the terms and conditions stipulated in Article 131-38 of the Code pénal;

2° The penalties mentioned in 2°, 3°, 4°, 5°, 6°, 8° and 9° of Article 131-39 of the same Code.

III. - The prohibition mentioned in 2° of Article 131-39 of the Code pénal covers the activity during the exercise of which, or at the time of which exercise, the offence was committed.

Article L216-13

In the event of failure to observe the prescriptions imposed in accordance with Articles L. 211-2, L. 211-3 and L. 214-1 to L. 214-6, all useful measures, including a prohibition to operate the structure or installation in question, may be ordered with a view to halting the disturbance, either by requisition of the ministry acting on request of the administrative authority or an association in compliance with the conditions determined by Article L. 142-2, or ex officio by the examining magistrate dealing with the proceedings or by the Tribunal correctionnel.

The judicial authority adjudicates after having heard the operator or having duly summoned the operator to appear within forty-eight hours. The judicial decision is immediately enforceable and notwithstanding any remedy at law. The order may be withdrawn when the disturbance has ceased.

The provisions of the present Article apply equally to classified facilities as defined in the Title of Book V (Title I).

CHAPTER VII
National defence Article L217-1

Article L217-1

A Conseil d'Etat decree sets the conditions of application of Articles L. 214-1 to L. 214-6, L. 214-8, L. 216-3 and L. 216-4 to operations, works or activities concerning installations or buildings under the responsibility of the Minister for defence or subject to the regulations for the protection of national defence secrets.

CHAPTER VIII
Special provisions for marine waters and seaways open to maritime navigation Articles L218-1 to L218-81

SECTION I
Pollution by discharge from ships Articles L218-1 to L218-31

Subsection 1
Civil liability and insurance obligation for ship-owners for damage resulting from oil pollution Articles L218-1 to L218-9

Article L218-1

All owners of ships transporting a cargo of hydrocarbons in bulk are responsible for damage by pollution resulting from a leak or from discharge of hydrocarbons from such a ship under the conditions and limits determined by the international convention of 27 November 1992 on civil liability for oil pollution damage.

For the application of the present sub-section, the terms or expressions "owner", "ship", "event", "damage by pollution" and "hydrocarbons" are used with the meaning accorded to them in Article 1 of the convention mentioned in the previous paragraph.

Article L218-2

Subject to the provisions of the international convention mentioned in Article L. 218-1 relating to ships which are the property of the State, the owner of a ship registered in a French port and transporting more than 2 000 tonnes of hydrocarbons in bulk as a cargo may not allow such a ship to trade if it does not possess, under the conditions specified in Article VII of the aforementioned convention, insurance or financial security in sums equivalent to the amount of its liability, for any single incident.

Article L218-3

Wherever the ship is registered, no ship transporting more than 2 000 tones of hydrocarbons in bulk as a cargo may either have access to French ports or installations or terminals located within territorial or internal waters, or leave them, unless it possess a certificate stating that its owner is covered by civil liability insurance for damage by pollution or financial security under the conditions set out in paragraph I of Article VII of the convention mentioned in Article L. 218-1. If the ship is the property of a State, it must possess a certificate proving that the liability of such a state is covered within the limits set in paragraph I of Article V of the aforementioned convention.

Article L218-4

The provisions of Article L. 218-3 are not applicable to warships and other ships belonging to the State or operated by the State and assigned exclusively to non-commercial State service.

Article L218-5

Independently of the officers and agents of the Judicial Police Department, the following are authorised to identify and investigate infringements of the provisions of the present sub-section:

1° The Administrators of Maritime Affairs;
2° The officers of the technical and administrative branch of Maritime Affairs;
3° Inspectors of Maritime Affairs;
4° Technical experts from the Maritime Navigation Safety Service
5° Port officers and deputy port officers;
6° Agents of the Maritime navigation and fishery supervision police
7° Road construction and maintenance department engineers and Public Works engineers as well as agents from the aforementioned departments commissioned for this purpose;
8° Customs officers;
9° Abroad, concerning ships registered in a French port, French consuls, excluding consular agents.

Article L218-6

Official reports written up in accordance with Article L. 218-5 have probative force unless proven otherwise.

They are immediately sent to the Procureur de la République by the agent who has written up the report, who simultaneously sends copies to the departments concerned.

Article L218-7

Infringements of the provisions of the present sub-section are judged either by the court having jurisdiction over the place where the offence took place, or by the court in the place of residence of the offender.

Moreover, if the ship is French, the competent court is that having jurisdiction in the area where the ship is registered, or if foreign, that where the ship can be found.

In the absence of any other court, the tribunal de grande instance de Paris has jurisdiction.

Article L218-8

(Order no. 2000-916 of 19 September Article 3 Official Journal of 22 September 2000 in force 1st January 2002)

The following are punishable by a fine of 75 000 euros:

1° An owner of a ship allowing such a ship to trade in violation of the obligations set out in Article L. 218-2;
2° Leaving or entering a port or terminal installation in violation of the obligations set out in Article L. 218-3.

Article L218-9

As and when necessary, a Conseil d'Etat decree sets the conditions of application of the present sub-section.

Subsection 2
Criminal provisions relating to pollutant discharges from ships — Articles L218-10 to L218-31

Paragraph 1
Penalties — Articles L218-10 to L218-25

Article L218-10

(Order no. 2000-916 of 19 September Article 3 Official Journal of 22 September 2000 in force 1st January 2002)
(Act no. 2001-380 of 3 May 2001 Article 1 Official Journal of 4 May 2001)
(Act no. 2004-204 of 9 March 2004 Article 30 1, 2 Official Journal of 10 March 2004)

I. - Committing an infringement of the provisions of rules 9 and 10 of annexe 1 of the convention, relating to the prohibition of hydrocarbon discharge as defined in 3 of Article 2 of the aforementioned convention is punishable by ten years of imprisonment and a fine of 1,000,000 euros, for any captain of a French ship subject to the provisions of the international convention for the prevention of pollution from ships, as established in London on 2 November 1973, and as modified by the protocol of 17 February 1978 and by its subsequent modifications legally approved or ratified, falling under the following categories:

1° Tankers with a gross tonnage equal to or greater than 150 tons

2° Vessels other than tankers with a gross tonnage equal to or greater than 500 tons.

II. - The penalties provided for in the present Article apply to the person responsible on board platforms registered in France for discharges carried out at sea in violation of rules 9 and 10 of Annexe I of the aforementioned convention.

III. - The fine stipulated in I may be increased, over and above this amount, to a sum equivalent to the value of the ship or four times the value of the cargo transported or the freight.

Article L218-11

(Order no. 2000-916 of 19 September 2000 Article 1 I Official Journal of 22 September 2000 in force 1st January 2002)
(Act no. 2001-380 of 3 May 2001 Article 2 Official Journal of 4 May 2001)
(Act no. 2004-204 of 9 March 2004 Article 30 1, 3 Official Journal of 10 March 2004)

Committing one of the offences described in Article L. 218-10 is punishable by seven years of imprisonment and a fine of 700,000 Euros, for any captain of a French ship subject to the provisions of the convention mentioned in Article L. 218-10 belonging to the following categories:

1° Tankers with a gross tonnage lower than 150 tons:

2° Ships other than tankers with a gross tonnage lower than 500 tons and engine power of above 150 kilowatts.

Article L218-12

(Act no. 2004-204 of 9 March 2004 Article 30 1 Official Journal of 10 March 2004)

The penalties provided for in Article L. 218-11 apply for discharges at sea in violation of rules 9 and 10 of Annexe I of the convention mentioned in Article L. 218-10, to the person responsible for the operation of all port machinery, barges or fluvial tank vessels, whether they are self-propelled, towed or pushed.

Article L218-13

(Order no. 2000-916 of 19 September 2000 Article 1 I Official Journal of 22 September 2000 in force 1st January 2002)
(Act no. 2001-380 of 3 May 2001 Article 3 Official Journal of 4 May 2001)
(Act no. 2004-204 of 9 March 2004 Article 30 1, 4 Official Journal of 10 March 2004)

Any captain or person responsible on board a French ship subject to the provisions of the convention mentioned in Article L. 218-10 not belonging to the categories of ships defined in Articles L. 218-10 and L. 218-11, committing one of the offences provided for in Article L. 218-10 is punishable by a fine of 6000 Euros and, moreover, in the event of a repeat offence, one year of imprisonment.

Article L218-14

(Act no. 2004-204 of 9 March 2004 Article 30 1 Official Journal of 10 March 2004)

Any captain of a French ship subject to the provisions of Annexe II of the convention mentioned in Article L. 218-10, transporting harmful liquid substances in bulk as defined in 1 of rule 3 of the aforementioned annexe, committing an infringement of the dispositions of 1, 2, 7, 8 and 9 of rule 5 of the aforementioned annexe relating to the prohibition to discharge harmful liquid substances, defined in 3 of Article 2 of the convention, is punishable by the penalties provided for in Article L. 218-10.

Article L218-15

(Act no. 2004-204 of 9 March 2004 Article 30 1 Official Journal of 10 March 2004)

Any captain of a French ship subject to the provisions of Annexe II of the convention mentioned in Article L. 218-10, transporting harmful liquid substances in bulk as defined in 1 of rule 3 of the aforementioned annexe, committing an infringement of the provisions of 3, 4, 6 and 11 of rule 5 of the aforementioned annexe relating to the prohibition to discharge harmful liquid substances, defined in 3 of Article 2 of the convention, is punishable by the penalties provided for in Article L. 218-11.

Article L218-16

(Act no. 2004-204 of 9 March 2004 Article 30 1 Official Journal of 10 March 2004)

Any captain or person responsible on board French ships subject to the convention mentioned in Article L. 218-10, committing an offence defined in Articles L. 218-10, L. 218-14, L. 218-15, L. 218-17 and L. 218-18 in navigable waterways up to the limits of maritime navigation, is punishable by the penalties provided for in Articles L. 218-10, L. 218-11, L. 218-13, L. 218-14, L. 218-15, L. 218-17 and L. 218-18.

Article L218-17

(Act no. 2004-204 of 9 March 2004 Article 30 1 Official Journal of 10 March 2004)

Any captain of a French ship, depositing harmful substances transported in packages or containers, movable tanks,

road tankers or rail tankers into the sea in violation of the provisions of rule 7 of annexe III of the convention mentioned in Article L. 218-10 is punishable by the penalties provided for in Article L. 218-13.

Article L218-18

(Act no. 2004-204 of 9 March 2004 Article 30 1 Official Journal of 10 March 2004)

Any captain or person in charge on board a French ship subject to the provisions of the convention mentioned in Article L. 218-10, committing an infringement of the provisions of rules 3, 4, and 5 of annexe V, relating to the prohibitions of deposits, within the meaning defined in 3 of Article 2 of the convention, of garbage, as defined in 1 of rule 1 of the aforementioned annexe, is punishable by the penalties provided for in Article L. 218-11.

Article L218-19

(Order no. 2000-916 of 19 September 2000 Article 1 I Official Journal of 22 September 2000 in force on 1st January 2002)

(Act no. 2001-380 of 3 May 2001 Article 4 Official Journal of 4 May 2001)

(Act no. 2004-204 of 9 March 2004 Article 30 1 Official Journal of 10 March 2004)

For any captain of a French ship, or any other person in charge of the ship, within the meaning defined by Article 1 of the aforementioned protocol, having suffered one of the incidents mentioned in Protocol 1 of the convention mentioned in Article L. 218-10, at sea or in inland waters and French navigable waterways up to maritime navigation limits, failing to write up and transmit a report in accordance with the provisions of the aforementioned protocol, is punishable by two years of imprisonment and a fine of 180 000 euros.

Article L218-20

(Act no. 2001-380 of 3 May 2001 Article 5 Official Journal of 4 May 2001)

(Act no. 2004-204 of 9 March 2004 Article 30 1 Official Journal of 10 March 2004)

Without prejudice to the penalties provided for in the present sub-section with regard to the captain or person responsible on board, the penalties provided for in the aforementioned sub-section apply either to the owner, or to the operator or their legal representative or de facto director in the case of a legal entity, or to any person other than the captain or person on board exercising, either in law or in fact, power of control in the management or use of the ship or platform, when the aforementioned owner, operator or person has brought about a discharge carried out in violation of Articles L. 218-10 to 218-19 or has not taken the necessary steps in order to avoid it.

Article L218-21

(Act no. 2003-346 of 15 April 2003 Article 3 Official Journal of 16 April 2003)

(Act no. 2004-204 of 9 March 2004 Article 30 1, 5 Official Journal of 10 March 2004)

In the economic zone off the coasts of the territory of the Republic, and the ecological protection zone defined by Act no. 76-655 of 16 July 1976 relating to the economic zone and the ecological protection zone off the coasts of the territory of the Republic, the territorial waters, inland waters and French navigable waterways up to the limits of maritime navigation, the provisions of the present sub-section apply, under the conditions set out in Articles L. 218-10, L. 218-11, L. 218-13 to L. 218-19 and L. 218-22, to foreign ships and platforms even if registered in a territory under a government which is not a signatory to the convention mentioned in Article L. 218-10.

However, only the fines provided for in Articles L. 218-10, L. 218-11 and L. 218-13 to L. 218-19 and L. 218-22 may be pronounced when the offence occurs in the economic zone and the ecological protection zone off the coasts of the territory of the Republic.

Article L218-22

(Act no. 2004-204 of 9 March 2004 Article 30 1, 6 Official Journal of 10 March 2004)

I. -Without prejudice to the penalties provided for in the present sub-section regarding violations of the regulations on discharges, the fact of a captain or person in charge of piloting or operation on board French or foreign ships or platforms having caused, by imprudence, negligence or failure to observe the laws and regulations under the conditions defined in article 121-3 of the Code pénal, an accident at sea, as defined by the convention of 29 November 1969 on intervention on the high seas, causing or being able to cause hydrocarbon pollution, or not having taken the necessary steps to avoid it, is punishable when the aforementioned accident has caused the pollution of territorial waters, inland waters or navigable waterways up to the limit of maritime navigation.

When the offence has been committed involving a ship entering into the categories defined in Article L. 218-10 or a platform, it is punishable by two years' imprisonment and a fine of 200,000 euros.

When the offence has been committed involving a ship or machine entering into the categories defined in Article L. 218-11 and L. 218-12, it is punishable by one year's imprisonment and a fine of 90,000 euros.

When the offence has been committed involving a ship or machine entering into the categories defined in Article L. 218-13, it is punishable by a fine of 4,000 euros.

II. - When the accident at sea described in I, directly or indirectly either originates from the clearly deliberate violation of a particular safety or prudence obligation imposed by the law or the regulations, or results in irreversible or particularly serious damage to the environment, the sentences are increased to:

1 Five years' imprisonment and a fine of 500,000 euros when the offence has been committed involving a ship entering into the categories defined in Article L. 218-10 or a platform;

2 Three years' imprisonment and a fine of 300,000 euros when the offence has been committed involving a ship or machine entering into the categories defined in Article L. 218-11 and L. 218-12;

3 A fine of 6,000 euros when the offence has been committed involving a ship or machine entering into the

categories defined in Article L. 218-13.

When the offence has been committed involving a ship entering into the categories defined in Articles L. 218-10, L. 218-11 and L. 218-12 or a platform, the fine may be increased, over and above this amount, to a sum equivalent to the value of the ship or twice the value of the cargo transported or the freight.

III. - When both circumstances described in the first paragraph of II occur at the same time, the sentences are increased to:

1 Seven years' imprisonment and a fine of 700,000 euros when the offence has been committed involving a ship entering into the categories defined in Article L. 218-10;

2 Five years' imprisonment and a fine of 500,000 euros when the offence has been committed involving a ship or machine entering into the categories defined in Article L. 218-11 and L. 218-12.

The fine may be increased, over and above this amount, to a sum equivalent to the value of the ship or three times the value of the cargo transported or the freight.

IV. - The penalties provided for in I and II are applicable either to the owner or to the operator or their legal representative or de facto director in the case of a legal entity, or to any person other than the captain or the person responsible on board, exercising, either in law or in fact, power of control or management in the operation of the ship or platform, when the aforementioned owner or operator or person has caused pollution under the conditions defined in the present article.

V. - The discharge, further to measures intended to avoid serious and imminent danger threatening the safety of ships, human life or the environment is not punishable by virtue of the present Article.

Article L218-23

(Act no. 2004-204 of 9 March 2004 Article 30 1 Official Journal of 10 March 2004)

The provisions of Articles L. 218-10 to 218-20 inclusive and L. 218-22 are not applicable to ships, platforms and maritime or fluvial machinery of any kind belonging to the Navy, the Police and Gendarmerie, to customs, to the administration des affaires maritimes or generally, to all State-owned ships used for policing or public service operations at sea.

Article L218-24

(Act no. 2004-204 of 9 March 2004 Article 30 1, 7 Official Journal of 10 March 2004)

The court may, in consideration of the de facto circumstances, and in particular of the working conditions of the interested party, rule that the payment of fines imposed on a captain or person responsible on board, in accordance with Articles L. 218-10 to L. 218-22, is wholly or partly due by the operator or owner.

The court may use the faculty provided for in the previous paragraph only if the owner or operator has been summoned to the hearing.

Persons guilty of offences provided for by the present sub-section also incur, as an additional penalty, the penalty of public display or publication of the decision pronounced under the conditions set out in Article 131-35 of the Code pénal.

Article L218-25

(Act no. 2001-380 of 3 May 2001 Article 7 Official Journal of 4 May 2001)

(Act no. 2004-204 of 9 March 2004 Article 30 1, 8 Official Journal of 10 March 2004)

I. - Legal entities may be declared criminally responsible, under the conditions set out in Article 121-2 of the Code pénal, for offences defined in the present sub-section. They incur a fine, in accordance with the terms and conditions set out in Article 131-38 of the Code penal.

II. - For the offences defined in articles L. 218-10 to L. 218-22, they also incur the sentence mentioned in 9° of Article 131-39 of the Code pénal

Paragraph 2

Proceedings

Articles L218-26 to L218-31

Article L218-26

(Act no. 2003-591 of 2 July 2003 Article 31 III 4° Official Journal of 3 July 2003)

(Act no. 2004-204 of 9 March 2004 Article 30 1 Official Journal of 10 March 2004)

I.- Independently of officers and agents of the Judicial Police Department exercising their powers in accordance with the Code de procédure pénale, the following are authorised to investigate infringements of regulations 9, 10, and 20 of Annexe I, of regulation 5 of Annexe II, of regulation 7 of annexe III, of regulations 3, 4, and 5 of Annexe V and of protocol I of the international convention for the prevention of pollution by ships mentioned in Article L. 218-10, infringements of the provisions of the present sub-section as well as infringements of the regulatory provisions for their application:

1° The administrators of Maritime Affairs;

2° Officers of the technical and administrative corps of Maritime Affairs;

3° Inspectors of Maritime Affairs;

4° Technical experts from the safety of maritime navigation department;

5° Inspectors of Maritime Affairs;

6° On-board personnel for assistance and supervision of Maritime Affairs;

7° Civil servants and sworn and commissioned agents of the maritime services and of autonomous ports;

8° Transport department engineers and public works engineers assigned to the direction régionale de l'industrie, de

la recherche et de l'environnement concerned

9° Port officers and deputy port officers;

10° Sworn researchers, engineers and technicians of the Institut français de recherche pour l'exploitation de la mer;

11° Customs officers

12° French consuls abroad, excluding consulate employees.

II. - In addition, infringements of the provisions of regulations 9 and 10 of annexe I, of regulation 5 of annexe II, of regulation 7 of annexe III and regulations 3, 4, and 5 of annexe V of the convention mentioned above may be investigated by commanders, first officers or second officers of French Navy vessels and Navy aircraft commanders.

Article L218-27

(Act no. 2004-204 of 9 March 2004 Article 30 1 Official Journal of 10 March 2004)

The following are responsible for identifying violations constituting sea pollution offences, collecting all information for this purpose with a view to identifying the offenders and reporting them to either an officer or an inspector of the Judicial Police Department exercising his or her powers in accordance with the provisions of the Code de procedure pénale

1° Commanders of State oceanographic ships;

2° Commanders of civil defence aircraft and State aircraft assigned to the protection of maritime waters:

3° Agents of the lighthouse service

4° Agents of the Institut français de recherche pour l'exploitation de la mer

5° Agents of the police de la pêche fluviale

Article L218-28

(Act no. 2004-204 of 9 March 2004 Article 30 1 Official Journal of 10 March 2004)

Official reports made by the agents mentioned in Article L. 218-26 have probative force unless proven otherwise. They are immediately sent to the Director of public Prosecution by the agent who has made the report, who also simultaneously sends a copy to the administrator of Maritime Affairs when the report concerns ships or platforms, or to the road construction and maintenance department engineer in charge of the maritime department if it concerns port machinery, barges or fluvial tank vessels.

Article L218-29

(Act no. 2001-380 of 3 May 2001 Article 6 Official Journal of 4 May 2001)

(Act no. 2003-346 of 15 April 2003 Article 4 Official Journal of 16 April 2003)

(Act no. 2004-204 of 9 March 2004 Article 30 1, 9 Official Journal of 10 March 2004)

The rules relating to the competence of specialised criminal jurisdictions in order to ascertain the offences provided by the present sub-section are set by articles 706-107 to 706-111 of the Code de procédure pénale, reproduced hereunder:

Article 706-107. - For the investigation, prosecution, and, in the case of misdemeanours, judgment of cases of pollution of marine waters and navigable waterways provided for by sub-section 2 of section 1 of Chapter VIII of title 1 of Book II of the Environmental Code, and which are committed in territorial waters, interior waters, and waterways, the jurisdiction of a district court may be extended to cover the jurisdiction of one or more appeal courts.

The provisions of the first paragraph also apply when the offences specified therein, except for that provided by article L.218-22 of the Environmental Code, are committed in the exclusive economic zone or in an area of ecological protection.

However, for cases which are or which appear to be extremely complex, the district prosecutor nearest the district court mentioned in the first paragraph may order the investigating judge to relinquish the case to the district court of Paris under the conditions and in accordance with the terms set out by articles 706-110 and 706-111.

This jurisdiction extends to related offences.

A decree determines the list and the jurisdiction of these maritime littoral courts, which have prosecution departments, investigation teams and judges to take cognizance of these offences.

Article 706-108. - For the investigation, prosecution, and the judgment of the misdemeanours outlined in article 706-107, committed on board French vessels outside maritime areas under French jurisdiction, the district court of Paris has jurisdiction.

The district court of Paris is also competent for the investigation, prosecution, and the judgment of the offence set out in article L.218-22 of the Environmental Code, as well as related offences, where these offences are committed in the exclusive economic zone or in an area of ecological protection.

Article 706-109. - The district prosecutor, the investigating judge, and the specialised correctional team of the district court mentioned in article 706-107 are competent over the whole of the jurisdiction determined in accordance with this article, concurrently with their competence under articles 43, 52, 382 and 706-42.

They also have, under the same conditions, concurrent jurisdiction over matters arising within the following criteria of competence:

1° the place of registration of the vessel, equipment, or oil rig;

2° the place where the vessel, equipment or oil-rig is or may be found.

The specialist court seised remains competent, whatever the charges formulated when the case is dealt with or decided. However, if the facts constitute a petty offence, the investigating judge rules the transfer of the case before the competent police court in accordance with article 522.

Article 706-110. - The district prosecutor of a district court other than those mentioned in article 706-107 may, for

the offences falling within this article, request the investigating judge to relinquish a case to the competent investigating court in accordance with this article. The parties are informed of this in advance and are invited by the investigating judge to make their observations. A ruling is made no earlier than eight days and no later than one month following this notification.

Where the investigating judge decides to relinquish a case, his ruling does not come into effect until five days later, in accordance with article 706-111. Where an appeal is lodged in accordance with this article, the investigating judge remains seised until he has notice of a ruling of the investigating chamber that has become final, or a ruling of the criminal chamber of the Court of Cassation.

As soon as the ruling has become final, the district prosecutor sends the case file to the district prosecutor of the competent district court in accordance with article 706-109.

The provisions of the present article are applicable before the investigating chamber.

Article 706-111. - At the request of the public prosecutor or of the parties, the ruling delivered in accordance with article 706-110 may, to the exclusion of any other means of appeal, be referred within five days of its notification, either to the investigating chamber of the specialist court to which the case was relinquished, or not relinquished if it is within the jurisdiction of the appeal court in which the court initially seised of the case is located, or, in other cases, to the criminal chamber of the Court of Cassation. Within eight days of receiving the case file, the investigating or criminal chamber nominates the investigating judge responsible for pursuing the investigation. Where the investigating judge has not delivered his ruling within the one-month time limit provided for by the first paragraph of article 706-110, the public prosecutor may also directly seise the investigating chamber or the criminal chamber of the Court of Cassation.

The investigating or criminal chamber's ruling is brought to the attention of the investigating judge as well as the public prosecutor, and notice of it is served to the parties.

The provisions of the present article apply to rulings made by the investigating chamber and delivered on the basis of the last paragraph of article 706-110. In such cases, the appeal is then brought before the criminal chamber.

Article L218-30

(Act no. 2001-380 of 3 May 2001 Article 8 Official journal of 4 May 2001)
(Act no. 2004-204 of 9 March 2004 Article 30 1 Official Journal of 10 March 2004)

The ship which was used to commit one of the offences defined in Articles L. 218-10 to L. 218-22 may be immobilised following a decision by the Procureur de la République or the examining magistrate concerned.

This immobilisation is carried out at the expense of the ship owner

At any time, the legal authority having jurisdiction may order that the immobilisation be lifted if a guarantee is paid, the amount of which is fixed and the terms and conditions defined by the same legal authority.

The conditions of allocation, use and restitution of the guarantee are regulated in accordance with the provisions of Articles 142, 142-2 and 142-3 of the Code de procédure pénale.

Article L218-31

(Act no. 2004-204 of 9 March 2004 Article 30 1 Official Journal of 10 March 2004)

If the acts constituting offences listed in Articles L. 218-10 to L. 218-22 have caused damage to the public maritime domain, the administration may prosecute only for compensation for this damage before the administrative court in accordance with the procedure for contraventions de grande voirie.

SECTION II

Pollution due to operations of exploration or exploitation of the seabed or under the seabed — Articles L218-32 to L218-41

Article L218-32

Without prejudice to the enforcement of the provisions of the Code minier, in particular of Articles 79, 84 and 85 and of its texts of application to all activities of exploration and exploitation of the natural resources of the continental shelf, any discharge into the sea of hydrocarbons or mixtures of hydrocarbons likely to affect public health, marine flora and fauna, the economic development and the development of tourist activity in coastal regions is prohibited.

Discharges which are the direct cause of operations of exploration must be devoid of hydrocarbons.

Discharges which are the direct cause of operations of exploitation, including storage, may not have an average hydrocarbon content of over 20 parts per million, or have for effect the discharge into the sea of an average volume of hydrocarbons of over 2 centilitres per day per hectare of the surface of the exploitation rights.

More restrictive provisions than those provided for in the above paragraph may be officially imposed depending on local conditions or conditions specific to the exploitation or the protection of the environment.

No operation may be undertaken before a statement of the biological and ecological condition of the marine environment in the zone covered by the aforementioned rights has been written up at the expense of the holder of the exploitation rights. This statement must be renewed at least once per year during the period of validity of the exploitation rights.

A Conseil d'Etat decree sets the terms and conditions of application of the present Article.

Article L218-33

The provisions of sub-section 2 of section 1 of the present Chapter are applicable:

1° to the following installations or facilities where these installations or facilities are not undergoing exploration or exploitation:

a) to platforms and other exploration or exploitation machinery, as well as their annexes

b) to sea vessels participating directly in operations of exploration or exploitation.

2° to operations of the aforementioned installations or facilities not directly related to activities of exploration or exploitation.

Article L218-34

(Order no. 2000-916 of 19 September 2000 Article 3 Official Journal of 22 September 2000 in force 1st January 2002)

I. - Committing an infringement of Article 218-32 is punishable by two years of imprisonment and a fine of 18 000 euros.

II. - When the offence is committed by order of the holder of the exploration or exploitation rights, or his or her representative, or the person responsible on board these installations and facilities for conducting the exploration or exploitation works, including storage, these persons are punishable by double the penalties provided for in the previous paragraph.

III. - Any representative of the holder of the exploration or exploitation rights who, having responsibility for the aforementioned operations, does not give the person directly in charge on site for conducting the works written instructions to observe the provisions of paragraphs 1 to 4 of Article L. 218-32, is considered to be an accessory to the offence.

IV. - However, the offence is not constituted when, all necessary measures having been taken to observe Article L. 218-32:

1° The discharge is intended to ensure the safety of an installation or facility referred to in Article L. 218-33, or in order to prevent it from suffering serious damage threatening the safety of persons or the protection of the environment, or in order to save human lives at sea;

2° The spillage originates from an unforeseeable and inevitable leak or damage, if all necessary measures have been taken after the damage or the discovery of the leak in order to prevent, halt or reduce this spillage in order to limit the consequences thereof.

Article L218-35

The provisions of Articles L. 218-32 to L. 218-34 are applicable in territorial waters, subject to more restrictive measures which may be imposed in application of the provisions of the Code minier or under measures for the protection of fishing and marine culture.

Article L218-36

(Act no. 2003-591 of 2 July 2003 Article 31 III 4° Official Journal of 3 July 2003)

I. - The following are responsible for identifying the offences provided for in the present section:

1° Officials and agents of the Judicial Police Department

2° The administrators of Maritime Affairs

3° Officers of the technical and administrative corps of Maritime Affairs

4° Commanders, first officers or second officers of ships of the French Navy;

5° Inspectors of Maritime Affairs

6° Transport Department engineers or public works engineers assigned to the relevant direction régionale de l'industrie, de la recherche et de l'environnement;

7° Road construction and maintenance department engineers and public works engineers assigned to maritime services as well as agents of the aforementioned services commissioned for this purpose;

8° Port officers and deputy port officers;

9° Customs officers

II. - The following are responsible for identifying sea pollution offences, collecting all information for this purpose with a view to identifying the offenders and reporting them either to an administrator of maritime affairs, an officer of the technical and administrative corps of maritime affairs or an inspector of maritime affairs, or to an officer of the Judicial Police Department:

1° Agents of the police de la navigation et de la surveillance des pêches maritimes;

2° Commanders of State oceanographic ships

3° Commanders of military aircraft, civil defence aircraft and state aircraft assigned to the supervision of maritime waters;

4° Agents of the lighthouse service;

5° Agents of the Institut français de recherche pour l'exploitation de la mer.

Article L218-37

Official reports made in accordance with Article L. 218-36 have probative force unless proven otherwise. They are immediately sent to the Procureur de la République by the agent who has written up report, who simultaneously sends a copy to the competent head of the mineralogical department and to the chief of the Maritime Affairs service.

Article L218-38

Even in the event of criminal proceedings, the administration retains the possibility to prosecute for compensation of damage caused to the public domain in accordance with the procedure for contraventions de grande voirie.

Article L218-39

The installations and facilities defined in Article L. 218-33, and the safety zones which may be established up to a distance of 500 metres from each point of the exterior of these installations and facilities, are subject to criminal legislation and criminal procedure in force at the headquarters of the court of first instance or ordinary court of first

instance under whose jurisdiction they fall.

Article L218-40

The conditions under which the present section is adapted to operations carried out on the continental shelf adjoining overseas local authorities and, as and when necessary, on territorial seabed, are set by a Conseil d'Etat decree.

The provisions of the present section are applicable to the seabed and below the seabed in the economic zone defined in Article 1 of Act no. 76-655 of 16 July 1976 relating to the economic zone off the coasts of the Republic.

Article L218-41

The terms and conditions of application of the present Article are set by Conseil d'Etat decree, particularly concerning Article L. 218-39.

SECTION III
Pollution by dumping — Articles L218-42 to L218-58

Subsection 1
General Provisions — Articles L218-42 to L218-47

Article L218-42

(Order no. 2005-805 of 18 July 2005 Article 12 Official Journal of 19 July 2005)

The provisions of the present section apply to:

1 French ships, aircraft, platforms or other structures in all marine waters and on the seabeds and their subsoils;

2 Foreign ships, aircraft, platforms or other structures in the economic zone, the ecological protection zone, the territorial sea and the French inland waters, as well as on the seabeds and their subsoils;

Article L218-43

(Order no. 2005-805 of 18 July 2005 Article 12 Official Journal of 19 July 2005)

The dumping of waste or other materials, as defined in article 1 of the Protocol of 7 November 1996 to the London Convention of 1972 on the prevention of sea pollution resulting from the dumping of waste, is prohibited.

Article L218-44

(Order no. 2005-805 of 18 July 2005 Article 12 Official Journal of 19 July 2005)

I. - Notwithstanding article L. 218-43, the following may be authorised:

1 The dumping of dredged elements;

2 The dumping of ships, by the State representative at sea, in compliance with the international treaties and agreements in force.

II. - The dumping of dredged elements is subject to the provisions of articles L. 214-1 to L. 214-4 and L. 214-10.

III. - The dumping permits properly issued before publication of Order no. 2005-805 of 18 July 2005 are maintained until their expiry, but may not exceed a period of ten years.

Article L218-45

(Act no. 2003-346 of 15 April 2003 Article 5 Official Journal of 16 April 2003)
(Order no. 2005-805 of 18 July 2005 Article 12 Official Journal of 19 July 2005)

The provisions of articles L. 218-43 and L. 218-44 are not applicable when, in the event of serious danger, dumping appears to be the only way to save human lives or to ensure the safety of ships, aircraft, platforms or other structures. Where possible, it is carried out in such a way as to reconcile these safety imperatives with the requirements to protect the marine fauna and flora.

Article L218-46

(Order no. 2005-805 of 18 July 2005 Article 12 Official Journal of 19 July 2005)

In all cases, the rights of third parties with regard to pollution offenders are and remain reserved.

Article L218-47

(Order no. 2005-805 of 18 July 2005 Article 12 Official Journal of 19 July 2005)

Even in the event of criminal proceedings, the administration retains the possibility to prosecute for compensation of damage caused to the public domain in accordance with the procedure for contraventions de grande voirie.

Subsection 2
Criminal provisions — Articles L218-48 to L218-57

Article L218-48

(Order no. 2000 of 19 September 2000 Article 3 Official Journal of 22 September 2000 in force on 1st January 2002)
(Order no. 2005-805 of 18 July 2005 Article 13 Official Journal of 19 July 2005)

For any captain of a French ship or any commander of a French aircraft or any person responsible, on platforms or other structures, for conducting dumping operations, offences with regard to the provisions of Articles L. 218-43 and L.

218-44 is punishable by two years of imprisonment and a fine of 18,000 euros

Persons guilty of offences provided for by the present section also incur, as an additional penalty, the penalty of public display or publication of the ruling pronounced, in accordance with Article 131-35 of the Code pénal.

When the offence takes place in the economic zone or in the ecological protection zone off the coasts of the territory of the Republic, only the fines in application of the convention signed in Montego Bay on 10 December 1982 may be pronounced against foreign nationals.

Article L218-49

(Order no. 2000-916 of 19 September 2000 Article. 3 Official Journal of 22 September 2000 in force on 1st January 2002)

(Order no. 2005-805 of 18 July 2005 Article 16 Official Journal of 19 July 2005)

In the cases provided for in Article L. 218-45, the State representative at sea must be informed of dumping operations at the earliest possible moment by one of the persons referred to in Article L. 218-48, under penalty of a fine of 3 750 euros.

This notification must mention precisely the circumstances in which the dumping has occurred.

Article L218-50

(Order no. 2005-805 of 18 July 2005 Article 16 Official Journal of 19 July 2005)

Without prejudice to the penalties provided for by Article L. 218-48, if one of the offences has been committed by order of the owner or operator of the ship, aircraft, platform or other structure, this owner or operator is punished by double the penalties provided for in the aforementioned Article.

Any owner or operator of a ship, aircraft, platform or other structure who has not given the captain, commander on board or person responsible for conducting dumping operations on the platform or other structure written instructions to observe the provisions of the present section may be considered an accessory to the offences provided for therein.

When the owner or operator is a legal entity, the responsibility provided for in the two paragraphs above falls to the legal representatives or de facto directors responsible for the management or administration of any person or persons authorised by them.

Article L218-51

(Order no. 2005-805 of 18 July 2005 Article 16 Official Journal of 19 July 2005)

The penalties provided for in Article L. 218-48 apply against any captain of a ship and any commander on board loading in French territory, without being able to show one of the authorisations provided for in the previous section, waste or other substances intended for dumping at sea.

Article L218-52

(Order no. 2005-805 of 18 July 2005 Article 14 Official Journal of 19 July 2005)

In the event of ignorance of one or more of the conditions determined by the authorisations provided for in Article L. 218-44, the penalties set out in Article L. 218-48 are applicable, depending on each case, to the holder of the authorisation, to the owner of the waste or other substances intended for dumping at sea, or to the persons referred to in Articles L. 218-48, L. 218-50 and L. 218-51.

Article L218-53

(Act no. 2003-591 of 2 July 2003 Article 31 III 4° Official Journal of 3 July 2003)

I. Independently of officers and agents of the Judicial Police Department, the following are authorised to identify and investigate infringements of the provisions of the present Article:

1° The administrators of Maritime Affairs, inspectors of Maritime Affairs, officers of the technical and administrative corps of Maritime Affairs, technical experts from the safety service of maritime navigation;

2° Road construction and maintenance department engineers and Public Works engineers assigned to maritime services as well as agents from the aforementioned services commissioned for this purpose;

3°Transport department engineers and public works engineers assigned to the direction régionale de l'industrie, de la recherche et de l'environnement concerned;

4° Port officers and deputy port officers, agents from the police de la navigation et de la surveillance des pêches maritimes;

5° Commanders, First Officers or Second officers of French Navy vessels

6° Civil servants from the technical corps of civil aviation commissioned for this purpose, road construction and maintenance department engineers and Public Works engineers responsible for air bases;

7° Defence Corps engineers, commissioned for this purpose, aircraft technicians commissioned for this purpose;

8° Sworn researchers, engineers and technicians of the Institut français de recherche pour l'exploitation de la mer;

9° Customs officers

10° Abroad, French consuls, excluding consular employees

II. - The following are responsible for identifying infringements of the provisions of the present section, collecting for this purpose all information with a view to identifying the offenders, and informing either an administrator of Maritime Affairs, an officer of the technical and administrative corps of Maritime Affairs, a road construction and maintenance department engineer or Public Works engineer assigned to a maritime service, or an officer of the Judicial Police Department:

1° Commanders of State oceanographic ships;

2° Commanders of military aircraft, civil defence aircraft, and State aircraft assigned to the surveillance of maritime

waters;

3° Agents of the Institut français de recherche pour l'exploitation de la mer.

Article L218-54

Official reports made in accordance with Article L. 218-53 have probative force unless proven otherwise. They are immediately sent to the Director of public Prosecution by the agent having made the report who also simultaneously sends a copy to the services concerned.

Article L218-55

(Order no. 2005-805 of 18 July 2005 Article 16 Official Journal of 19 July 2005)

When the needs of the enquiry or of the information as well as the seriousness of the offence require it, the ship, aircraft, platform or other structure involved in committing the offences referred to in Articles L. 218-48, L. 218-50, L. 218-51 and L. 218-52 may be immobilised by decision of the Procureur de la République or examining magistrate dealing with the case.

At any time, the competent legal authority may order the withdrawal of the immobilisation if a guarantee is paid, for which the amount, terms and conditions of payment are set by this authority.

The conditions of allocation, use and restitution of the guarantee are regulated in accordance with the provisions of Articles 142, 142-2 and 142-3 of the Code de procédure pénale.

Article L218-56

(Order no. 2005-805 of 18 July 2005 Article 16 Official Journal of 19 July 2005)

I. - Infringements of the provisions of the present section are judged either by the court having jurisdiction over the place where the offence occurred, or the court having jurisdiction over the place of residence of the offender.

II. - The following are also competent:

1° If the offence involves a ship, platform or other structure, either the court having jurisdiction over its place of registration if it is French, or the court having jurisdiction over the place where it is located if it is foreign, or if it is an unregistered platform or other structure;

2° If the offence involves an aircraft, the court having jurisdiction over the place where the aircraft landed after committing the offence.

III. - In the absence of another court, the Paris court of first instance is competent.

Article L218-57

I. - Legal entities may be declared criminally liable, under the conditions set out in Article 121-2 of the Code pénal, for infringements of the provisions of the present section.

II. - Penalties incurred by legal entities are:

1° A fine, in accordance with the terms and conditions set out in Article 131-38 of the Code pénal;

2° The penalties mentioned in 2°, 3°, 4°, 5°, 6°, 8° and 9° of Article 131-39 of the same Code.

III. - The prohibition mentioned in 2° of Article 131-39 of the Code pénal concerns the activity carried out during or at the time of the offence.

Subsection 3
National defence — Article L218-58

Article L218-58

(Order no. 2005-805 of 18 July 2005 Article 15 Official Journal of 19 July 2005)

The dumping of munitions which may not be disposed of on land without presenting serious risks to human beings or their environment may be authorised by the State representative at sea. The dumping is carried out in such a way as to reconcile human safety imperatives and the requirements of protecting the marine fauna and flora.

Verification of the application of the provisions of the present section to ships and French military aircraft is carried out by agents working under the authority of the Ministry of defence.

The penalties provided for by the present section are applicable to persons subject to military jurisdiction of the armed forces in accordance with the Code de justice militaire and in particular with Articles 165 and 171.

SECTION IV
Pollution by incineration — Articles L218-59 to L218-71

Article L218-59

Incineration at sea is forbidden.

Article L218-60

For the purposes of the application of the present section, the following are taken to mean:

1° Incineration at sea: any deliberate combustion of waste, substances, products or materials loaded with a view to their destruction at sea using a ship or a fixed artificial structure.

2° Ship: any sea vessel of any type, including hydrofoils and hovercraft as well as floating platforms or any floating machinery, self-propelled or otherwise;

3° Fixed artificial structure: any non-floating machinery, installation, platform or fixed facility of any kind.

Article L218-61

(Act no. 2003-346 of 15 April 2003 Article 6 Official Journal of 16 April 2003)

I. - The provisions of the present section apply to foreign ships:

1° In the event of incineration in waters under French sovereignty or jurisdiction;

Even in the event of incineration outside waters under French sovereignty or jurisdiction, where loading took place on French territory.

II. - However, only the fines provided for in Articles L. 218-67 and L. 218-65 may be pronounced when the offence has taken place in the economic zone or in the ecological protection zone.

Article L218-62

Even in the event of criminal proceedings, the administration retains the ability to instigate proceedings, in accordance with the procedure for contravention de grande voirie, for compensation for damage caused to the public domain.

Article L218-63

In all cases, the rights of third parties with regard to polluters are and remain reserved.

Article L218-64

(Order no. 2000-916 of 19 September 2000 Article 3 Official Journal of 22 September 2000 in force on 1st January 2002)

For any captain of a French ship, or in the absence of a captain, any person responsible for conducting incineration operations carried out on a French ship or fixed artificial structure, carrying out an incineration at sea is punishable by two years imprisonment and a fine of 75 000 Euros.

The penalties provided for in the previous paragraph are applicable to any captain of a ship which loads, in French territory, waste, substances, products or materials intended for incineration at sea.

Individuals guilty of offences provided for by the present section also incur, as an additional penalty, the penalty of public notification or publication of the ruling pronounced under the conditions set out in Article 131-35 of the Code pénal.

Article L218-65

Without prejudice to the penalties provided for in Article L. 218-64, if one of the offences is committed by order of the owner or operator of a ship or fixed artificial structure as defined in 2° and in 3° of Article L. 218-60, this owner or operator is punished by double the penalties provided for in Articles L. 218-64.

Article L218-66

I. - Independently of officers and agents of the Judicial Police Department, the following are authorised to identify and report infringements of the provisions of the present section:

1° Administrators of Maritime Affairs

2° Inspectors of Maritime Affairs

3° Officers from the technical and administrative corps of Maritime Affairs;

4° Technical experts from the maritime navigation safety service;

5° Transport department engineers and public works engineers assigned to the maritime service as well as agents of the aforementioned services commissioned for this purpose;

6° Transport department engineers and public works engineers assigned to the transport departments of the mineralogical department concerned;

7° Port officers and deputy port officers;

8° Officers of the police de la navigation et de la surveillance des pêches maritimes

9° Commanders, First officers or second officers of French navy vessels;

10° Defence Corps Engineers

11° Sworn researchers, engineers and technicians from the Institut français de recherche pour l'exploitation de la mer;

12° Customs officers

13° Abroad, French consuls, excluding consular employees.

II. - The following are responsible for identifying infringements of the present section, for collecting for this purpose any information with a view to identifying the offenders and reporting them to either an administrator of Maritime Affairs, an officer of the technical and administrative corps of Maritime Affairs or an inspector of Maritime Affairs, or to an officer of the Judicial Police Department.

1° Commanders of State oceanographic ships;

2° Commanders of military aircraft, civil defence aircraft and State aircraft assigned to monitoring maritime waters.

3° Agents of the Institut français de recherche pour l'exploitation de la mer

Article L218-67

Official reports made by the agents mentioned in Article L. 218-66 have probative force unless proven otherwise. They are immediately transmitted to the Procureur de le République by the agent who has made the report, who also simultaneously sends a copy to the departments concerned.

Article L218-68

Where the needs of the investigation or the seriousness of the offence require it, the ship used to commit one of the offences referred to in Articles L. 218-64 and L. 218-65 may be immobilised by decision of the Procureur de le

République or the examining magistrate dealing with the offence.

At any time, the authority having jurisdiction may order that the immobilisation order be lifted if a guarantee is paid, the amount, terms and conditions of which are set by the same authority.

The conditions for the allocation, use and restitution of the guarantee are regulated in accordance with the provisions of Articles 142, 142-2 and 142-3 of the Code de procédure pénale.

Article L218-69

I. - Infringements of the provisions of the present section are judged either by the court having jurisdiction over the place where the offence took place, or by the court having jurisdiction over the place of residence of the offender.

II. - The following also have jurisdiction:

1° The court having jurisdiction over the place of registration of the ship if it is French;

The court having jurisdiction over the place where the ship is located if it is foreign, or if it is an unregistered platform or machinery.

III. In the absence of another court, the Ordinary Court of First Instance of Paris has jurisdiction.

Article L218-70

I. - Legal entities may be declared criminally liable for infringements of the present section, under the conditions set out in Article 121-2 of the Code pénal .

II. - The penalties incurred by legal entities are:

1° A fine, in accordance with the terms and conditions set out in Article 131-38 of the Code pénal;

2° The penalties mentioned in 2°, 3°, 4°, 5°, 6°, 8° and 9° of Article 131-39 of the same Code.

III. - The prohibition mentioned in 2° of Article 131-39 of the Code pénal concerns the activity carried out during or at the time of the offence.

Article L218-71

Verification of the application of the provisions of the present section to French navy vessels, to ships and French military fixed artificial structures is carried out by agents of the Ministry of Defence.

The penalties provided for by the present section are applicable to persons subject to military jurisdiction of the armed forces in accordance with the Code de justice militaire, and in particular to Articles 165 and 171 thereof.

SECTION V

Marine police emergency measures — Article L218-72

Article L218-72

(Act no. 2003-591 of 2 July 2003 Article 31 III 5° Official Journal of 3 July 2003)

In the event of any ship, aircraft, machinery or platform transporting or having on board noxious or hazardous substances or hydrocarbons suffering damage at sea and potentially creating a serious risk of damage to the shore or related interests as defined in Article II-4 of the Brussels Convention of 29 November 1969 on interventions at sea in the event of accidents causing or potentially causing hydrocarbon pollution, the owner of the ship, or the owner or operator of the aircraft, machinery or platform may be formally instructed to take all necessary measures to halt the aforementioned hazard.

If this formal notification remains without effect or has not produced the expected effects within the time period allotted, the State may, either ex officio or as an emergency measure, have the measures implemented at the expense and risk of the ship-owner, owner or operator, or recover the amount equivalent to the cost of doing so from them.

The provisions provided for in the first and second paragraphs of the present Article also apply to ships, aircraft, machinery or platforms in damaged condition or having suffered an accident in the public maritime domain, in maritime ports and their approaches.

The provision of goods and services required to carry out the measures taken in application of the present Article or of the Brussels Convention of 29 November 1969 on interventions at sea in the event of accidents causing or potentially causing hydrocarbon pollution may be obtained by agreement or by requisition.

The amount of compensation due by the State is fixed under the conditions set out in titles II, IV and V of Order no. 59-63 of 6 January 1959 relating to the requisitioning of goods and services.

The conditions of application of the present Article are set by a Conseil d'Etat decree.

SECTION VI

Other provisions applicable to harmful discharge at sea or in salt water — Articles L218-73 to L218-80

Article L218-73

(Order no. 2000-916 of 19 September 2000 Article 3 Official Journal 22 September 2000 in force on 1st January 2002)

The direct or indirect discharge or disposal of substances or organisms harmful to the conservation or reproduction of marine mammals, fish, crustaceans, shellfish, molluscs or vegetation, or of such a nature as to make them unfit for consumption, into the sea or salt-water sections of waterways canals or lakes is punishable by a fine of 22 500 Euros.

Article L218-74

Managers of fishing boats, whether they are their owners or not, as a result of acts committed by the skippers or crew of the aforementioned boats, and those who operate marine culture establishments and shellfish depots, as a result of acts committed by their agents or employees, may be declared criminally liable for fines pronounced with

regard to offences provided for in Article l. 218-73

In all cases they are liable for civil judgements.

Article L218-75

When an infringement of Article L. 218-73 has been reported under the conditions set out in Article L. 218-77, the representative of the State in the region may suspend, for a maximum period of three months, the rights and prerogatives relating to qualifications, diplomas or certificates of captains, skippers or those who perform those functions, as well as fishing permits, special fishing permits, and generally, any fishing authorisation granted in application of national or European regulations.

The sanction is pronounced by reasoned decision after having consulted a disciplinary board, under the conditions set by a Conseil d'Etat decree.

The parties concerned are informed of the acts for which the proceedings are being instigated.

They are invited, in writing, to take cognisance of their file and are informed that they have a two-month period in which to present their case for defence.

The representative of the State in the region may not suspend the rights or authorisations in question for acts committed more than one year previously.

The decision, which may be accompanied by a suspended execution, is open to appeal before the administrative tribunal.

Article L218-76

(Order no. 2000-916 of 19 September 2000 Article 3 Official Journal of 22 September 2000 in force on 1st January 2002)

(Act no. 2004-204 of 9 March 2004 Article 198 Official Journal of 10 March 2004, in force on 1st January 2005)

In the event of a conviction for offences provided for by Article L. 218-73, the court determines, where appropriate, the measures to be taken to stop the offence or to avoid the repetition thereof and the period if time within which these measures must be carried out as well as a periodic penalty payment of a maximum of 300 euros per day of delay in carrying out the measures or obligations imposed.

The periodic penalty payment ceases on the day the obligations are fulfilled. It is then liquidated by the court on request of the interested party and recovered by the Chief Accountant of the Treasury as a criminal fine. It does not give rise to legal restraint. The present Article applies only to discharges or disposal originating from fixed facilities.

Article L218-77

The following are authorised to identify and investigate offences provided for by Article L. 218-73:

1° Agents mentioned in Article 16 of the decree of 9 January 1852 on maritime fishing:

2° Agents of National Parks under the conditions set out in Chapter I of Title III of Book III of the present Code;

3° The agents of nature reserves under the conditions set out in Chapter II of Title III of Book III of the present Code;

Article L218-78

The provisions of Articles 17 to 21, part 2, of the decree of 9 January 1852 on maritime fishing are applicable to the offences provided for by Article L. 218-73

Article L218-79

Individuals guilty of offences provided for by Article L. 218-73 also incur as an additional penalty, public posting or publication of the decision pronounced under the conditions provided for by Article 131-35 of the Code pénal.

Article L218-80

I. - Legal entities may be declared criminally liable for infringements of Article L. 218-73 under the conditions set out by Article 121-2 of the Code pénal

II. - The penalties incurred by legal entities are:

1° A fine, in accordance with the terms and conditions set out in Article 131-38 of the Code pénal;

2° The penalties mentioned in 2°, 3°, 4°, 5°, 6°, 8° and 9° of Article 131-39 of the same Code.

III. - The prohibition mentioned in 2° of Article 131-39 of the Code pénal is applicable to the activity during which, or at the time of which the offence was committed.

SECTION VII

Ecological protection zone — Article L218-81

Article L218-81

(Inserted by Act no. 2003-346 of 15 April Article 7 Official Journal of 16 April 2003)

As specified in Article 4 of Act no. 76-655 of 16 July 1976 relating to the economic zone and the ecological protection zone off the coasts of the territory of the Republic, reproduced hereafter:

Article 4 - In the economic zone defined in Article 1, the French authorities also have jurisdiction recognised by international law relating to the protection and conservation of the marine environment, to marine scientific research, the implementation and use of artificial islands, installations and structures.

When, in a zone designated as specified in Article 1, the French authorities intend, for reasons relating to international relations, to exercise jurisdiction only as mentioned in the first paragraph, this zone is named an ecological protection zone. In this zone, the provisions of Article 3 do not apply to ships flying the flag of a foreign State.

TITLE II
Air and the atmosphere — Articles L221-1 to L220-2

Article L220-1

The State and its public institutions, local authorities and their public institutions as well as private individuals, all contribute, each within its field of competence and within the limits of its responsibility, to a policy the objective of which is the implementation of the recognised right of all to breathe air which is not harmful to the health.

This action of general public interest consists in preventing, monitoring, reducing or removing atmospheric pollution, preserving air quality and, to these ends, saving and using energy in a rational manner.

Article L220-2

Atmospheric pollution is defined, for the purposes of the present Title, as being the introduction by man, directly or indirectly, into the atmosphere and closed spaces, of substances having detrimental consequences likely to put human health in danger, to damage biological resources and ecosystems, to influence climate change, to damage material goods, or to result in odour nuisance.

CHAPTER I
Monitoring of air quality and public information — Articles L221-1 to L221-6

SECTION I
Monitoring of air quality — Articles L221-1 to L221-5

Article L221-1

(Act no. 2001-398 of 9 May 2001 Article 6 Official Journal of 10 May 2001)
(Order no. 2005-1087 of 1 September 2005 Article 3 Official Journal of 2 September 2005)

I. - The State ensures, with the help of local authorities, while respecting free administration and the principles of decentralisation, the monitoring of air quality and its effects on health and the environment. It entrusts the Environment and Energy Management Agency with the technical coordination of the monitoring of air quality. Air quality objectives, alert thresholds and limit values are determined, further to an opinion expressed by the French Agency for Safety in the Environment and the Workplace, in accordance with those defined by the European Union, or in their absence, by the World Health Organisation. These objectives, threshold alerts and limit values are regularly re-assessed to take account of the results of medical and epidemiological studies.

II. - For the purposes of the present Title, the following terms are defined thus:

1° Quality objective: a concentration level of pollutant substances in the atmosphere, determined on the basis of scientific knowledge, with a view to avoiding, preventing or reducing the harmful effects of these substances on human health or the environment, to be reached within a given period of time:

2° Threshold alert: a concentration level of pollutant substances in the atmosphere above which short-term exposure represents a risk to human health or of damage to the environment and above which emergency measures must be taken;

3° Limit value: a maximum concentration level for pollutant substances in the atmosphere, determined on the basis of scientific knowledge, with a view to avoiding, preventing or reducing the harmful effects of these substances on human health or the environment.

III. - Substances the release of which into the atmosphere may contribute to a deterioration of air quality with regard to the objectives mentioned in the first paragraph are monitored, in particular by observation of the evolution of parameters revealing the existence of such a deterioration. Public health parameters likely to be affected by an evolution in air quality are also monitored.

Article L221-2

A facility for monitoring air quality and its effects on health and the environment must have been implemented at the latest: by 1st January 1997 in conurbations of more than 250 000 inhabitants, by 1st January 1998 for conurbations of more than 100 000 inhabitants, and by 1st January 2000 for the whole national territory. The terms and conditions of monitoring are adapted to the needs of each zone concerned.

Quality objectives, alert thresholds and limit values as well as the list of substances mentioned in III of Article L. 221-1 are set by decree. The list and the map of communes included in conurbations of more than 250 000 inhabitants as well as those of between 100 000 and 250 000 inhabitants are provided in an annexe to the decree.

Article L221-3

In each region, and in Corsica, the State entrusts the implementation of the monitoring provided for in Article L. 221-2 to one or more approved organisations. These associate, in a balanced manner, the representatives of the State and of the Environment and Energy Management Agency, the local authorities, representatives of the various activities contributing to the emission of monitored substances, environmental protection associations approved under Article L. 141-1, approved consumers associations and, where appropriate, qualified persons in the same category as the associations. The terms and conditions of application of the present Article are set by a Conseil d'Etat decree.

Article L221-4

Equipment for measuring air quality and the release of substances into the atmosphere, as well as the laboratories which carry out analyses and checks of pollutant emissions, are subject to approval by the administrative authorities. These authorities determine the methods used for measurement and the criteria for the location of the equipment used.

Article L221-5

Approval granted in application of the present section may be withdrawn when organisations or laboratories as well as measuring equipment no longer satisfy the conditions which allowed approval to be granted.

SECTION II
Public information — Article L221-6

Article L221-6

(Act no. 2001-398 of 9 May 2001 Article 6 Official Journal of 10 May 2001)

Without prejudice to the provisions of Act no. 78-753 of 17 July 1978 covering various measures for the improvement of relations between the administration and the public and various provisions of an administrative, social and fiscal nature, the results of epidemiological studies on atmospheric pollution, the results of studies on the environment linked to atmospheric pollution, as well as information and forecasts relating to the monitoring of air quality, to emissions into the atmosphere and to energy consumption are the object of a periodic publication which may be entrusted to the approved organisations mentioned in Article L. 221-3, chosen according to their field of competence.

Each year the State publishes an inventory of the emissions of pollutant substances and an inventory of energy consumption. It also publishes a report on air quality, its possible evolution and its effects on health and the environment. The inventory of emissions of pollutant substances and the report on air quality, its possible evolution and its effects on health and the environment are subject to an opinion expressed by the French Agency for Environmental Safety.

When air quality objectives are not reached or when the alert thresholds and limit values mentioned in Article L. 221-1 are exceeded or are likely to be exceeded, the public is immediately informed of this by the competent administrative authority. This information also concerns the values measured, advice to the populations concerned and the regulatory provisions decided upon. The competent administrative authority may delegate the implementation of this information to the organisations specified in Article l. 221-3

CHAPTER II
Planning — Articles L222-1 to L222-8

SECTION I
Regional air quality plans — Articles L222-1 to L222-3

Article L222-1

(Act no. 2002-92 of 22 January Article 24 I Official Journal of 23 January 2002)
(Act no. 2002-276 of 27 February 2002 Article 109 I a Official Journal 28 February 2002)

The president of the Conseil Régional prepares a regional air quality plan which sets the guidelines allowing the air quality objectives mentioned in Article L. 221-1 to be met and atmospheric pollution to be prevented or reduced or its effects to be attenuated.

The State departments are associated with the preparation of the plan. The Conseil Régional obtains the opinion of the comité de massif for zones where the Alpine Convention is applied. This plan also determines air quality objectives specific to certain zones where this is justified for the purpose of their protection.

To these ends, the regional air quality plan is based on an inventory of emissions and an evaluation of air quality and its effects on public health and on the environment.

In Corsica, the regional air quality plan is prepared by the President of the executive council. The State departments are associated with its preparation.

Article L222-2

(Act no. 2002-92 of 22 January 2002 Article 24 II Official Journal of 23 January 2002)
(Act no. 2002-276 of 27 February 2002 Article 109 I b, c Official Journal of 28 February 2002)
(Order no. 2004-637 of 1 July 2004 Article 23 V, Article 27 II Official Journal of 2 July 2004)

The département commissions competent in matters of the environment and health and technological risks and the representatives of the approved organisations specified in Article L. 221-3 are involved in the preparation of the regional air quality plan.

The draft of the plan is made available to the public for consultation. It is transmitted for their opinion to the communes, to the public institutions for inter-commune cooperation and to the mixed syndicates competent for the preparation of a territorial consistency scheme, to communes where there is an urban traffic plan or a plan for the protection of the atmosphere, as well as to the authorities competent for the organisation of urban transport and to the Conseils Généraux.

After possible modification in order to take account of the observations of the public and the opinions of the authorities consulted, it is finalised by decision of the Conseil Régional or, in Corsica, by decision of the Corsican

Assembly further to a proposal by the president of the executive council and after obtaining the opinion of the representative of the State.

After a period of five years, the plan is assessed and revised, if necessary, if the air quality objectives have not been reached.

The plan is then modified with regard to the objective elements of the five-year report and the updated scientific and sanitary data.

In the Ile-de-France region, the Mayor of Paris is involved in the preparation and revision of the plan.

NB: Order 2004-637 2004-07-01 Article 41: the modifications brought about by article 23 V come into force on 1st July 2005 at the latest.

Article L222-3

(Act no. 2002-276 of 27 February 2002 Article 109 I d Official Journal of 28 February 2002)

A Conseil d'Etat decree sets the terms and conditions of application of the present section, in particular the conditions under which the representative of the State in the region prepares or revises the regional air quality plan, when having been invited to do so, the Conseil Régional or, in Corsica, the Assemblée Corse, has not adopted it within a period of eighteen months.

SECTION II

Atmosphere protection plans — Articles L222-4 to L222-7

Article L222-4

(Order no. 2004-637 of 1 July 2004 Article 23 V, Article 27 III Official Journal of 2 July 2004)

I. - In all conurbations of more than 250 000 inhabitants, as well as in zones where, under the conditions set by a Conseil d'Etat decree, the limit values mentioned in Article L. 221-1 are exceeded or are likely to be exceeded, the Préfet prepares an atmosphere protection plan, compatible with the guidelines of the regional air quality plan if it exists.

II. - When the département commissions competent in matters of the environment and health and technological risks concerned have given an opinion, the draft of the plan is submitted, for their opinion, to the municipal councils, and where they exist, to the decision-making bodies of the competent public institutions of inter-commune cooperation. If an opinion is not expressed within six months after the submission of the draft of the plan, this opinion is deemed to be favourable. It is then submitted for public enquiry under the conditions set out in Chapter III of Title III of Book I.

III. - Potentially modified in order to take account of the results of the enquiry, the plan is officially approved by the Préfet.

IV. - For conurbations of more than 250 000 inhabitants, the atmosphere protection plans provided for by the present section are officially approved within eighteen months from 1st January 1997. For zones in which the limit values have been exceeded, they are officially approved within a period of eighteen months from the date on which the overshoot was reported.

V. - The plans are the object of an assessment at the end of a period of five years and, where appropriate, are revised.

NB: Order 2004-637 2004-07-01 Article 41: the modifications brought about by article 23 V come into force on 1st July 2005 at the latest.

Article L222-5

The purpose of the atmosphere protection plan is, within the period of time specified, to reduce the concentration of pollutants in the atmosphere within the zone to the limit values referred to in Article L. 221-1, and to define the terms and conditions of the alert procedure defined in Article L. 223-1.

Where justified by particular local circumstances linked to the protection of the interests defined in Articles L. 220-1 and L. 220-2, the atmosphere protection plan may reinforce the air quality objectives mentioned in Article L. 221-1 and specify guidelines in order to reach them. It may also reinforce the technical measures mentioned in Articles L. 224-1, L. 224-2 and L. 224-4.

The decree mentioned in Article L. 222-7 specifies the measures which may be implemented in order to reach the objectives set by the atmosphere protection plan, in particular those concerning the rules for the operation of certain categories of installations, the use of fuels, the conditions of use of vehicles or other movable objects and the widening of the range of controlled substances.

Article L222-6

In order to reach the objectives defined by the atmosphere protection plan, the appropriate supervisory authorities decide upon the preventive measures to be applied temporarily or permanently, intended to reduce the emissions of sources of atmospheric pollution.

They are based on the provisions of Title I of Book V where the establishment from which the pollution originates is the subject of these provisions. In other cases, the authorities mentioned in the previous paragraph may pronounce the restriction or suspension of the pollutant activities and stipulate limits on the use of vehicles.

Article L222-7

(Act no. 2001-398 of 9 May 2001 Article 6 Official Journal of 10 May 2001)

(Order no. 2005-1087 of 1 September 2005 Article 3 Official Journal of 2 September 2005 rectification JORF 10 September 2005)

The terms and conditions of application of the present section are set by a Conseil d'Etat decree after having obtained the opinion of the Higher Council for classified facilities and of the French Agency for Safety in the Environment and the Workplace.

SECTION III
Urban traffic plans — Article L222-8

Article L222-8
(Act no. 2003-591 of 2 July 2003 Article 31 III 6° Official Journal of 3 July 2003)

The prescriptions relating to urban traffic plans are set out in Chapter II of Title II of Act no. 82-1153 of 30 December 1982 on domestic transport.

CHAPTER III
Emergency measures — Articles L223-1 to L223-2

Article L223-1

When the alert thresholds are reached or are likely to be reached, the Préfét immediately informs the public in accordance with the terms and conditions set out in Section 2 of Chapter 1 of the present Title and takes measures to limit the scale and the effects of peak pollution levels on the population. These measures for the application of the atmosphere protection plan where it exists and after having informed the mayors concerned, include a facility for the restriction or suspension of activities contributing to peak pollution levels including, where appropriate, the use of vehicles, and for the reduction of emissions from fixed and mobile sources.

Article L223-2

In the event of restrictive or suspensive measures on the use of vehicles decided by the Préfet within the framework of an alert procedure, access to public passenger transport networks is provided free of charge.

CHAPTER IV
National technical measures for the prevention of atmospheric pollution and the rational use of energy — Articles L224-1 to L224-5

SECTION I
General provisions — Articles L224-1 to L224-2

Article L224-1
(Act no. 2005-781 of 13 July 2005 Article 27 IV, V Official Journal of 14 July 2005)

I. - With a view to reducing the consumption of energy and to limiting the sources of pollutant substances which are harmful to human health and the environment, the following are set by a Conseil d'Etat decree:

1° Technical specifications and performance standards applicable to the manufacture, sale, storage, use, maintenance and destruction of movable goods other than the vehicles referred to in Articles L. 331-1, L. 318-1 to 318-4 of the Highway Code reproduced in Article L. 224-5 of the present Code;

2° Technical specifications applicable to the construction, use, maintenance and demolition of real-estate;

3° The conditions of verification of the operations mentioned in the two previous paragraphs.

II. - The decrees mentioned in I may also:

1° Oblige the manufacturers and users to verify the energy consumption levels and emissions of pollutant substances of their goods, under their own diligence and at their own expense;

2° Stipulate that boilers and air-conditioning systems with a power greater than a threshold set by decree are regularly inspected under conditions that they set. In the framework of these inspections, advice regarding optimisation and installation is dispensed, where applicable, to the owners or managers;

3 Stipulate to companies that sell energy or energy services that they are obliged to promote a rational use of energy and to encourage energy savings in their advertising messages.

III. - A Conseil d'Etat decree sets the conditions under which heating fuel, diesel, petrol and premium-grade petrol must contain a minimum amount of oxygen.

IV. - The conditions under which the specifications of the fuels mentioned in III must be redefined from 1st January 2000 are set by decree

V. - In order to meet the objectives of the present Title, a Conseil d'Etat decree sets the conditions under which certain new constructions must contain a minimum quantity of wood.

Article L224-2
(Act no. 2004-1343 of 9 December 2004 Article 41 III Official Journal of 10 December 2004)
(Act no. 2005-781 of 13 July 2005 Article 27 IV, V Official Journal of 14 July 2005)

The decrees provided for in Article L. 224-1 set the conditions under which the competent administrative authorities are authorised to:

1° Grant or withdraw the official approval of assessors or organisations responsible for the checks provided for in 1° of II of Article L. 224-1;

2° Stipulate the obligation to display the energy consumption of certain goods at their point of sale or rental, and to

specify the methods of measurement used for the goods on sale and, where applicable, stipulate the obligation to display the evaluation of the full cost, bearing in mind their energy consumption and their purchase price, and specify the methods by which they are set;

3° Repealed;

4° Stipulate the obligation to equip dwellings or buildings used for tertiary purposes the building permit of which was registered after 1st July 1997 with devices allowing the choice and replacement, at any time in the life of the building, of any type of energy.

SECTION II

Automotive vehicles — Articles L224-3 to L224-5

Article L224-3

The inclusion of oxygenated compounds, particularly of agricultural origin, in petroleum-based fuels is encouraged in the framework of the control of air pollution.

This inclusion is the object, within the framework defined at European level, and on proposal by the minister for energy and the minister for the environment, of pilot operations in sensitive urban areas, where the pollution is characterised by high levels of carbon monoxide, unburnt residues and atmospheric ozone.

The general conditions of implementation of these pilot operations are defined by a Conseil d'Etat decree.

Article L224-4

The decrees provided for in Article L. 224-1 set the conditions under which the competent administrative authorities are authorised to stipulate the conditions to limit the emissions of volatile organic compounds linked with the refuelling of vehicles in services stations with an output higher than 3000 cubic metres per year.

Article L224-5

The regulations relating to the energy consumption and pollutant emissions of automotive vehicles are set by Articles L. 311-1 and L. 318-1 to L. 318-3 of the Highway Code reproduced hereafter:

"Article L. 311-1 Vehicles must be built, sold, operated, used, maintained and, where appropriate, repaired in such a way as to ensure the safety of all road users.

Decrees approved by the Conseil d'Etat set the conditions of application of the present Article.

"Article L. 318-1 Vehicles must be built, sold, operated, used, maintained and, where appropriate, repaired in such a way as to minimise the consumption of energy, the creation of non-recyclable waste, emissions of pollutant substances, in particular of carbon monoxide, referred to in Article L. 220-2 of the Code de l'environnement on air and the rational use of energy as well as other nuisances likely to compromise public health.

The energy consumption of vehicles and the methods used to measure it must be displayed at the point of sale or rental of these vehicles.

Motor vehicles are the object of an identification based on their contribution to the limitation of atmospheric pollution. Vehicles thus identified may, in particular, benefit from particular advantages and conditions concerning road use and parking.

A Conseil d'Etat decree sets the terms and conditions of application of the present Article.

"Article L. 318-2 Subject to the constraints relating to public service requirements, the State, public institutions, nationalised firms, for those activities not belonging to the competitive sector, as well as local authorities and their groups, when they manage directly or indirectly a fleet of more than twenty vehicles, acquire or use when renewing the vehicles in the fleet, with a minimum proportion of 20%, vehicles using electrical energy, or liquefied petroleum gas or natural gas. This measure applies to all the vehicles in the aforementioned fleet, with the exception of those whose gross vehicle weight exceeds 3.5 tonnes.

A Conseil d'Etat decree sets the terms and conditions of application of the present Article.

"Article L. 318-3 Subject to the constraints linked to public service requirements, the State, public institutions, nationalised firms, for those activities not belonging to the competitive sector, as well as local authorities and their groups, when they manage directly or indirectly a fleet of more than twenty vehicles for the purposes of public passenger transport, use vehicles which use fuels whose minimum oxygen rate has been raised. This measure applies within the perimeters of urban transport in conurbations of more than 100 000 inhabitants defined in the second paragraph of Article L. 221-2 of the Code de l'environnement on air and the rational use of energy.

A Conseil d'Etat decree sets the terms and conditions of application of the present Article.

CHAPTER V

Financial and tax provisions — Articles L225-1 to L225-2

Article L225-1

The prescriptions relating to the taxation of fossil fuels and to that of renewable energies are set out in Article 25, paragraphs 1 and 3, of Act no. 96-1236 of 30 December 1996 on air and the rational use of energy.

The funding of the monitoring of air quality which takes account of the product of taxation on fossil fuels, is ensured under the conditions provided for by finance laws.

Article L225-2

(Order no. 2000-916 of 19 September 2000 annexe Official Journal of 22 September 2000 in force on 1st January 2002)

The operators of public passenger transport networks equipping their public transport vehicles, put into circulation between 1st January 1991 and 1st July 1996, with systems allowing pollutant emissions to be reduced benefit from a refund of the cost of this equipment up to an amount equivalent to half the cost of acquisition, with a limit of 1215 euros per public transport vehicle. Systems giving rise to a refund must be approved jointly by the Minister for the budget, the Minister for transport and the Minister for the environment.

CHAPTER VI

Checks and sanctions — Articles L226-2 to L226-1

Article L226-1

Measures regarding checks and sanctions are taken on the basis of the provisions of Chapter I of Title I of Book V where the installation at the origin of the pollution falls under these provisions.

SECTION I

Identification and investigation of offences — Articles L226-2 to L226-5

Article L226-2

In addition to the officers and agents of the Judicial Police Department acting within the framework of the Code de procedure pénale, the following are authorised to carry out the checks provided for in the present Chapter and to identify and investigate infringements of the present Title and those for its application.

1° The agents mentioned in Article L. 514-5;

2° The civil servants and agents, commissioned for this purpose and sworn under the conditions set by a Conseil d'Etat decree, belonging to the State departments responsible for the environment, industry, town and country planning, transport, the sea, agriculture, competition, consumption and the repression of fraud, and health;

3° Customs officers

4° Engineers and technicians of the Laboratoire Central and health inspectors of the Préfecture de police.

Article L226-3

The civil servants and agents described in Article L. 226-2 have access to premises, installations and closed spaces adjoining them, excluding dwellings and sections of premises being used as dwellings. These agents may only have access to these premises between 8 am and 8 pm or at any time when they are open to the public or when an activity or operation which it is their role to check is in progress.

These agents may request any useful element or document, and make a copy thereof, and collect by summons, or on site, the information and justifications necessary in order to accomplish their mission.

The Procureur de la République is informed in advance of the operations envisaged with a view to the identification of offences. He or she may oppose these operations.

Article L226-4

I. - In the framework of operations provided for by Article L. 226-3, the agents described in Article L. 226-2 may:

1° Take samples or carry out measurements for the purpose of analyses or trials;

2° Impound property likely to be non-compliant with the provisions of the present Title or with those for its application for the time required to carry out the checks.

II. - This immobilisation may only be carried out by authorisation of the president of the Ordinary Court of First Instance with jurisdiction over the place where the contentious property is impounded, or by the magistrate appointed to do so.

III. This magistrate is referred to by request of the agents mentioned in Article L. 226-2. He or she decides within a period of twenty-four hours.

IV. - The president of the Ordinary Court of First Instance verifies that the application for immobilisation which is submitted to him is justified: this application includes all the necessary elements of information in order to justify the measure.

V. - The immobilisation may not exceed fifteen days. In the event of particular difficulties linked to the examination of the property in question, the president of the Ordinary Court of First Instance may renew the measure for the same period by a justified order.

VI. - Impounded property remains the responsibility of the holder.

VII. - The President of the Ordinary Court of First Instance may order the lifting of the immobilisation at any time. This lifting is automatic in all cases where the authorised agents have reported that the impounded property is in compliance or has been brought into compliance.

Article L226-5

Infringements of the provisions of the present Title and of the enactments for its application are reported by official reports which have probative force unless proven otherwise. Official reports are sent, on pain of being declared null and void, within five days following their closure, to the Procureur de la République. A copy is sent within the same period of time to the interested party.

SECTION II

Article L226-6

The procedure consisting of a standard fine is applicable to infringements of provisions for the application of the present Title.

Article L226-7

(Order no. 2000-930 of 22 September 2000 Article 2 Official Journal of 24 September 2000 in force on 1st June 2001)

The measures provided for in Articles L. 121-4, L. 234-1, L. 325-1 to L. 325-3, L. 325-6 to L. 325-11 and L. 417-1 of the Highway Code are applicable to vehicles in contravention of the provisions of the present Title or to the enactments for their application.

Article L226-8

I. When one of the civil servants or agents described in Article L. 226-2 reports a failure to observe the provisions set out in the present Title or enactments and decisions for their application, the Préfet officially instructs the interested party to meet these obligations within a fixed period of time, and invites the party to present any observations within the same period of time.

II. - If, at the expiry of this period of time, the party has not complied with this injunction, the Préfet may:

1° Stipulate that a sum corresponding to the cost of the works or operations required in order to bring the property into compliance be deposited with a State Accountant; this sum is returned progressively as the work is carried out. In order to recover this sum, the State benefits from a privilege of the same rank as that provided for by Article 1920 of the Code général des impôts;

2° Have the works or operations required to bring the property into compliance carried out ex officio and at the expense of the concerned party;

3° Order the suspension of the activity, the immobilisation or the interruption of the use of the equipment or machinery pending the execution of the works or operations necessary to bring them into compliance.

III The sums deposited in application of the provisions of 1° of II may be used to settle expenses resulting from the official execution of the measures provided for in 2° and 3° of II.

IV. - The decisions in application of the previous paragraphs are subject to full jurisdiction proceedings.

V. - When the enforceable status used in application of a measure of immobilisation ordered by the Préfet is the object of an opposition before the Administrative Judge, the President of the administrative court or the magistrate to whom the task has been delegated, acting in summary jurisdiction, may, notwithstanding this opposition, at the request of the Préfet or any person concerned, decide that the appeal shall not be suspensive, where none of the arguments put forward seem to him to be serious. The president of the court decides within fifteen days of referral.

VI. - During the period of suspension of activity, the operator of an industrial, commercial, agricultural or services firm must maintain the payment of salaries, compensation and remuneration of any kind to its personnel to which they were entitled beforehand.

Article L226-9

(Order no. 2000-916 of 19 September 2000 Article 3 Official Journal of 22 September 2000 in force on 1st January 2002)

The act of obstructing the course of duties entrusted by the present Title to the agents mentioned in Article L. 226-2 is punishable by six months of imprisonment and a fine of 7500 euros.

When an industrial, commercial, agricultural or services firm emits pollutant substances constituting atmospheric pollution, as defined in Article L. 220-2, in violation of an official notification pronounced in application of Article L. 226-8, the operator is punished by six months' imprisonment and a fine of 7500 euros.

The operator also incurs the additional penalties mentioned in 10° and 11° of Article 131-6 of the Code pénal as well as the penalty of public posting or publication of the decision pronounced either by written press, or by any means of audiovisual communication in accordance with Article 131-35 of the same Code.

Article L226-10

I. - Legal entities may be declared criminally liable under the conditions set out in Article 121-2 of the Code pénal for infringements of the provisions of the present Title and of those for their application.

II. - The penalties incurred by legal entities are:

1° A fine, in accordance with the terms and conditions set out in Article 131-38 of the Code pénal;

2° The penalties mentioned in 2°, 3°, 4°, 5°, 6°, 8° and 9° of Article 131-39 of the same Code.

III. - The prohibition mentioned in 2° of Article 131-39 of the Code pénal is applicable to the activity during which, or at the time of which the offence was committed.

Article L226-11

When an individual or a legal entity is declared guilty of the offence set out in the second paragraph of Article L. 226-9, the court may, in application of Articles 132-66 to 132-70 of the Code pénal, enjoin this person or legal entity to carry out the works or operations necessary to bring the property into compliance and prescribed by the Préfet in application of Article L. 226-8.

CHAPTER VII

Particular provisions for pollution caused by radioactive substances Article L227-1

Article L227-1

Pollution of any kind caused by radioactive substances as well as the conditions for the creation, operation and monitoring of basic nuclear installations is not subject to the provisions of the present Title. The prescriptions which are applicable to them are set out in Act no. 61-842 of 2 August 1961 relating to the control of atmospheric pollution and odours, as modified and completed by I and II of Article 44 of Act no. 96-1236 of 30 December 1996 on air and the rational use of energy.

CHAPTER VIII
Miscellaneous provisions — Articles L228-1 to L228-2

SECTION I
National defence — Article L228-1

Article L228-1

The provisions of the present Title are applicable to vehicles and equipment of the army, the navy and military aviation only where these provisions are not incompatible with the technical characteristics of their manufacture and use.

SECTION II
Cycling routes — Article L228-2

Article L228-2

When urban roadways are constructed or renovated, with the exception of motorways and expressways, cycling routes must be created, equipped with paths, road markings or separate corridors, depending on the needs and constraints of traffic circulation.

The development of these cycling routes must take account of the guidelines of urban traffic plans when these exist

CHAPTER IX
Greenhouse effect — Articles L229-1 to L229-24

SECTION I
The National Observatory on the effects of global warming — Articles L229-1 to L229-4

Article L229-1

(Act no. 2003-591 of 2 July 2003 Article 31 III 7° Official Journal of 3 July 2003)
(Order no. 2004-330 of 15 April 2004 Article 1 I Official Journal of 17 April 2004)

The fight against the intensification of the greenhouse effect and the prevention of risks linked to global warming are recognised as being national priorities.

Article L229-2

(Act no. 2003-591 of 2 July 2003 Article 31 III 7° Official Journal of 3 July 2003)
(Order no. 2004-330 of 15 April 2004 Article 1 I Official Journal of 17 April 2004)

A National Observatory on the effects of global warming in mainland France and in the overseas départements and territories has been set up.

The National Observatory on the effects of global warming is responsible for collecting and distributing information, studies and research on the risks linked to global warming and extreme climatic phenomena in mainland France and in the overseas départements and territories, in liaison with the research establishments and institutes concerned and the intergovernmental group of experts on the evolution of the climate. It may carry out, in its area of competence, any action for the information of the public and of the local authorities.

Article L229-3

(Act no. 2003-591 of 2 July 2003 Article 31 III 7° Official Journal of 3 July 2003)
(Order no. 2004-330 of 15 April 2004 Article 1 I Official Journal of 17 April 2004)

Every year the National Observatory on the effects of global warming prepares an informational report for the Prime Minister and Parliament. This report may contain recommendations on preventive and adaptive measures likely to limit the risks linked to global warming. The report is made available to the public.

Article L229-4

(Act no. 2003-591 of 2 July 2003 Article 31 III 7° Official Journal of 3 July 2003)
(Order no. 2004-330 of 15 April 2004 Article 1 I Official Journal of 17 April 2004)

The headquarters, the composition, the methods of designation of members and the operational regulations of the Observatory are set by decree.

SECTION II
Greenhouse gas emission quotas — Articles L229-5 to L229-19

Article L229-5

(Inserted by Order no. 2004-330 of 15 April 2004 Article 1 II Official Journal of 17 April 2004)

The provisions of the present section apply to classified facilities which emit greenhouse gases into the atmosphere when they exercise one of the activities the list of which is set by a Conseil d'Etat decree. This same decree also takes account of the production or output capacity of the installation.

Article L229-6

(Order no. 2004-330 of 15 April 2004 Article 1 II Official Journal of 17 April 2004)
(Act no. 2004-1343 of 9 December 2004 Article 80 XIV 1º Official Journal of 10 December 2004)

The facilities entering into the scope of the present section are subject to authorisation for the emission of greenhouse gases.

The authorisation provided for in article L. 512-1 takes the place of the authorisation provided for in the previous paragraph.

A ruling issued by the Minister for classified facilities sets the methods of implementation of the particular obligations regarding monitoring, declaration and inspection to which the facilities entering into the scope of the present section are subject. This ruling also specifies the methods for checking the emission declarations mentioned in III of article L. 229-14.

Article L229-7

(Order no. 2004-330 of 15 April 2004 Article 1 II Official Journal of 17 April 2004)
(Act no. 2005-1319 of 26 October 2005 Article 6 Official Journal of 27 October 2005)

Within the meaning assigned by the present section, a greenhouse gas emission quota is an account unit representing the emission of the equivalent of one tonne of carbon dioxide.

For each facility benefiting from the authorisation to emit greenhouse gases, the State allocates emission quotas to the operator for a set period, and, each year within this period, issues the operator with a share of quotas that have been allocated to the operator in this way.

The quantity of greenhouse gases emitted by this facility in the course of a calendar year is calculated or measured and expressed in tonnes of carbon dioxide.

At the end of each of the calendar years in the period of allocation, the operator returns to the State, on penalty of the sanctions stipulated in article L. 229-18, a number of quotas equal to the total amount of greenhouse gas emissions of the operator's facilities, whether these quotas have been issued or whether they have been acquired by virtue of article L. 229-15.

However, when a facility uses, in a combustion process, gases supplied by a metallurgy facility, the corresponding quotas are allocated and issued to the operator of this latter facility. This operator is solely responsible for the obligations provided in the present section.

Within the limit of the percentage set by VI of article L. 229-8, the operator may fulfil the obligation provided for in the fourth paragraph of the present article by means of certain units described by article L. 229-22 listed on its account on the national register mentioned in article L. 229-16. A Conseil d'Etat decree specifies those of the units which may be used in this way.

Article L229-8

(Order no. 2004-330 of 15 April 2004 Article 1 II Official Journal of 17 April 2004)
(Act no. 2004-1343 of 9 December 2004 Article 80 XIV 2º Official Journal of 10 December 2004)
(Act no. 2005-1319 of 26 October 2005 Article 6 Official Journal of 27 October 2005)

I. - The greenhouse gas emission quotas are allocated by the State for a period of three years from 1st January 2005, then by periods of five years, in the framework of a national plan drawn up for each period.

II. - This plan sets the maximum quantity of emission quotas allocated by the State in the course of a period, except for those that it acquires in application of II of article L. 229-15, the criteria for distribution of these quotas, and the list of beneficiary facilities.

III. - The maximum quantity of emission quotas allocated in the course of a period is set according to:

1º The international undertakings of France with regard to greenhouse gas emissions;

2º The proportion of the emissions from the facilities subject to the provisions of the present section out of all the estimated emissions in France;

3º The forecasts for the evolution in trends of emissions in all the sectors of activity and the production of activities entering the categories described in article L. 229-5;

4º The technical and economic possibilities for reducing greenhouse gas emissions in all the sectors of activity;

5º The forecasts for the creation, extension, and closure of facilities entering into the scope of the present section.

IV. - The plan distributes the emission quotas among the various facilities mentioned in article L. 229-5. This distribution takes account of the technical and economic possibilities for reducing the emissions of the beneficiary activities, the forecasts for the evolution in production of these activities, the measures taken with a view to reducing greenhouse gas emissions before the system of exchange of quotas is established and, where applicable, the competition from activities located in countries outside the European Community.

V. - The plan puts into reserve emission quotas destined for the operators of facilities authorised in the course of the duration of the plan, and for those whose authorisation would be modified. The State may make a bid for quotas in application of II of article L. 229-15 to complete this reserve.

VI. - For each period of five years described in I, the plan sets, in the form of a percentage of the total amount of

quotas allocated to each facility, the maximum quantity of those of the units described by article L. 229-22 that the operators may use in accordance with the last paragraph of article L. 229-7.

Article L229-9

(Inserted by Order no. 2004-330 of 15 April 2004 Article 1 II Official Journal of 17 April 2004)

Subject to respect of industrial secrecy and corporate secrecy, the draft national plan for the allocation of greenhouse gas emission quotas is subject to a consultation of the public according to the methods set by decree. It is published and notified to the European Commission. The plan is approved by a Conseil d'Etat decree.

Article L229-10

(Inserted by Order no. 2004-330 of 15 April 2004 Article 1 II Official Journal of 17 April 2004)

The quotas issued in the course of the first three-year period starting on 1st January 2005 are issued free of charge.

Article L229-11

(Inserted by Order no. 2004-330 of 15 April 2004 Article 1 II Official Journal of 17 April 2004)

The administrative authority notifies the operators of facilities authorised to emit greenhouse gases of the total amount of emission quotas allocated for each period covered by a plan, and the quantity issued each year.

A Conseil d'Etat decree sets the methods for notification of the decisions regarding allocation and issuing of quotas, the conditions under which the corresponding information is made accessible to the public, the rules for the annual issuing of quotas, the applicable rules in the event of a change of operator or the winding-up or transfer of activity, and the conditions under which the decisions regarding the allocation and issuing of quotas provided for in article L. 229-8 may be contested.

Article L229-12

(Inserted by Order no. 2004-330 of 15 April 2004 Article 1 II Official Journal of 17 April 2004)

I. - The administrative authority may, after consultation of the public, request of the European Commission that the facilities be temporarily excluded, until 31 December 2007, from the scope of obligations provided for in article L. 229-7.

The administrative authority sets, in application of the provisions of Book V, prescriptions relating to the monitoring of the facilities excluded and to the limiting of their greenhouse gas emissions in the same proportion as if these facilities were subject to the obligations stipulated by article L. 229-7.

The operators of these facilities are subject to monitoring, declaration and verification requirements equivalent to those set out for the operators taking part in the system of exchange of emission quotas and, if they exceed the limit placed on gas emissions that has been stipulated for them, they may be obliged to pay a fine of the same amount, per tonne of surplus carbon dioxide, as that provided for in article L. 229-18 for an unreturned quota.

II. - For the three-year period beginning on 1st January 2005, the administrative authority may, with the agreement of the European Commission, allocate to an operator extra, non-transferable emission quotas in the event of external circumstances that are unforeseeable both for the operator and the State, and resulting in a substantial modification of the emissions from one or more of the operator's facilities which could not reasonably be avoided.

Article L229-13

(Inserted by Order no. 2004-330 of 15 April 2004 Article 1 II Official Journal of 17 April 2004)

The quotas are valid for the duration of the plan under which they are allocated until they are used.

The quotas issued or acquired in the course of an allocation period and which have not been used in the course of that period and cancelled in application of article L. 229-14 are returned to the State and cancelled at the start of the following period. The same quantity of emission quotas valid for the new period is simultaneously issued to the people who held the cancelled quotas.

However, at the end of the three-year period beginning on 1st January 2005, if application of the previous paragraph might compromise respect of the international undertakings of France to control greenhouse gas emissions, the administrative authority may decide to limit the issuing of emission quotas at the beginning of the following period, by virtue of this paragraph, only to the operators of facilities authorised to emit greenhouse gases and to a quantity equal, for each operator, to the difference between that which was allocated to the operator for the previous period and the amount of the emissions from the operator's facilities during the same period.

Article L229-14

(Inserted by Order no. 2004-330 of 15 April 2004 Article 1 II Official Journal of 17 April 2004)

I. - The quotas returned to the State each year by the operators in application of article L. 229-7 are cancelled.

II. - The people holding quotas may request their cancellation by the State at any moment.

III. - The quotas are returned on the basis of a declaration, made by each operator, of the greenhouse gas emissions from its facilities, checked, at the cost of the operator, by a body approved for this purpose by the administrative authority, then validated by the classified facilities inspection department. The declaration of greenhouse gas emissions by an operator is considered as validated if the classified facilities inspection department has not made any observations within a period set by the ruling stipulated in article L. 229-6.

Article L229-15

(Inserted by Order no. 2004-330 of 15 April 2004 Article 1 II Official Journal of 17 April 2004)

I. - The greenhouse gas emission quotas issued to the operators of facilities authorised to emit these gases are personal properties exclusively materialised by being listed on the account of their holder on the national register mentioned in article L. 229-16. They are negotiable, transmissible by transfer from account to account, and confer

identical rights upon their holders. They may be transferred as soon as they are issued, subject to the provisions of II of article L. 229-12 and article L. 229-18.

The transfer of ownership of quotas results from their listing, by the holder of the national register, on the account of the beneficiary on the date and under the conditions defined by decree.

II. - Emission quotas can be acquired, held and transferred by any operator of a facility for which an authorisation to emit greenhouse gases has been issued by a member State of the European Community, by any national of a member State of the European Community, by any legal entity having its headquarters there, and by the member States themselves.

On the condition that a mutual recognition agreement has been concluded by the European Community with one of the third-party countries mentioned in annexe B of the protocol made in Kyoto on 11 December 1997 to the United Nations framework agreement on climate change, and that this country has ratified this protocol, quotas can be acquired, held and transferred by nationals of this country and by legal entities having their headquarters there.

III. - The same legal effects are attached, on the national territory, to the emission quotas issued by the French authorities and to those issued by the competent authority of any member State of the European Community or any other State which is party to a mutual recognition agreement concluded with the European Community.

IV. - When, in the reserve constituted in application of V of article L. 229-8, the State no longer has any quotas to allocate to operators, these operators are released from the obligations set by the present section, notably the obligation to return quotas set out in article L. 229-7. Quotas are not allocated to them under the plan in progress. The competent authority sets these operators prescriptions in application of the provisions of Book V of the present Code, under the conditions stipulated in the second and third paragraphs of I of article L. 229-12.

Article L229-16

(Inserted by Order no. 2004-330 of 15 April 2004 Article 1 II Official Journal of 17 April 2004)

A national register of greenhouse gas emission quotas keeps an account of the quotas issued, held, transferred and cancelled. Any person mentioned in II of article L. 229-15 may hold quotas and open an account in this register.

The national register has one account for each person who holds quotas.

It is accessible to the public under the conditions set by decree.

The holding of the national register may be delegated to a legal entity designated by a Conseil d'Etat decree, which decree also sets the methods of application of the present article, notably the tasks of the proxy, the conditions of its remuneration and the methods for listing the different operations relating to quotas on the national register.

Article L229-17

(Inserted by Order no. 2004-330 of 15 April 2004 Article 1 II Official Journal of 17 April 2004)

After agreement from the European Commission, the State may authorise several operators of facilities of the same activity to share, in the course of the three-year period beginning on 1st January 2005 and in the course of the following five-year period, the management of the quotas relating to each facility.

When the authorisation is granted to several operators, they appoint a representative to whom the provisions of the present section apply.

A single account is opened in the national register for the facilities whose quotas are managed jointly. The representative appointed by the operators has the task of managing the quotas listed on this account. If the representative avoids the sanctions stipulated in II of article L. 229-18 in the event that the emission quotas are not returned, the operator of each facility becomes responsible for returning the quotas corresponding to the emissions from its facility and incurs the sanctions provided for by the present if it breaches this obligation.

A Conseil d'Etat decree sets the methods of implementation of the provisions of the present article.

Article L229-18

(Inserted by Order no. 2004-330 of 15 April 2004 Article 1 II Official Journal of 17 April 2004)

I. - An operator may not transfer the quotas that it holds, within the limit of those that it has been issued with for a facility and in a set year:

- in case of absence of a declaration of emissions from the facility in the course of that year by the operator before a date set by decree;

- or when the classified facilities inspection department ascertains that the declaration relating to the emissions of the facility in the course of that year does not meet the conditions set by the ruling provided for in article L. 229-6. The decision, which must be reasoned, is made at the latest on expiry of the period mentioned in III of article L. 229-14.

The operator retrieves its quotas when its declaration has been deemed satisfactory or, failing this, when the volume of emissions has been decided ex officio by the administrative authority, based on a fixed calculation established two months at the latest after the operator has been informed of the unsatisfactory nature of its declaration or, in case of absence of declaration, at the latest on 31 May. A ruling sets the methods used for this calculation and the conditions under which the operator is consulted beforehand.

II. - Each year, when at a date set by decree the operator or the representative has not returned a sufficient number of quotas to cover its emissions of the previous year, and when the authority responsible for holding the national register has informed the administrative authority of the non-fulfilment of this obligation and of the surplus emissions of greenhouse gases compared with the number of quotas returned, the competent authority issues a summons to the operator or the representative to fulfil this obligation within a period of one month.

The administrative authority imposes a fine, proportional to the number of unreturned quotas, on the operator or representative who does not respect the stipulations of the summons within the period set out. Payment of the fine does

not release the operator or the representative from the obligation to return a quantity of quotas equal to the volume of surplus emissions. It must fulfil this obligation the following year at the latest. The quotas that it holds remain inaccessible and a new fine is imposed in each of the following years until it has fulfilled this obligation.

The amount of the fine is fixed at 40 euros per unreturned quota for the three-year period beginning on 1st January 2005 and at 100 euros for the following periods. Recovery of the sums is due to the Treasury according to the same principles as for state debts not affected by tax and property.

The decision imposing the fine may also stipulate that the name of the operator or the representative be made public once the decision becomes final.

Article L229-19

(Inserted by Order no. 2004-330 of 15 April 2004 Article 1 II Official Journal of 17 April 2004)

The methods of application of the present section are set by a Conseil d'Etat decree.

SECTION III

Implementation of the project activities provided by the protocol made in Kyoto on 11 December 1997 to the United Nations framework agreement on climate change of 9 May 1992 — Articles L229-20 to L229-24

Article L229-20

(Inserted by Act no. 2005-1319 of 26 October 2005 Article 6 Official Journal of 27 October 2005)

I. - Within the meaning assigned by the present chapter, a project activity is a project approved in accordance with articles 6 or 12 of the protocol made in Kyoto on 11 December 1997 to the United Nations framework agreement on climate change and with the decisions made by the parties for their implementation by one or several States mentioned in annexe I of the United Nations framework agreement on climate change and which have ratified the Kyoto Protocol.

II. - The conditions under which the Minister for the environment approves the project activities are set by the Conseil d'Etat decree provided for in article L. 229-24. This approval is considered as an authorisation, for the people who seek it, to take part in the project activity concerned.

Article L229-21

(Inserted by Act no. 2005-1319 of 26 October 2005 Article 6 Official Journal of 27 October 2005)

Subject to France satisfying the eligibility criteria relating to the transfers and acquisitions of units defined by the Kyoto Protocol mentioned above and by the decisions made by the parties for its implementation, any person may acquire, hold and transfer the units described in article L. 229-22 resulting from the implementation of project activities.

In order to ensure respect of the international undertakings of France to control greenhouse gas emissions, the Minister for the environment may limit the carrying-over of the units held in the national register mentioned in article L. 229-16 at the end of each period of five years set out in I of article L. 229-8 under the conditions set by the Conseil d'Etat decree provided for in article L. 229-24.

Article L229-22

(Inserted by Act no. 2005-1319 of 26 October 2005 Article 6 Official Journal of 27 October 2005)

The emission reduction units and the certified emission reduction units respectively issued in application of articles 6 and 12 of the Kyoto Protocol mentioned above and the decisions made by the parties for their implementation are personal properties exclusively materialised by being listed on the account of their holder in the national register mentioned in article L. 229-16.

Each of these units represents the emission of the equivalent of one tonne of carbon dioxide.

Article L229-23

(Inserted by Act no. 2005-1319 of 26 October 2005 Article 6 Official Journal of 27 October 2005)

The project activities provided by article 6 of the Kyoto Protocol mentioned above, implemented on the national territory, directly reducing or limiting the emissions from the facilities described in article L. 229-5, may only give rise to the issuing of emission reduction units after cancellation of an equivalent quantity of greenhouse gas emission quotas in the account held by the operator of the facility concerned in the national register mentioned in article L. 229-16.

Article L229-24

(Inserted by Act no. 2005-1319 of 26 October 2005 Article 6 Official Journal of 27 October 2005)

A Conseil d'Etat decree sets the methods of implementation of the present section.

BOOK III
Natural spaces — Articles L310-1 to L300-3

Article L300-1

The provisions relating to the prevention of forest fires and protective forests are set forth in the Code forestier (Book III, Title II and Book IV, Title I).

Article L300-2

The provisions relating to wooded areas registered by land-use maps are set forth in the Code de l'urbanisme (Book I, Title III).

Article L300-3

(Order no. 2004-178 of 20 February 2004 Article 6 I Official Journal of 24 February 2004)
(Act no. 2004-1343 of 9 December 2004 Article 78 XIV e 1 Official Journal of 10 December 2004)

The provisions relating to the Heritage Foundation for its contribution to safeguarding the noteworthy elements in natural or landscaped spaces threatened with damage, disappearance or dispersion are listed in article L. 143-2 of the Code du Patrimoine, reproduced hereunder:

"Art. L. 143-2 - The purpose of the "Heritage Foundation" is to promote the knowledge, conservation and improvement of the national heritage. It is concerned with the identification, preservation and improvement of unprotected heritage.

"It contributes to safeguarding the monuments, edifices, sets of movables or noteworthy elements in natural or landscaped spaces threatened with damage, disappearance or dispersion. It thus contributes to employment, integration, training and transmission of know-how in the sectors of restoration and enhancement of heritage and sites.

"It provides its assistance to public or private entities, notably via subsidies, for the acquisition, maintenance, management and presentation to the public of these assets, whether or not they have been subject to protection measures provided for by the present Code.

"It may also acquire the assets mentioned in the third paragraph when this acquisition is required for the safeguarding actions that it sets up.

"It may attribute a label to unprotected heritage and to sites. This label may be taken into account in the granting of the approval provided for in 1 ter of II of article 156 of the Code Général des Impôts.

TITLE
Inventory and improvement of natural heritage — **Articles L310-1 to L310-3**

Article L310-1

I. - The State shall compile a département inventory of natural heritage in each département.

II. - This inventory registers:

1° The sites, landscapes and natural environments, defined in application of the texts, of which the list is determined by decree;

2° The environmental protection measures taken in application of the texts, of which the list is determined by decree, in addition to the related means of management and improvement where appropriate.

III. - The département inventory of natural heritage is subject to periodical modifications in order to take into account the changes that have occurred in the département, in the identification of sites, landscapes and environments, and in the protective measures referred to in the previous paragraphs.

IV. - This inventory is made available to the public for consultation. It is also made available to the investigating commissioner or the investigating commission in the event of a public inquiry concerning a structure that falls within the sphere of this inventory. It is given to the approved département environmental protection associations concerned upon request.

Article L310-2

(Order no. 2004-637 of 1 July 2004 Article 27 IV Official Journal of 2 July 2004)

A guidance report, drawn up by the State, sets forth the measures provided for within the framework of its competence, to ensure the protection and management of natural sites, landscapes and environments.

The draft guidance report is submitted to the general council for its opinion.

The draft guidance report shall then be made available to the public for two months. It is approved by a prefectural decision and published.

The guidance report is revised on the Préfet's initiative, at the end of a five-year period at the most, in accordance with the procedure provided for its adoption.

A Conseil d'Etat decree sets out the conditions for the application of the present Article.

Article L310-3

As stipulated in Article 38-1 of the changed Spatial Planning and Development Act no. 95-115 of 04 February 1995, reproduced hereinafter:

"Art. 38-1. - The management funds for natural environments contribute to financing projects of collective interest, which contribute to protecting, rehabilitating or managing natural environments and habitats.

The implementation thereof takes into account the guidelines of the community services scheme for natural and rural areas."

TITLE II
The coastline — **Articles L321-1 to L322-14**

CHAPTER I
Coastal protection and management — Articles L321-1 to L321-12

SECTION I

General provisions — Articles L321-1 to L321-2

Article L321-1

I. - The coast is a geographical entity, which calls for a specific development, protection and improvement policy.

II. - The implementation of this policy of general interest involves coordinating the actions of the State and local authorities, or their groups, with the aim of:

1° Implementing a research and innovation effort directed towards the distinctive characteristics and resources of the coast;

2° Protecting biological and ecological balances, fighting erosion, and preserving sites, landscapes and heritage;

3° Preserving and developing economic activities related to coastal waters, such as fishing, marine culture, port activities, shipbuilding and repairs, and sea transport;

4° Supporting and developing farming or forestry activities, industry, crafts and tourism in the coastal area.

Article L321-2

For the purpose of the present Chapter, metropolitan communes and overseas départements are considered coastal communes when they are:

1° Located beside seas and oceans, saltwater lakes and expanses of inland water of a surface area exceeding 1 000 hectares;

2° Located beside estuaries and deltas when they are downstream from the saltwater demarcation line and contribute to the economic and ecological coastal balance. The list of these communes is determined by a Conseil d'Etat decree, after consultation with the municipal councils concerned.

SECTION II

Planning and development — Articles L321-3 to L321-7

Article L321-3

Facilities for yachts are organised to fit in with natural and urban sites and respect the standards decreed by the sea improvement schemes defined in Article 57 of Act no. 83-8 of 07 January 1983 relating to the distribution of competence between communes, départements, regions and the State.

Article L321-4

The licensing authority for a marina grants a concession by imposing, if necessary, the restoration of an area with an artificial beach, or a conchological or aquacultural potential equivalent to the one that will have been destroyed by construction work.

Article L321-5

The decisions for use of public coastal areas take into account the orientation of the areas concerned and neighbouring land areas, in addition to the requirements for coastal site, landscape and biological resource preservation; for this reason, they are coordinated with those concerning neighbouring land for public use.

Subject to specific enactments concerning national defence and maritime safety requirements, any substantial change in the use of public coastal areas shall be submitted for a preliminary public enquiry in accordance with the modes of implementation provided for in Chapter III of Title II of Book I of the present code.

Article L321-6

Subject to sea defence operations being carried out and the construction of structures and installations required for maritime safety, national defence, sea fishing, saltworks and marine cultures, the natural state of the seashore, outside port and industrial port areas, may not be damaged, especially by dyke construction, drainage,

rock filling or embankment forming, except for structures or installations related to providing a public service or carrying out construction work for which the seaside location is essential for topographical or technical reasons that have been declared of public interest.

However, construction work carried out prior to 03 January 1986 shall continue to be governed by previous legislation.

Article L321-7

Other special coastal provisions concerning works, construction and installations are set forth in the Code de l'urbanisme (Book I, Title IV, Chapter VI).

SECTION III

Extraction of materials — Article L321-8

Article L321-8

The extraction of materials not referred to in Article 2 of the Code minier is limited or forbidden should they risk compromising, either directly or indirectly, beaches, coastal dunes, cliffs, marshes, mudflats, seagrass and spawning beds, natural pools of living shellfish and marine culture installations.

This provision may not however hinder dredging work carried out in ports and their canals, or work carried out to preserve or protect remarkable natural areas.

SECTION IV

Access to the shore — Articles L321-9 to L321-10

Article L321-9

(Act no. 2002-276 of 27 February 2002 Article 115 Official Journal of 28 February 2002)

Pedestrian access to beaches is free unless special provisions are required for legitimate reasons of safety, national defence or environmental protection.

Admission-free access to the public is the fundamental purpose of beaches, in the same way as their use for fishing and marine culture activities.

Beach concessions are granted or renewed subsequent to public enquiry. They preserve free movement on the beach and allow the free use of a significantly wide area along the sea for the public.

All concession contracts determine the width of this area, taking into account the characteristics of the site.

The public is notified of the presence of beach concessions and operating sub-contractors by the concessionary.

Unless authorisation is given by the Préfet, after the Mayor's approval, the flow and parking of motor vehicles other than emergency, police and works vehicles are forbidden, outside surfaced lanes, on the seashore, and the dunes and beaches belonging to the public, or privately owned but open to the public.

Priority for granting beach concessions is given to communes or groups of communes or, after consultation with the aforementioned should they relinquish their priority, to public or private individuals after publication and opening to competition. Potential operating sub-contractors are also approved after publication and opening to competition.

The modes of application of the present Article are determined by a Conseil d'Etat decree.

Article L321-10

Other provisions relating to access to the shore are governed by Articles L. 160-6, L. 160-6-1, L. 160-7 and L. 160-8 of the Code de l'urbanisme, reproduced hereinafter:

"Art. L. 160-6. - Privately owned properties in public coastal areas are encumbered with an easement of a three-metre wide strip of land to provide a right of way exclusively for pedestrians.

The administrative authority may, by a justified decision, made after consultation with the municipal council or councils concerned and in view of the result of a public enquiry carried out for an expropriation order:

a) Change the line or characteristics of the easement, in order to ensure the continuity of the pedestrian way or free access for pedestrians to the seashore, due to the presence of obstacles of all natures on the one hand, and take into account pre-existent paths or local rules on the other hand. The modified line may exceptionally encumber properties that are not within public coastal areas;

b) Suspend it, under exceptional circumstances.

Except in the event of an easement being the only means of ensuring the continuity of a pathway for pedestrians or their free access to the seashore, the easement introduced in paragraphs 1 and 2 above, may not encumber plots of land located less than fifteen metres from housing built before 01 January 1976, or encumber land adjoining housing and enclosed walls in existence on 01 January 1976."

"Art. L. 160-6-1. - A pedestrian right of way, running transversally to the shore, may be introduced on existing private ways and paths for collective use, with the exception of those reserved for professional use, according to the procedure provided for in the second paragraph of Article L. 160-6.

This right of way serves the purpose of connecting public highways to the seashore or footpaths providing immediate access thereto, in the absence of a public highway allowing access to the seashore located less than five hundred metres therefrom.

The provisions of Article L. 160-7 apply to this easement."

"Art. L. 160-7. - The easement introduced by Article L. 160-6 shall only provide the right to indemnity if undoubted, direct, material damage has been caused to the owner.

An application for indemnity must, with the risk of debarment, reach the competent authority within a time limit of six months from the date on which the damage was caused.

The indemnity is either determined by an out-of-court settlement, or, in the event of a conflict, under the conditions defined in the second paragraph of Article L. 160-5.

The amount of the indemnity for loss of use is calculated taking into account the former customary use of the land.

The civil liability of the land, lane and path owners encumbered by the rights of way defined in Articles L. 160-6 and L. 160-6-1 shall not be engaged in the event of damages caused or suffered by the beneficiaries of the aforementioned rights of way."

"Art. L. 160-8. - A Conseil d'Etat decree stipulates the conditions of application for Articles L. 160-6 and L. 160-7 and sets the date of their entry into force.

The decree provided in the previous paragraph also determines the cases in which the distance of fifteen metres, laid down in Article L. 160-6 (paragraph 3), may be reduced in exceptional circumstances."

SECTION V

Engineering structures connecting islands to the mainland — Article L321-11

Article L321-11

(Order no. 2000-916 of 19 September 2000 Article 3 Official Journal of 22 September 2000 entry into force 01 January 2002)

At the request of the majority of the competent communes or groups of communes in terms of the development, town planning or environment of a sea island connected to the mainland by an engineering structure, the general council may introduce a département toll to be paid by the passengers of each land motor vehicle that uses the structure between the mainland and the island.

The toll mentioned in the first paragraph is set and collected by and for the département. It may be collected by the structure operator with a view to repaying it to the département.

The amount of this toll, which may not exceed 3.05 euros per vehicle, is determined by the general council after agreement with the majority of the communes and groups of communes mentioned in the first paragraph.

The general council's decision may provide for different rates or a free crossing according to the variety of categories of users, either in order to take into account a necessity of general interest with relation to protected natural areas, or the specific situation of certain users, especially those who live or work on the island in question, or live in the département concerned, or fulfil a public service mission.

The income from the tax is included in the département budget. It is used exclusively to finance protective and management measures in natural areas on the islands concerned, within the framework of an agreement signed between the Préfet, the general council and the island communes and groups of communes mentioned in the first paragraph. Once the expenses related to its collection and the operations for which the département is the contracting authority have been deducted, it is transferred to the budget of the communes and groups of communes concerned within the framework of the aforementioned agreement.

A Conseil d'Etat decree sets out the conditions for application of the present Article.

SECTION VI
Maritime passenger transport to protected areas — Article L321-12

Article L321-12

(Order no. 2000-916 of 19 September 2000 Article 1 I Official Journal of 22 September 2000 entry into force 01 January 2002)

(Act no. 2002-276 of 27 February 2002 Article 166 Official Journal of 28 February 2002)

As stipulated in Article 285 quater of the Code des douanes, reproduced hereinafter:

A tax owed by maritime public transport companies is collected. This tax is based on the number of passengers sailing to the destination of:

- A natural site, listed or registered in accordance with the Title of the law of 02 May 1930, which aims to reorganise the protection of natural monuments and sites of an artistic, historical, scientific, legendary or picturesque nature;
- A national park created in application of Article L. 241-1 of new Book II of the Code Rural;
- A nature reserve created in application of Article L. 242-1 of new Book II of the same code;
- A site within the Coastal Protection Agency estate or for which a protective easement has been established, in application of Article L. 243-1 of new Book II of the same code;
- Or a port serving exclusively or mainly one of the protected areas mentioned above but without having been included.

The list of sites, parks, reserves and ports mentioned in the second to sixth paragraphs is determined by a decree. Sites registered in accordance with the aforementioned law of 02 May 1930 may only appear on this list at the request of the communes concerned.

The tax is added to the price asked of the passengers. It is recorded, collected and checked by the customs services with the same guarantees, sanctions and privileges as customs duties. The State receives a levy from this income to cover the cost of collection, equal to 2.5 per cent of the said income. The rate of the tax is determined by a ruling from the Minister for the Budget within a limit of 1.52 euros per passenger. This ruling may provide for different rates or a free crossing according to the variety of categories of users, either in order to take into account a necessity of general interest with relation to protected natural areas, or the specific situation of certain users, especially those who live or work in the protected area or on the island, of which all or part of the territory belongs to the protected area.

The tax is collected for the public legal body which manages the protected natural area, or in the absence thereof, the commune of the territory in which the site is located or which is appointed to ensure its preservation.

A Conseil d'Etat decree sets out the conditions for application of the present Article.

CHAPTER II
Coastal Protection Agency — Articles L322-1 to L322-14

SECTION I
General provisions — Articles L322-1 to L322-2

Article L322-1

(Act no. 2002-276 of 27 February 2002 Article 160 I, II Official Journal of 28 February 2002)

(Act no. 2005-157 of 23 February 2005 Article 133 I, II Official Journal of 24 February 2005)

I. - The Coastal Protection Agency is a public administrative body with the responsibility of conducting land-use policies for the protection of coastal areas, natural sites and ecological balance, after consultation with municipal councils and in partnership with interested territorial authorities:

1° In the coastal cantons delimited as of 10 July 1975;

2° In communes located close to seas, oceans, saltwater lakes or inland expanses of water of a surface area exceeding 1 000 hectares;

3° In communes located close to estuaries and deltas, when all or part of their banks are downstream from the saltwater demarcation line;

4° Repealed

II. - It may present public authorities with suggestions concerning its mission. It may also suggest suitable measures to prevent construction work on the land adjacent to public coastal areas.

In order to promote the integrated management of coastal areas, the Coastal Protection Agency may also carry out missions in the public coastal area it has been allocated or entrusted with.

III. - Its intervention may be extended by a ruling of the Préfet and after assessment by the administrative board to the sectors geographically bordering the cantons and communes mentioned in I, thus forming with them an ecological or landscape unit, and to the wetlands located in the coastal départements .

Article L322-2

Decrees approved by the Conseil d'Etat determine the conditions for application of the present Chapter.

SECTION II
Coastal Protection Agency heritage — Articles L322-3 to L322-10-3

Subsection 1
Constitution and alienations — Articles L322-3 to L322-8

Article L322-3

In order to meet the objectives defined in Article L. 322-1, the Coastal Protection Agency may carry out all types of property transactions. However, the alienation of real-estate from its own estate may only be granted once authorisation has been given by a Conseil d'Etat decree, after a proposal from the governing board decided on a majority of three quarters of the votes of all members present or represented.

Article L322-4

The Coastal Protection Agency may place a compulsory purchase order on property rights and, in the absence of the département, exercise the pre-emption right provided for in Article L. 142-3 of the Code de l'urbanisme.

Article L322-5

When the Coastal Protection Agency acquires property encumbered by easements established in application of the Code de l'urbanisme by amicable means, the purchase price is assessed in relation to the value of the property given the existing easements, which shall not qualify for an additional charge.

Article L322-6

(Act no. 2002-276 of 27 February 2002 Article 160 III Official Journal of 28 February 2002)

The Coastal Protection Agency may voluntarily administrate real-estate belonging to the State's public or private estate. However, should the previously public administration service be granted financial autonomy, the property is allocated to the public body against payment, or transferred to it in accordance with ordinary law.

The Coastal Protection Agency acts as a substitute for the State in the management of real-estate which have been allocated to it: it enters into all of the agreements concerning them, especially those set out in Article L. 322-9, collects all of their income and bears the expenses pertaining to them, whatever they may be. These provisions apply to national buildings given to the establishment as an endowment.

National buildings which have been allocated to it or given as an endowment may only be closed down or abandoned under the conditions provided for alienation of its own estate.

Article L322-7

The purchase and exchange of real-estate located in the areas defined in Article L. 322-1 carried out by the Coastal Protection Agency are exempt from stamp duty, registration fees and cadastral tax.

Article L322-8

Gifts and bequests of buildings located in the areas defined in Article L. 322-1 are exempt from gift tax when they are made to the Coastal Protection Agency.

Subsection 2
Management — Articles L322-9 to L322-10-3

Article L322-9

(Act no. 2002-276 of 27 February 2002 Article 161 Official Journal of 28 February 2002)

The estate, which comes under the authority of the Coastal Protection Agency, includes property which has been purchased in addition to that which has been allocated, assigned, entrusted or given up for management by the State. The Agency's own estate is comprised of land of which it has become the owner and that it has decided to keep in order

to carry out its mission as defined in Article L. 322-1. The estate, which comes under the authority of the Coastal Protection Agency, is public property, with the exception of unclassified land purchased for its own estate. This estate is open to the public subject to the vocation and fragility of each area.

The real-estate properties on the estate, which comes under the authority of the Coastal Protection Agency, may be managed by local authorities or groups thereof, public bodies, or authorised specialised foundations and associations which pay the expenses and collect corresponding income. Priority is given to the local authorities, should they so require it, in the territory on which the real-estate properties are located. Agreements signed for this reason between the Coastal Protection Agency and managers expressly provide for the use to be given to the land, as this use must contribute to meeting the objectives defined in Article L. 322-1.

The Agency and manager may authorise by means of an agreement, temporary and specific use of the real-estate should this use be compatible with the mission carried out by the Agency, as defined in Article L. 322-1.

In the event of this public estate being used for agricultural purposes, priority shall be given to the farmer present on the premises at the time of the real-estate concerned becoming part of the estate under the authority of the Coastal Protection Agency. In the absence of a farmer on the premises, the Agency, and manager when appropriate, shall consult professional organisations in order to choose a farmer. The agreement with the aforementioned determines the rights and obligations of the farmer in application of a framework agreement approved by the governing board and sets forth the methods for calculating fees.

Article L322-10

(Act no. 2002-276 of 27 February 2002 Article 162 I Official Journal of 28 February 2002)
(Act no. 2005-157 of 23 February 2005 Article 134 Official Journal of 24 February 2005)

The rehabilitation and building work carried out on real-estate under the authority of the Coastal Protection Agency, in order to ensure the preservation, protection and improvement of the property, may be entrusted to one of the public or private bodies referred to in Article L. 322-9 within the framework of an occupancy agreement which shall not exceed thirty years. The entrusted missions must be in keeping with the mission carried out by the Agency. This agreement may authorise the beneficiary to grant occupation authorisations, which do not constitute rights in rem, for a duration which may not exceed that of the agreement.

The beneficiary is authorised to receive direct payment of the income from the real-estate. In this case, he or she must periodically pay the surplus income, which has not been used to improve or manage the property, back to the Agency. The beneficiary is chosen freely. On expiration of the agreement, the manager may not be entitled to any indemnity for the improvements made to the building.

The Agency may bear part of the cost of the missions described in the first paragraph if this part is lower than that of the beneficiary of the agreement, in accordance with the methods specified by the said agreement.

Article L322-10-1

(Act no. 2002-276 of 27 February 2002 Article 162 II Official Journal of 28 February 2002)
(Act no. 2003-591 of 02 July 2003 Article 31 III 8° Official Journal of 03 July 2003)

Individuals who are given the responsibility, by the managers referred to in Article L. 322-9, of ensuring the protection of the estate administered by the Coastal Protection Agency constitute the coast guards.

To exercise the police powers defined in the present Article, the coast guards are commissioned by the State representative in the département, on recommendation from the director of the Coastal Protection Agency, and are then sworn. In this case, the number of guards is that mentioned in 3° of Article 15 of the Code de procédure pénale.

The coast guards and officers referred to in Article L. 332-20 of the present code record on official reports the infringements of rulings made by the municipalities and préfectures relating to access to the land concerned and the use thereof, and of those made in application of Articles L. 2213-2, L. 2213-4, L. 2213-23, L. 2215-1 and L. 2215-3 of the Code général des collectivités territoriales, when it concerns the estate administered by the Coastal Protection Agency.

The coast guards may also record on official reports infringements of the provisions of the present Title and those of the Code du domaine de l'état concerning the estate administered by the Coastal Protection Agency.

Article L322-10-2

(Inserted by Act no. 2002-276 of 27 February 2002 Article 162 III Official Journal of 28 February 2002)

Infringements of the provisions mentioned in the previous Article are punishable by a fine stipulated for class 4 infringements.

Article L322-10-3

(Inserted by Act no. 2002-276 of 27 February 2002 Article 162 IV Official Journal of 28 February 2002)

The official reports issued by coast guards are used as evidence until proof of the contrary. They are given or sent directly to the Director of Public Prosecution, five clear days after the date on which the infringement was recorded, without which they shall be null and void.

Infringements may give rise to the set fine procedure in accordance with the provisions of Articles 529 to 529-2 of the Code de Procédure Pénale.

SECTION III
Administration — Articles L322-11 to L322-13-1

Subsection 1

Governing board — Articles L322-11 to L322-12

Article L322-11

The Coastal Protection Agency is administered by a governing board comprised of an equal number of State representatives and qualified persons on the one hand, and Members of Parliament and members of the deliberative bodies of the local authorities concerned by the activity of the Coastal Protection Agency on the other hand.

Article L322-12

The chairman of the governing board is elected from within the council.

Subsection 2
Shore and coastal councils — Article L322-13

Article L322-13

(Act no. 2002-276 of 27 February 2002 Article 163 Official Journal of 28 February 2002)

The Coastal Protection Agency is comprised of shore and coastal councils. These councils are comprised of members elected from within by the deliberative bodies of the local authorities.

They suggest purchasing transactions and are consulted on the operations envisaged by the governing board of the public body.

The mayors of the communes within the territory for which operations are proposed or envisaged must be heard if they so wish.

The composition, operation and territorial boundaries of these councils are determined by a Conseil d'Etat decree.

In particular, they make any proposals to the governing board concerning the conditions for developing and managing the heritage of the public body and the partnership agreements between the Agency and the territorial authorities, especially the départements, regions and their groups, defining on a long-term basis the objectives and means mobilised by the parties for the implementation of the mission defined in Article L. 322-1.

Subsection 3
Management and personnel — Article L322-13-1

Article L322-13-1

(Inserted by Law no. 2005-157 of 23 February 2005 Article 133 III Official Journal of 24 February 2005)

In accordance with the partnership mentioned in article L. 322-1 and in order to accomplish the tasks entrusted to it, the Coastal Protection Agency may have local civil service agents at its disposal, as well as its own personnel.

In accordance with III of article L. 322-1, it may also have at its disposal contractual public establishment agents working in wetlands on an availability basis.

SECTION IV
Financial provisions — Article L322-14

Article L322-14

In order to accomplish its mission, the Coastal Protection Agency has resources at its disposal as defined by a Conseil d'Etat decree.

TITLE III
Parks and reserves — **Articles L331-1 to L333-4**

CHAPTER I
National parks — Articles L331-1 to L331-25

SECTION I
Creation and general provisions — Articles L331-1 to L331-7

Article L331-1

The territory of all or part of one or several communes may be classified a national park by a Conseil d'Etat decree, when the preservation of fauna, flora, ground, subsoil, atmosphere, water and the natural environment in general, is of special interest and it is important to preserve the area against the effect of natural damage and remove any artificial interventions which could alter its appearance, composition and development. Classification decrees may affect public coastal areas, and French territorial and inland waters.

Article L331-2

A decree to create a national park shall be made after a public enquiry and consultations determined by a Conseil d'Etat decree.

Article L331-3

The decree mentioned in Article L. 331-2 may subject the inside of a park to a specific regime, and where appropriate, forbid hunting and fishing, industrial and commercial activities, the performance of public and private works, the extraction of concessible or non-concessible materials, the use of water, public traffic using whatever means, any action liable to damage the natural development of the fauna and flora, and more generally, alter the character of the national park.

Moreover, it regulates farming, pastoral or forestry activities.

Article L331-4

Advertising is forbidden in national parks.

Article L331-5

Within the territory of a national park, it is compulsory to bury electrical or telephone networks or, for power lines carrying under 19 000 volts, to use twisted cable techniques on house facades, when creating new electricity lines or new telephone networks.

When technical requirements or topographical constraints make burial impossible, or when the impact of burial is judged higher than the installation of an overhead line, an exception may be granted to this ban by a joint ruling from the minister for energy and telecommunications and the minister of the environment.

Article L331-6

A classification decree may delimit a peripheral area around a park as defined in Article L. 331-15.

Article L331-7

A Conseil d'Etat decree determines the modes of application for the present Chapter.

SECTION II

Planning and management — Articles L331-8 to L331-14

Article L331-8

The planning and management of national parks, entrusted to an organisation that may be a government-owned corporation, in which the local authorities concerned are represented, takes place in accordance with the conditions determined by the decree provided for in Article L. 331-7.

Article L331-9

Classification decrees determine the powers, duties and functions of the corporation mentioned in Article L. 331-8, subject to the general rules laid down in the decree provided for in Article L. 331-7.

Article L331-10

Certain local authority powers, duties and functions, especially concerning private estate management, roads and the police, may be transferred to the management organisation by a Conseil d'Etat decree, in order to be able to apply the provisions of Articles L. 331-3, L. 331-4 and L. 331-16.

Article L331-11

The resources of an organisation in charge of a national park are comprised of contributions from the State, and possibly public authorities, all public and private subsidies, and if need be, service charges.

Article L331-12

Inside a national park, the various public administration authorities may, in collaboration with the organisation in charge of the park, proceed with work and improvements of a social, economic and cultural nature in order to contribute to nature protection within the park.

Article L331-13

For implementation of the pre-emption right provided for in Article L. 142-3 of the Code de l'urbanisme, the government-owned corporation in charge of the park may receive technical assistance from a competent land improvement and rural settlement company, under the conditions provided for in Article L. 141-5 of the Code Rural.

The government-owned corporation in charge of the park acts as a substitute for the State in the management of the buildings that it has been allocated. It enters into all of the agreements pertaining thereto, collects income therefrom and bears the expenses relating to them, whatever they may be. These provisions apply to national buildings given to the establishment as an endowment.

Article L331-14

The national park management organisations undertake the protection of particularly remarkable sensitive natural areas.

They cooperate with the regions and territorial authorities to fulfil this mission and encourage the economic, social and cultural development of the geographical area or, for national parks located in mountainous regions, of the mountain range concerned.

Their contribution consists of participating in research, training, hosting, activity and technical assistance programmes, in addition to ensuring representation in the mountain committees provided for by Act no. 85-30 of 09 January 1985 concerning mountain development and protection, for national parks located in mountainous areas.

The organisations managing national parks are involved, when they so request, in drawing up land-use maps,

governing schemes, or area schemes concerning the communes of which all or part of the territory is located in the park or its outlying area.

They may support joint unions that are competent in matters of planning, development and protection of a geographical area or a specific site or, for the national parks located in mountainous regions, of one or several valleys or of the local mountain range concerned.

SECTION III
Improvement of peripheral — Article L331-15

Article L331-15

In the peripheral area delimited according to the conditions set forth in Article L. 331-6, the various government departments take every measure to enable all of the work and improvements of a social, economic and cultural nature to be done, according to a programme defined in collaboration with the management organisation provided for in Article L. 331-8, while making nature protection more effective in the park.

Advertising in these peripheral areas is strictly limited to the conditions stipulated by the Conseil d'Etat decree provided for in Article L. 331-7.

SECTION IV
Integral nature reserves — Article L331-16

Article L331-16

Areas known as "integral nature reserves" may be introduced to a national park in order to ensure greater protection of certain areas of fauna and flora for scientific purposes.

Specific constraints may be enacted by the decree which institutes them.

Integral nature reserves are established while taking into account the living nature and character of the area.

The provisions relating to integral nature reserves apply without prejudice to those in Chapter II of the present Title.

SECTION V
Compensation — Article L331-17

Article L331-17

Claims concerning compensation which may be owing to the parties involved, which are either the responsibility of the organisation in charge of the national park, or the State in accordance with the conditions set forth in a Conseil d'Etat decree, are settled in the same way as matters of expropriation for reasons of public interest.

SECTION VII
Criminal provisions — Articles L331-18 to L331-25

Subsection 1
Investigation of offences and proceedings — Articles L331-18 to L331-25

Article L331-18

The officers commissioned by the administrative authority and sworn by the Tribunal de Grande Instance to which their place of residence is attached, report:

1° The infringements specially defined for the protection of national parks;

2° Infringements committed in these parks in terms of forests, hunting and fishing;

3° Infringements committed in the park's peripheral area to which infringements in terms of hunting and river fishing are extended.

Article L331-19

(Order no. 2004-178 of 20 February 2004 Article 3 Official Journal of 24 February 2004)

I. - National park officers are authorised to report infringements, in the coastal zone of these parks and the nature reserves entrusted to organisations in charge of the said parks for management, of the regulations pertaining to the protection of this zone.

II. - They are also authorised to investigate and report in the coastal zone:

1° Infringements of shipping policing rules as defined in Article 63 of the Code disciplinaire et pénal de la marine marchande, as far as the waterway and harbour police are concerned, and Article R. 1 of the same code;

2° The infringements defined in Articles L. 218-10 to L. 218-19 and in Article L. 218-73 of the present code;

3° Infringements of signposting policing rules defined in Articles L. 331-1, L. 331-2 and R. 331-1 of the Code des ports maritimes;

4° The infringements defined in Articles L. 532-3, L.532-4, L. 532-7and L. 532-8 of the Code du Patrimoine;

5° The infringements defined in Articles 2, 5 and 6 of the decree of 9 January 1852 concerning salt-water fishing.

III. - As officers in charge of fishing policing, they are able to carry out controls of the prerogatives provided for in Article 14 of the aforementioned decree of 09 January 1852.

IV. - They are commissioned by the administrative authority and sworn by the Tribunal de Grande Instance to which their place of residence is attached, for this purpose.

V. - Official reports are sent to the administrative or legal authorities according to the procedures provided for the reported infringements.

NB: the 3rd paragraph of article 7 of Act no. 89-874 is repealed by 14 of article 7 of Order no. 2004-178 of 20 February 2004 relating to the enacted part of the Code du Patrimoine, subject to the provisions of 7 of its article 8. The repeal will only take effect as of the publication of the regulatory provisions of the Code du Patrimoine.

Article L331-20

The officers authorised to report infringements in terms of forestry, hunting and fishing are able to report infringements specially defined for the protection of national parks.

Article L331-21

The official reports issued by the officers mentioned in Articles L. 331-18 to L. 331-20 are used as evidence until proof of the contrary.

The official reports, which are issued for the infringements defined in Articles L. 331-18 and L. 331-20, are given or sent directly to the Director of Public Prosecution.

Article L331-22

The official reports issued by the officers mentioned in Articles L. 331-18 and L. 331-20 for the infringements mentioned in 1° and 2° of Article L. 331-18 are sent to the Director of Public Prosecution within five days at the latest, including the day on which the event, subject of the official report, was recorded. Failure to do so shall render the official report null and void.

Article L331-23

A copy of the official report issued for river or salt-water fishing is sent, according to the case, either to the head of the administrative department in charge of fishing policing, or the head of the coastal affairs department.

Article L331-24

The officers mentioned in Articles L. 331-18 to L. 331-20 may confiscate the subject of the infringement of the national park regulations and the instruments and vehicles used to commit the infringement.

Article L331-25

The infringements of the national parks' regulations mentioned in Article 529 of the Code de procédure pénale may give rise to the set fine procedure.

CHAPTER II Nature reserves	Articles L332-1 to L332-27
SECTION I Classified nature reserves	Articles L332-1 to L332-10
Subsection 1 Creation	Articles L332-1 to L332-8

Article L332-1

I. - Parts of the territory of one or several communes may be classified a national nature reserve, when the preservation of fauna, flora, ground, water, mineral and fossil deposits, and the natural environment in general, is of special interest and it is important to remove any artificial interventions likely to damage them. Classification may affect public coastal areas, and French territorial waters.

II. - The following are taken into consideration with this regard:

1° The preservation of animal or plant species and habitats that are endangered on all or part of the national territory or display remarkable qualities;

2° The regeneration of animal or plant populations or their habitats;

3° The preservation of botanical gardens and arboretums forming reserves of endangered, rare or remarkable plant species;

4° The preservation of biotopes and remarkable geological, geomorphological or speleological formations;

5° The preservation or formation of stopping points on the main wildlife migratory paths;

6° The scientific and technical studies that are essential for the development of human knowledge;

7° The preservation of sites of specific interest for the study of the evolution of life forms and the first human activities.

Article L332-2

(Act no. 2002-92 of 22 January 2002 Article 24 III Official Journal of 23 January 2002)
(Act no. 2002-276 of 27 February 2002 Article 109 II a Official Journal of 28 February 2002)

I. - The decision to classify a national nature reserve is pronounced by decree, to ensure the preservation of elements of national interest in a natural environment or to implement a Community ruling or an obligation imposed by an international agreement.

The decision takes place after consultation with all of the local authorities concerned and, in mountainous regions, the mountain authorities.

In the absence of the owner's consent, the classification is pronounced by a Conseil d'Etat decree.

II. - The regional council may, on its own initiative or upon request from the owners concerned, classify the properties presenting an interest in terms of fauna, flora, and geological or paleontological heritage, or in a more general manner, the protection of natural environments, as regional nature reserves.

The decision to classify takes place after consultation with the regional scientific council for natural heritage and all of the local authorities concerned and, in mountainous regions, the mountain authorities.

The debate sets out the duration of the classification, the protective measures that are applicable in the reserve, the modes of its management and inspection of the requirements laid down in the classification act.

This deliberation takes place after the owner or owners have given their consent, both concerning the perimeter of the reserve and the protective measures that shall be applied there. In the absence of agreement, it is pronounced by a Conseil d'Etat decree.

Changes to a regional nature reserve take place in the same way.

A Conseil d'Etat decree determines the provisions applicable in terms of the time laid down for expressing the opinions provided for in the present Article, the declaration of public utility allocating the perimeter of the reserve, the withdrawal of classification, land registration and the owner's civil liability.

III. - In Corsica, the decision for classification of nature reserves is pronounced after deliberation in the Corsican Assembly, consultation with all of the territorial authorities concerned and notice from the State representative. The aforementioned may ask the Corsican territorial authority to proceed with the classification of a nature reserve in order to ensure the implementation of a Community ruling or an obligation imposed by an international agreement. If this is not granted, the State proceeds with the classification according to the modes of implementation defined by a Conseil d'Etat decree.

This deliberation takes place after the owner or owners have given their consent, both concerning the perimeter of the reserve and the protective measures applied there. In the absence of agreement, it is pronounced by a Conseil d'Etat decree.

The management methods for nature reserves and the inspection of requirements are defined by the Corsican Assembly, after State agreement when the classification decision has been made by the aforementioned or on its request.

Article L332-3

(Act no. 2002-276 of 27 February 2002 Article 109 II b Official Journal of 28 February 2002)

I. - The classification act may subject a national nature reserve to a specific regime, and where appropriate, forbid any action inside the reserve liable to damage the natural development of fauna and flora, and more generally, alter the nature of the said reserve, especially hunting and fishing, farming, forestry, pastoral, industrial, mining and commercial activities, the performance of public and private works, the extraction of concessible or non-concessible materials, the use of water, public traffic by whatever means, stray domestic animals, and flying over the reserve.

II. - The classification act for a regional nature reserve or a nature reserve from the Corsican territorial authority may subject the reserve to a specific regime, and where appropriate, forbid: farming, pastoral and forestry activities, the performance of work, construction and installation, the movement and parking of people, animals and vehicles, the disposal or dumping of material, remnants and waste of whatever nature whatsoever which may undermine the natural environment, actions which may undermine the integrity of non-domestic animals or uncultivated plants in the reserve and the removal of the said animals or plants from the reserve.

III. - The classification act takes into account the advantage of maintaining existing traditional activities on condition that they are compatible with the interests defined in Article L. 332-1.

Article L332-4

(Act no. 2002-276 of 27 February 2002 Article 109 II c 1 Official Journal of 28 February 2002)

The classification act is published by the competent administrative authority, in the form and manner stipulated in the laws and regulations concerning land registration. This publication shall not result in revenue for the State.

This act is sent to the mayors with a view to transcribing it upon revision of the land register.

The owners and holders of real rights are notified.

Article L332-5

When classification involves limitations which may change the state or former use of sites, causing undoubted, direct, material prejudice, it entitles the owners and holders of real rights or their claimants to compensation.

Under these circumstances, the claim must be made within a period of six months from notification of the classification decision.

In the absence of an out-of-court settlement, compensation is determined by the juge de l'expropriation.

Article L332-6

(Act no. 2002-92 of 22 January 2002 Article 24 IV Official Journal of 23 January 2002)

(Act no. 2002-276 of 27 February 2002 Article 109 II c 2, d Official Journal of 28 February 2002)

As of the day when the competent administrative authority notifies the owner concerned of its intention to form a nature reserve, no modifications may be made to the condition of the property or its appearance for a period of fifteen months, unless special authorisation is granted by the competent administrative authority, subject to the use of rural funding in accordance with previous practices. This time limit may be renewed once by a decision from the president of

the regional council or a prefectural ruling, depending on the case, on condition that the first consultations or public enquiry have begun. Once notification has been given in Corsica, by the president of the executive council, the time limit may be renewed under the same conditions by a decision from the executive council.

Article L332-7

(Act no. 2002-276 of 27 February 2002 Article 109 II c 2 Official Journal of 28 February 2002)

Goods resulting from classification follow the listed territory, whoever becomes the owner.

Whosoever alienates, rents or assigns territory classified as a nature reserve, is obliged to inform the buyer, tenant or concessionary of the existence of the classification.

The competent administrative authority must be notified of the alienation of a building located in a nature reserve within fifteen days by the person who agreed to the alienation.

Article L332-8

(Act no. 2002-276 of 27 February 2002 Article 109 II e Official Journal of 28 February 2002)

The management of nature reserves may be entrusted, by way of an agreement, to public establishments, public interest groups or non-profit-making associations governed by the law of 01 July 1901 with the main statutory purpose of protecting natural heritage, foundations, classified landowners or territorial authorities or groups thereof.

Subsection 2

Modifications to the state or appearance of a nature reserve — Article L332-9

Article L332-9

(Act no. 2002-276 of 27 February 2002 Article 109 II g Official Journal of 28 February 2002)

The state or appearance of territories classified as nature reserves may not be destroyed or modified, unless special authorisation has been granted by the regional council for regional nature reserves or the State representative for national nature reserves. Authorisation is the responsibility of the Corsican Assembly in Corsica if the territorial authority made the decision for classification.

A Conseil d'Etat decree determines the modes of implementation of this authorisation, especially the prior consultation of competent organisations.

Subsection 3

Downgrading — Article L332-10

Article L332-10

(Act no. 2002-92 of 22 January 2002 Article 24 VI Official Journal of 23 January 2002)

(Act no. 2002-276 of 27 February 2002 Article 109 II h Official Journal of 28 February 2002)

Full or partial downgrading of a territory classified as a nature reserve is pronounced after a public enquiry, by a Conseil d'Etat decree when it concerns a national nature reserve, or by regional council deliberation when it concerns a regional nature reserve.

It is subject to the measures provided for in Article L. 332-4.

The Corsican Assembly may, after a public enquiry, decide on the full or partial downgrading of a territory for which it pronounced the nature reserve classification, with the exception of plots of land classified as nature reserves at the request of the State representative. The downgrading decision is subject to the measures provided for in Article L. 332-4.

SECTION II

Non-classified nature reserves — Article L332-11

Article L332-11

(Act no. 2002-92 of 22 January 2002 Article 24 VII Official Journal of 23 January 2002)

(Act no. 2002-276 of 27 February 2002 Article 109 II I Official Journal of 28 February 2002)

Non-classified nature reserves, registered on the date Act no. 2002-276 of 27 February 2002 concerning neighbourhood democracy came into force, become regional nature reserves, or in Corsica, Corsican territorial authority nature reserves. However, for a period of one year from the said date, the owners concerned may ask for their registration to be withdrawn.

SECTION III

Common provisions — Articles L332-13 to L332-19-1

Subsection 1

Protection of nature reserves — Articles L332-13 to L332-15

Article L332-13

(Act no. 2002-92 of 22 January 2002 Article 24 VIII Official Journal of 23 January 2002)

(Act no. 2002-276 of 27 February 2002 Article 109 II k Official Journal of 28 February 2002)

No one may acquire by statute of limitations on a nature reserve, rights which may change its character or modify the appearance of the site.

An easement may only be established by an agreement in a nature reserve with the consent of the State representative or the regional council when it made the decision for classification. The required consent is given by the Corsican Assembly in Corsica, if it made the decision for classification.

Article L332-14

Advertising is forbidden in nature reserves.

Article L332-15

Within the territory of a nature reserve, it is compulsory to bury electrical or telephone networks or, for power lines carrying under 19 000 volts, to use twisted cable techniques on house facades, when creating new electricity lines or new telephone networks.

When technical requirements or topographical constraints make burial impossible, or when the impact of burial is judged higher than the installation of an overhead line, an exception may be granted to this ban by a joint ruling from the minister for energy and telecommunications and the minister of the environment.

Subsection 2
Perimeter of protection — Articles L332-16 to L332-18

Article L332-16

(Act no. 2002-276 of 27 February 2002 Article 109 II I Official Journal of 28 February 2002)

The regional council, for regional nature reserves, or the State representative, for national nature reserves, may introduce protected area boundaries around the said reserves. In Corsica, the decision is the remit of the Corsican Assembly when the territorial authority made the decision for classification.

These boundaries are created after a public inquiry into the proposal, or after the agreement of the municipal councils.

Article L332-17

Within the protected area boundaries, limitations may subject any action liable to alter the character of or damage the nature reserve to a special scheme or ban. The limitations concern all or part of the actions listed in Article L. 332-3.

Article L332-18

The provisions of Articles L. 332-7 and L. 332-8 apply to protected area boundaries.

Subsection 3
Miscellaneous provisions — Articles L332-19 to L332-19-1

Article L332-19

Nature reserves created in application of Article 8 a of the law of 02 May 1930 are subject to the provisions of the present Chapter.

Article L332-19-1

(Act no. 2002-92 of 22 January 2002 Article 24 IX Official Journal of 23 January 2002)
(Act no. 2002-276 of 27 February 2002 Article 109 II m Official Journal of 28 February 2002)

In Articles L. 332-4, L. 332-6 and L. 332-7, the words: "competent administrative authority" refer to the president of the executive council when the Corsican territorial authority has made the decision for classification.

SECTION IV
Criminal provisions — Articles L332-20 to L332-27

Subsection 1
Investigation of offences and proceedings — Articles L332-20 to L332-24

Article L332-20

(Act no. 2003-239 of 18 March 2003 Article 91 I Official Journal of 19 March 2003)

In addition to the police officers listed in Articles 16, 20 and 21 of the Code de procédure pénale, the following are authorised to record infringements of the provisions of Articles L. 332-3, L. 332-6, L. 332-7, L. 332-9, L. 332-11, L. 332-12, L. 332-17 and L. 332-18:

1° Commissioned customs officers;

2° Officers commissioned for this purpose by the administrative authority, sworn at the Tribunal de Grande Instance attached to their place of residence, who can furthermore be commissioned to report hunting and fishing infringements committed in nature reserves;

3° Officers from the State and the National Forestry Office commissioned to record infringements pertaining to forestry, hunting, fishing, health inspection, and animal or plant protection throughout the areas for which they have been sworn;

4° Sworn, commissioned national park rangers from the National Hunting and Wildlife Office and the Higher Fishing

Council;

4° a Rangers;

5° When protective measures concern the public maritime domain or territorial waters, the officers authorised by the decree of 09 January 1852 relating to saltwater fishing to record infringements of the regulations pertaining to saltwater fishing, and police civil servants in charge of the public maritime domain and territorial waters.

NB - Law 2003-329 Article 131: Articles 77, ... 86 to 89, 91 ... apply to Mayotte.

Article L332-21

The official reports issued by the civil servants and officers designated in Article L. 332-20 are used as evidence until proof of the contrary. They are given or sent directly to the Director of Public Prosecution. This handing over or dispatch takes place five clear days after the date on which the infringement was recorded. Failure to do so renders the official report null and void.

The rules for criminal procedure decreed by Articles 17 to 21 a of the decree of 09 January 1852 relating to saltwater fishing, apply in the event of infringements committed in the public maritime domain or territorial waters.

Article L332-22

(Order no. 2004-178 of 20 February 2004 Article 3 Official Journal of 24 February 2004)

I. - Nature reserve rangers are authorised to record infringements of the regulations pertaining to the protection of the maritime area in the reserves.

II. - They are also authorised to look for and record in this maritime area:

1° Infringements of shipping policing rules as defined in Article 63 of the Code disciplinaire et pénal de la marine marchande, as far as the waterway and harbour police are concerned, and Article R. 1 of the same code;

2° The infringements defined in Articles L. 218-10 to L. 218-19 and in Article L. 218-73 of the present code;

3° Infringements of signposting police defined in Articles L. 331-1, L. 331-2 and R. 331-1 of the Code des ports maritimes;

4° The infringements defined in Articles L. 532-3, L.532-4, L. 532-7and L. 532-8 of the Code du Patrimoine;

5° The infringements defined in Articles 2, 5 and 6 of the decree of 9 January 1852 concerning salt-water fishing.

III. - As officers in charge of fishing policing, they are able to carry out controls of the prerogatives provided for in Article 14 of the aforementioned decree of 9 January 1852.

IV. - They are commissioned by the administrative authority for this purpose and sworn by the Tribunal de Grande Instance attached to their place of residence.

V. - Official reports issued by these officers have probative force until proven otherwise. They are sent to the administrative or legal authorities according to the procedures provided for the reported infringements.

NB: the 3rd paragraph of article 7 of Act no. 89-874 is repealed by 14 of article 7 of Order no. 2004-178 of 20 February 2004 relating to the enacted part of the Code du Patrimoine, subject to the provisions of 7 of its article 8. The repeal will only take effect as of the publication of the regulatory provisions of the Code du Patrimoine.

Article L332-23

The civil servants and officers designated in Article L. 332-20 are authorised, in the performance of their duties, to visit nature reserves and their protective boundaries with a view to ensuring the respect of the rules to which they are subject and to observe any infringements.

Preventing these civil servants or officers from performing their duties, by refusing them entry to a nature reserve, is punishable by the penalties provided for in Article L. 332-25, without prejudice, where appropriate, to the penalties provided for in Articles 433-6 and after of the Code pénal.

Article L332-24

Infringements of the nature reserve regulations mentioned in Article 529 of the Code de Procédure Pénale may give rise to the set fine procedure.

Subsection 2
Sanctions — Articles L332-25 to L332-27

Article L332-25

(Order no. 2000-916 of 19 September 2000 Article 3 Official Journal of 22 September 2000 in force on 1st January 2002)

Infringements of the provisions of Articles L. 332-6, L. 332-7, L. 332-9, L. 332-12, L. 332-17 and L. 332-18 are punishable by six months of imprisonment and a 9 000 euro fine.

Article L332-26

The officers in charge of recording the infringements mentioned in Articles L. 332-3 and L. 332-25 may confiscate the subject of the infringement, and the instruments and vehicles used to commit the infringement.

The costs for transporting, maintaining and keeping the confiscated objects are borne by the accused. The judgement for conviction may pronounce the confiscation of the subject of the infringement and the instruments and vehicles used to commit the infringement.

Article L332-27

(Act no. 2002-276 of 27 February 2002 Article 109 II n Official Journal of 28 February 2002)

In the event of an infringement of the provisions of Articles L. 332-6, L. 332-9, L. 332-17 and L. 332-18 or the limitations of the classification act as provided for in Article L. 332-3 of the present code, the provisions and sanctions enacted in Articles L. 480-2, L. 480-3, L. 480-5 to L. 480-9 of the Code de l'urbanisme and in Article L. 341-20 of the present code apply to territories within a nature reserve, with the Minister for the protection of nature replacing the Minister for town planning.

For application of paragraph 1 of Article L. 480-2 of the Code de l'urbanisme, the public ministry may only act at the request of the mayor, the competent civil servant or

an environmental protection agency approved in accordance with Article L. 141-1 of the present code.

For application of Article L. 480-5 of the Code de l'urbanisme, the court shall either give a ruling on the backfitting of the properties with the recommendations set out by the Minister of the environment, the President of the regional council or the President of the Corsican executive council, according to whether it concerns a national nature reserve, a regional nature reserve or a nature reserve classified by the Corsican Assembly, or the return to their former state.

CHAPTER III
Regional parks — Articles L333-1 to L333-4

Article L333-1

(Act no. 2003-591 of 02 July 2003 Article 31 III 9° Official Journal of 03 July 2003)
(Act no. 2005-157 of 23 February 2005 Article 231 I Official Journal of 24 February 2005)

Regional parks participate in environmental protection policy, spatial planning, economic and social development and public training and information. They form a privileged framework for actions carried out by public authorities for the preservation of landscapes and natural and cultural heritage.

The park charter determines the guidelines for protection, improvements and development, and the measures enabling them to be implemented for the park area. It includes a detailed map, based on a heritage inventory, indicating the different park areas and their use, with a document that determines the guidelines and fundamental principles for protecting the landscape structures in the park area.

The draft constituent charter is drawn up by the region with all of the territorial authorities concerned and in consultation with the interested partners. It is submitted for a public enquiry, then approved by the local authorities concerned and adopted by a decree for the classification of the territory as a regional nature park for a maximum duration of ten years.

The regional nature park charter is revised by the regional park management organisation. When changes to the de jure or de facto circumstances do not allow the region to conduct the revision at its term, before the expiry of the classification, this classification may be prolonged by decree for a maximum duration of two years. This decree is made at the request of the region on the proposal of the management organisation without any need to proceed to the prior consultations required on the occasion of the initial classification and its renewal.

The State and territorial authorities adhering to the charter apply the guidelines and measures thereof in the practice of their competences in the park area. They consequently ensure the coherence of their actions and the means they dedicate to them. The State and the regions adhering to the charter may sign an agreement with the park management organisation to apply the State-region 5-year plan contract. The town planning documents must be compatible with the guidelines and measures of the charter.

A Conseil d'Etat decree determines the modes of application of the present Article.

Article L333-2

The regional parks located in mountainous areas are a model instrument for the protection of biological balance and the preservation of the sites and landscapes referred to in Article 1 of Act no. 85-30 of 09 January 1985 relating to mountains. Their representation in the mountain committees, provided for in Article 7 of the same law, conveys the privileged nature of their relationships with the regions and territorial authorities in the context of spatial planning that respects the distinctive features of mountainous areas.

This representation allows them to participate in the elaboration of the specifications referred to in Article L. 145-7 of the Code de l'urbanisme, particularly as far as the means of preserving areas, landscapes and environments that are typical of the natural and cultural mountain heritage are concerned.

Article L333-3

The development and management of regional parks, created after 03 February 1995, are entrusted to a mixed syndicate as described in Articles L. 5721-1 and according to the Code général des collectivités territoriales.

Article L333-4

(Act no. 2003-590 of 02 July 2003 Article 97 IV Official Journal of 03 July 2003)

When the boundaries of a country include communes located in a regional park, document compatibility, and the coherence and coordination of the actions carried out by the country in the common territory are ensured, in accordance with the third paragraph of IV of Article 22 of Act no. 95-115 of 04 February 1995 relating to territorial planning and development.

TITLE IV
Sites — **Articles L341-1 to L342-1**

CHAPTER I

Registered and listed sites — Articles L341-1 to L341-22

SECTION I

Inventory and classification — Articles L341-1 to L341-15

Article L341-1

(Act no. 2002-92 of 22 January 2002 Article 24 X Official Journal of 23 January 2002)
(Order no. 2004-637 of 1 July 2004 Article 28 I Official Journal of 2 July 2004 in force on 1st July 2006)

In each département there is a list of natural monuments and sites for which the conservation or preservation presents a general interest, from an artistic, historical, scientific, legendary or picturesque point of view.

Registration on the list is pronounced by a ruling from the minister in charge of the sites, and in Corsica, by deliberation of the Corsican Assembly after the State representative's opinion. A Conseil d'Etat decree determines the procedure according to which the owners are notified of this registration or it is the subject of a publication. A publication shall only substitute notification in the event of it being impossible due to the high number of owners on the same site or natural monument, or when it is impossible for the administration to know the identity or place of residence of the owner.

Within the land included in the boundaries set by the ruling, registration entails the obligation of those concerned not to carry out any work other than that of routine operations as far as rural funds are concerned, and normal maintenance as far as buildings are concerned, without having advised the administration of their intention four months in advance.

NB: The date on which article 28 of Order 2004-637 comes into force has been modified by Order 2004-727.

Article L341-2

(Act no. 2005-157 of 23 February 2005 Article 180 Official Journal of 24 February 2005)
(Order no. 2004-637 of 1 July 2004 Article 28 I Official Journal of 2 July 2004 in force on 1st July 2006)
(Act no. 2005-157 of 23 February 2005 Article 180 Official Journal of 24 February 2005)

The natural monuments and sites registered or not on the list compiled by the département commission may be classified under the conditions and according to the provisions established by the present section.

When the high commission for sites, viewpoints and landscapes receives a classification application directly, the aforementioned is sent on to the département commission for examination, and when appropriate, classification proposal purposes. In the event of an emergency, the minister in charge of the sites sets the département commission a time limit for giving its opinion. Should a verdict not be given within this time limit, the minister consults the high commission and replies to the application accordingly.

In mountainous zones, the classification decision is made after consultation of the Mountains Committee concerned.

NB: The date on which article 28 of Order 2004-637 comes into force has been modified by Order 2004-727.

Article L341-3

When all or part of a natural monument or a site belonging to parties other than those listed in Articles L. 341-4 and L. 341-5 is the subject of classification, the parties involved are invited to present their observations, in accordance with a procedure determined by a Conseil d'Etat decree.

Article L341-4

A natural monument or site included in public or private State property is classified by a ruling from the minister in charge of the sites, when the powers, duties and functions with which the natural monument or site finds itself are agreed with the minister, and with the minister in charge of the domain.

The same applies each time it is a question of classifying a lake or waterway liable to produce a permanent output of 50 kilowatts of electrical energy.

Should this not be the case, classification is pronounced by a Conseil d'Etat decree.

Article L341-5

A natural monument or site included in the public or private property of a département or commune, or belonging to a public establishment is classified by a ruling from the minister in charge of the sites if consent has been given by the physical owner.

If this is not the case, classification is pronounced after consultation with the high commission for sites, viewpoints and landscapes, by a Conseil d'Etat decree.

Article L341-6

(Order no. 2004-637 of 1 July 2004 Article 28 I Official Journal of 2 July 2004 in force on 1st July 2006)

A natural monument or site belonging to persons other than those listed in Articles L. 341-4 and L. 341-5 is classified by a ruling from the minister in charge of the sites, by a Conseil d'Etat decree if consent has been given by the owner. The ruling determines the conditions of classification.

In the absence of the owner's consent, classification is pronounced after the opinion of the high commission by a Conseil d'Etat decree. Classification may give the right to compensation for the owner if it entails a change in the state or use of the premises and a direct, undoubted, material prejudice.

The claim must be made within a period of six months from the date of formal notice informing the owner to change the state or use of the property in accordance with the specific requirements of the classification decision. In the

absence of an out-of-court settlement, compensation is determined by the juge de l'expropriation.

Should the government decide not to give automatic classification under the conditions thus set forth, it may, at any time during the procedure, at the latest within three months from notification of the court decision, repeal the classification decree.

The classification of a lake or waterway able to produce permanent electrical energy of at least 50 kilowatts may only be pronounced after the approval of the ministers concerned. This approval must be set out within a period of three months, after which it may be disregarded.

In the event of approval by the ministers concerned, the classification may be pronounced by a ruling from the minister in charge of the sites. Should this not be the case, it is pronounced by a Conseil d'Etat decree.

NB: The date on which article 28 of Order 2004-637 comes into force has been modified by Order 2004-727.

Article L341-7

From the day on which the authority in charge of the sites notifies the owner of a natural monument or site of its intention to proceed with classification, no modifications may be made to the condition of the property or its appearance for a period of twelve months, unless special authorisation is granted, and subject to the everyday use of rural funding and normal maintenance of the buildings.

When the identity or place of residence of the owner is unknown, notifications are legitimately made to the mayor, who shall then ensure they are displayed, and where appropriate, the occupant of the premises.

Article L341-8

All rulings and decrees pronouncing classification are published, by the authorities in charge of the sites, at the mortgage registry for the location of the listed building.

This publication, which shall not give rise to the collection of income for the Treasury, is carried out in accordance with the proprieties and methods stipulated in the laws and regulations concerning land registration.

Article L341-9

Effects resulting from classification follow the natural monument or listed territory, whoever becomes the owner.

Whosoever alienates a natural monument or a classified site, is obliged to inform the buyer of the existence of this classification.

The minister in charge of the sites must be notified of the alienation of a natural monument or classified site within fifteen days, by the person who agreed to the alienation.

Article L341-10

The state or appearance of natural monuments or classified sites may not be destroyed or modified, unless special authorisation has been granted.

Article L341-11

On the area of a classified site in accordance with the present Chapter, it is compulsory to bury electrical or telephone networks or, for power lines carrying under 19 000 volts, to use twisted cable techniques on house facades, when creating new electricity lines or new telephone networks.

When technical requirements or topographical constraints make burial impossible, or when the impact of burial is judged higher than the installation of an overhead line, an exception may be granted to this ban by a joint ruling from the minister for energy and telecommunications and the minister of the environment.

Article L341-12

From the day on which the authority in charge of the sites notifies the owner of a natural monument or non-classified site its intention to pursue expropriation, all of the effects of the classification shall apply automatically to the natural monument or site in question. They shall cease to apply should the declaration of public utility not be made within twelve months of this notification. Once public utility has been declared, the property may be classified without any other formality by a ruling from the minister in charge of the sites.

Article L341-13

(Order no. 2004-637 of 1 July 2004 Article 28 I Official Journal of 2 July 2004 in force on 1st July 2006)

Full or partial downgrading of a classified monument or site is pronounced after the opinion of the sites high commission is given, by a Conseil d'Etat decree. Those concerned are notified of the downgrading, which is published at the mortgage registry of the property's location, under the same conditions as classification.

On assent of the Conseil d'Etat, a downgrading decree determines whether there should be a refund of the compensation provided for in Article L. 341-6.

NB: The date on which article 28 of Order 2004-637 comes into force has been modified by Order 2004-727.

Article L341-14

No natural monument, classified site or site proposed for classification may be involved in an enquiry for expropriation for reasons of public utility until the minister in charge of the sites has been called to present his or her observations.

No one may acquire by statute of limitations on a natural monument or a classified site, rights which may change its character or modify the appearance of the property.

An easement may only be established on a natural monument or classified site by an agreement with the minister in charge of the sites.

Article L341-15

The list of classified natural monuments and sites is kept up to date. During the first quarter of each year, the nomenclature of natural monuments and sites that have been classified or protected during the course of the previous year is published in the Official Journal.

SECTION II
Organisations — Articles L341-16 to L341-18

Article L341-16

(Act no. 2003-591 of 02 July 2003 Article 31 III 12° Official Journal of 03 July 2003)
(Order no. 2004-637 of 1 July 2004 Article 28 I Official Journal of 2 July 2004 in force on 1st July 2006)
(Act no. 2005-157 of 23 February 2005 Article 190 V, Article 235 XII Official Journal of 24 February 2005)

A competent département-level commission for nature, landscapes and sites holds a sitting in each département.

This commission is presided by the State representative in the département. When it acts in the cases provided for in articles L. 111-1-4, L. 122-2, L. 145-3, L. 145-5, L. 145-11, L. 146-4, L. 146-6, L. 146-6-1, L. 146-7 and L. 156-2 of the Code de l'Urbanisme, it sits in a formation comprising State representatives, elected representatives of territorial authorities and public inter-commune cooperation establishments, and persons qualified in matters pertaining to the natural sciences or site protection or the living environment.

In Corsica, the powers, duties and functions devolved to the commission of sites, viewpoints and landscapes are exercised by the Corsican sites council provided for in Article L. 4421-4 of the Code Général des Collectivités Territoriales.

NB: The date on which article 28 of Order 2004-637 comes into force has been modified by Order 2004-727.

Article L341-17

A high commission of sites, viewpoints and landscapes works with the minister in charge of the sites.

This commission, presided by the minister in charge of the sites, is comprised of representatives of the ministers concerned, members of parliament and senators designated by each of the assemblies, and persons qualified in matters pertaining to site protection, the living environment and natural sciences, designated by the minister in charge of the sites.

Article L341-18

A Conseil d'Etat decree defines the conditions of application for the present Chapter, especially the composition, and methods of designation and operation for the commissions provided for in Articles L. 341-16 and L. 341-17.

SECTION III
Criminal provisions — Articles L341-19 to L341-22

Article L341-19

(Order no. 2000-916 of 19 September 2000 Article 3 Official Journal of 22 September 2000 in force on 1st January 2002)
(Act no. 2003-591 of 2 July 2003 Article 31 III 10° Official Journal of 3 July 2003)
(Order no. 2004-178 of 20 February 2004 Article 6 III Official Journal of 24 February 2004)
(Order no. 2005-1527 of 8 December 2005 Article 34 I Official Journal of 9 December 2005 in force on 1st July 2007)

I. - The following are punishable by a 9 000 euro fine:

1° Proceeding with work on a natural monument or classified site without notifying the authorities under the conditions provided for in Article L. 341-1, paragraph 4;

2° Alienating a natural monument or classified site without informing the buyer of its classification or without informing the authorities of this alienation in accordance with the conditions provided for in Article L. 341-9;

3° Introducing an easement to a natural monument or classified site without the approval of the authorities in accordance with the conditions provided for in Article L. 341-14.

II. - The following are punishable by the penalties provided for in Article L. 480-4 of the Code de l'Urbanisme:

1° Modifying a natural monument or site pending classification in violation of the provisions of Article L. 341-7;

2° Destroying or changing the state or appearance of a natural monument or classified site without the authorisation provided for in Article L. 341-10;

3° Non conformity with the requirements set by a decree for the creation of a protection area in application of Article 19 of the law of 02 May 1930 which aims to reorganise the protection of natural monuments and sites of an artistic, historical, scientific, legendary or picturesque nature, and continue to produce the effects in application of Article L. 642-6 of the Code du Patrimoine.

III. - The provisions of Articles L. 480-1, L. 480-2, L. 480-3 and L. 480-5 to L. 480-9 of the Code de l'Urbanisme are applicable to the infringements in paragraph 4 of Article L. 341-1 of the present code and the provisions referred to in II, subject to the following conditions:

1° Infringements are recorded by the civil services and officers commissioned for the purpose by the minister in charge of the sites and by the civil servants and officers commissioned and sworn to record infringements in matters concerning forestry, hunting and fishing;

2° For the application of Article L. 480-5 of the Code de l'Urbanisme, the court gives a ruling either on the backfitting

of the premises in accordance with the recommendations set out by the minister in charge of the sites, or on the restoration to their former state;

3° The right to visit provided for in Article L. 461-1 of the Code de l'Urbanisme is open to representatives of the minister in charge of the sites; Article L. 480-12 of the same code shall apply.

Article L341-20

The destruction, mutilation or damaging of a natural monument or registered or classified site is punishable by the penalties provided for in Article 322-2 of the Code pénal, without prejudice to damages.

Article L341-21

The officers in charge of reporting the infringements mentioned in Articles L. 341-19 and L. 341-20 may confiscate the subject of the infringement and the instruments and vehicles used to commit the infringement.

The costs incurred for transporting, maintaining and keeping the confiscated objected are borne by the defendant.

The judgement of conviction may pronounce the confiscation of the subject of the infringement and the instruments and vehicles used to commit the infringement.

Article L341-22

The provisions of the present Chapter apply to the natural monuments and sites legally classified before 02 May 1930 in accordance with the provisions of the law of 21 April 1906 organising the protection of sites and natural monuments of an artistic nature.

CHAPTER II

Other protected sites — Article L342-1

Article L342-1

Should it be justified due to a specific scientific interest or the necessity of preserving mineralogical heritage, it is forbidden to destroy or alter the sites of which the list is determined by a ruling by the minister in charge of nature protection, given their importance for understanding the history of the earth and the use of natural resources by man. Access to and removal of any mineral object may be subject to regulations or, when appropriate, forbidden by the administrative authority.

The provisions of Chapter V of Title I of Book IV of the present code apply.

TITLE V

Landscapes — **Articles L350-1 to L350-2**

Article L350-1

I. - On territories of remarkable landscape interest, defined with the territorial authorities concerned, when the said territories are not the subject of territorial planning guidelines made in application of Article L. 111-1-1 of the Code de l'urbanisme, the State may enforce the directives for the protection and improvement of landscapes.

II. - The aforementioned directives determine the guidelines and fundamental principles for the protection of landscape structures which apply in the said territories. They are elaborated on the initiative of the State or territorial authorities. They are subject to consultation with all of the territorial authorities concerned and with the environmental protection agencies approved in accordance with the Title of Article L. 141-1 and the professional organisations concerned. They are approved in a Conseil d'Etat decree.

III. - The master development and town planning scheme, area schemes and land-use maps or any other town planning documents in lieu thereof must be compatible with the guidelines for the protection and improvement of landscapes.

IV. - Their provisions are opposable to authorisation requests for site clearance and land use:

1° In the absence of a land-use map opposable to a third party or any town planning documents in lieu thereof;

2° When a land-use map or any other town-planning document in lieu thereof is incompatible with their provisions.

V. - A Conseil d'Etat decree determines the conditions for application of the present Article.

Article L350-2

(Act no. 2003-591 of 02 July 2003 Article 31 III 11° Official Journal of 03 July 2003)
(Order no. 2004-178 of 20 February 2004 Article 6 II Official Journal of 24 February 2004)
(Act no. 2004-1343 of 9 December 2004 Article 78 XIV e 2 Official Journal of 10 December 2004)

The provisions pertaining to the protection areas for architectural, urban and landscape heritage are set forth in Articles L. 642-1 and L. 642-2 of the Code du Patrimoine, reproduced hereunder:

"Art. L. 642-1 - On the proposal or after the approval of the municipal council of the communes concerned, the protection areas for architectural, urban and landscape heritage may be introduced around historical monuments and in the districts, sites and areas to be protected or improved for reasons of an attractive, historical or cultural nature.

"Art. L-642-2 - Specific recommendations in terms of architecture and landscape are introduced within these areas of parts of the areas for the work mentioned in Article L. 642-3.

"After a public enquiry, the approval of the regional commission for heritage and sites established by Article L. 612-1, and the agreement of the municipal council of the commune concerned, the protection area is created by a decision of the administrative authority.

"The competent minister may evoke any protection area project.

"The provisions of the protection area are annexed to the local urban development plan under the conditions provided for in Article L. 126-1 of the Code de l'Urbanisme."

TITLE VI
Access to nature **Articles L361-1 to L364-1**

CHAPTER I
Walking routes Articles L361-1 to L361-2

Article L361-1
(Act no. 2005-157 of 23 February 2005 Article 197 Official Journal of 24 February 2005)

After the approval of the communes concerned, the département establishes a département plan of walking and hiking routes.

The routes which come under this plan may use existing public roads, pathways on the département's private estate and easements intended to ensure a crossing for pedestrians on the local properties of the public maritime domain in application of Article L. 160-6 of the Code de l'Urbanisme. After deliberation with the communes concerned, they may also use rural pathways and, after agreements signed with the owners concerned, use paths and tracks belonging to the State, other public bodies or private individuals. These agreements may determine the costs of maintenance and signposting to be covered by the département.

Any alienation of a rural pathway which may interrupt the continuity of a route registered on the département plan for walking and hiking routes, must include the preservation or reestablishment of this continuity via a replacement route, failure to do which leading to the alienation being null and void. Any public land planning operation must also respect this preservation or continuity.

The circulation of pedestrians on the routes and paths listed in the département plan of walking and hiking routes, or those identified for the private paths after agreements drawn up with the owners of these paths, by the communes and the approved federations of walkers, may be done freely, providing the laws and policing rules and local inhabitants' rights are respected.

The mayors, by virtue of their policing powers, may, where applicable, regulate the conditions of use of these routes.

The civil liability of the rural and forestland owners may only be engaged with respect to damage caused or suffered when pedestrians use these routes or when leisure activities are practised if these owners have committed wrongful acts.

A Conseil d'Etat decree determines the conditions of application of the present Article.

Article L361-2

The département establishes, under the same conditions as Article L. 361-1, a département plan of the motorised routes of which the creation and maintenance remain its responsibility.

The routes included in this plan must borrow roads that are classified in the public road domain of the State, départements and communes, rural pathways and private roads open to public motor vehicle traffic, with the exception of those which are subject to a traffic ban in application of Articles L. 2213-4 and L. 2215-3 of the Code général des collectivités territoriales.

CHAPTER II
Motorised traffic Articles L362-1 to L362-8

Article L362-1

With a view to protecting natural areas, motor vehicles are forbidden outside the classified roads in the public road domain of the State, départements and communes, rural pathways and private roads open to public motor vehicle traffic,

The charter of each regional nature park includes an Article establishing the rules for motor vehicle traffic on the roads and pathways of each commune which is a member of the park.

Article L362-2

The ban provided for in Article L. 362-1 shall not apply to vehicles used for fulfilling public service missions.

Subject to the provisions of Articles L. 2213-4 and L. 2215-3 of the Code général des collectivités territoriales, the ban shall not apply to vehicles used for professional research, operations or maintenance purposes in the natural areas and it shall not apply to owners or their claimants who drive or have vehicles driven for private purposes on land belonging to the said owners.

Article L362-3
(Order no. 2005-1527 of 8 December 2005 Article 34 II Official Journal of 9 December 2005 in force on 1st July 2007)

The opening of land for motorised sports practise is subject to of the authorisation provided for in Article L. 421-2 of the Code de l'Urbanisme.

Motorised sports events and competitions are authorised in accordance with the conditions defined by a Conseil d'Etat decree, by the Préfet.

The use, for leisure purposes, of motorised vehicles for transportation on snow is forbidden, except for open land, under the conditions provided for in the first paragraph.

Article L362-4

All forms of direct or indirect publicity showing a vehicle in a situation of infringement of the provisions of the present Chapter are forbidden.

Article L362-5

In addition to police officers, the following are authorised to report infringements of the provisions of the first paragraph of Article L. 362-1, the last paragraph of Article L. 362-3 and the provisions made in application of Articles L. 2213-4 and L. 2215-3 of the Code général des collectivités territoriales:

a) The officers listed in Article 22 of the Code de procédure pénale;

b) Civil servants and officers commissioned and sworn for nature protection by the minister of the environment;

c) Officers commissioned and sworn by the National Forestry Office, the National Hunting and Wildlife Office, and the Higher Fishing and National Parks Council.

Article L362-6

The official reports issued by the civil servants and officers mentioned in Article L. 362-5 are used as evidence until proof of the contrary. They are given or sent directly to the Director of Public Prosecutions. This handing over or dispatch takes place five clear days after the date on which the infringement was recorded, failing which they are null and void.

Article L362-7

The provisions of Articles L. 25 to L. 26 of the Code de la Route apply to vehicles committing an infringement of the provisions of the present Chapter and the rulings used for its application, according to the modes of implementation determined by a Conseil d'Etat decree.

The officers mentioned in Article L. 362-5 are authorised to implement the provisions of Article L. 25-1 of the Code de la route.

Article L362-8

The court seized for proceedings for one of the infringements provided for in application of the present Chapter and the rulings used for its application may pronounce that the vehicle be taken off the road for a period of at least six months and at least one year in the event of a second offence.

CHAPTER III
Other methods of access — Article L363-1

Article L363-1

In mountainous areas, the setting down of passengers by aircraft for leisure purposes is forbidden, except for airfields, the list of which is determined by the administrative authority.

CHAPTER IV
Areas, sites and routes for nature sports — Article L364-1

Article L364-1

As stipulated in Article 19 II of the modified Act no. 84-610 of 16 July 1984 concerning the organisation and promotion of physical and sports activities, partially reproduced hereinafter:

"The National French Olympic and Sports Committee has signed agreements with the managing organisations of natural areas, subject to the respect of regulations which are specific to each area, in the aim of determining the conditions and modes of access to these sites for outdoor nature sports activities, which are compatible with the schemes of the community services for natural and rural areas on the one hand, and the sport on the other hand. "

BOOK IV
Flora and fauna — Articles L411-1 to L430-1

TITLE I
Protection of flora and fauna — **Articles L411-1 to L415-5**

CHAPTER I
Conservation and monitoring of biological heritage — Articles L411-1 to L411-7

SECTION I
Conservation of biological heritage — Articles L411-1 to L413-5

Article L411-1

I. - When a specific scientific interest or the necessity of conserving biological heritage justifies the conservation of non-domestic animal species or non-cultivated plant life, the following are prohibited:

1°. The destruction or poaching of eggs or nests; mutilation, destruction, capture or poaching, intentional disturbance, the practice of taxidermy on any of these species or, whether dead or alive, their transport, peddling, use, possession, offer for sale, their sale or their purchase,

2° The destruction, cutting, mutilation, uprooting, picking or poaching of these plant species, of their flowers or any other form taken by these species during their vegetative cycle, their transport, peddling, use, offer for sale, sale or purchase, the possession of specimens taken from their natural environment,

3° The destruction, alteration or degradation of the specific environment of these animal or plant species,

4° The destruction of sites containing fossils that enable the study of the history of the living world, as well as early human activity, and the destruction or poaching of fossils from these sites.

II. - The possession prohibitions enacted in application of 1° or 2° of I do not apply to specimens held in compliance with the law when the prohibition relating to the species in question came into force.

Article L411-2

(Act no. 2005-157 of 23 February 2005 Article 129 I Official Journal of 24 February 2005)
(Act no. 2006-11 of 5 January 2006 Article 86 Official Journal of 6 January 2006)

A Conseil d'Etat decree defines the conditions under which are set:

1° The comprehensive list of non-domestic animals and non-cultivated plant species thus protected;

2° The length of the permanent or temporary prohibitions laid down in order to enable the recovery of the natural populations in question or their habitats, as well as the protection of animal species during time periods or circumstances under which they are particularly vulnerable;

3° The area of the national territory, including the public coastal areas and the territorial waters, to which they apply;

4° The granting of an exemption to the prohibitions mentioned in 1, 2 and 3 of article L. 411-1, on the condition that there is no other satisfactory solution and that the exemption does not adversely affect the maintenance in a favourable state of conservation of the populations of species concerned in their natural area of distribution:

a) In the interest of protecting the wild fauna and flora and the conservation of natural habitats;

b) To prevent large scale damage, notably to the crops, livestock, forests, fisheries, waters and other forms of property;

c) In the interest of public health and safety or for other imperative reasons of major public interest, including those of a social or economic nature, and for reasons including primordial beneficial consequences for the environment;

d) For the purposes of research and education, of restocking and reintroduction of these species and for reproduction operations required for these purposes, including the artificial propagation of plants;

e) To allow, under strictly controlled conditions, in a selective manner and within a limited extent, the taking or holding of a limited and specified number of certain specimens;

5° The laws in force with regard to seeking out, hunting down and approaching with a view to taking photographs or recording sound, including wildlife and game photography of any species and the areas where these laws are enforced, as well as to protected species outside of these areas;

6° The rules that must be complied with by establishments authorised to hold and breed specimens of the species listed in 1° or in 2° of I in Article L.411-1 outside of their natural habitat for the purposes of conserving and breeding these species,

7° The list of protected sites mentioned in 4° of I in Article L. 411-1, the specific protection measures in order to avoid their degradation, and the issuing of special permits to remove fossils for scientific or teaching purposes.

The list of non-domestic animal species in 1 is revised every two years.

Article L411-3

(Act no. 2005-157 of 23 February 2005 Article 128 II, Article 129 II Official Journal of 24 February 2005)

I. - In order to avoid any prejudice to natural environments, either to the uses associated with them or to wild flora and fauna, the introduction into the natural environment either voluntarily, through negligence or recklessness of the following is prohibited:

1° Any specimen of animal species that is not indigenous to the area of introduction and is not domestic, the list of which is set by a joint ruling of the Minister for the protection of nature and either the Minister for agriculture or, when marine species are concerned, the Minister for maritime fishing;

2° Any specimen of plant species that is not indigenous to the area of introduction and is not cultivated, the list of which is set by a joint ruling of the Minister for the protection of nature and either the Minister for agriculture or, when marine species are concerned, the Minister for maritime fishing;

3° Any specimen of animal or plant species designated by the administrative authority.

II. - Nevertheless, the introduction of specimens of such species into the natural environment may be authorised by the administrative authority for agricultural, fish farming or forestry purposes or for wider public interest aims, and once the consequences of this introduction have been assessed.

III. - As soon as the presence in the natural environment of one of the species described in I is discovered, the administrative authority can proceed or allow others to proceed with the capture, removal, captivity or destruction of the introduced species. The provisions of II of article L. 411-5 apply to this type of intervention.

IV. - When a person is found guilty of violating the provisions of this Article, the court may rule that any costs incurred by the necessary capture, removal, upkeep or destruction are to be borne by this person.

IV bis. - When the requirements of the protection of the biological heritage, natural environments and associated uses justify the prevention of their circulation, it is forbidden to transport, peddle, use, put on sale, sell or purchase the animal or plant species the list of which is set by joint rulings of the Minister for the protection of nature and either the Minister for agriculture or, when marine species are concerned, the Minister for maritime fishing;

V - A Conseil d'Etat decree lays down the conditions under which this Article is applied.

Article L411-4

The prohibition measures covered in Article L.411-3 are, whenever they concern species of interest to agricultural or forestry production, taken jointly by the Ministries responsible for agriculture, forestry and the environment.

Article L411-5

(Act n° 2002-92 of 22 January 2002 Article 24 XI Official Journal of 23 January 2002)
(Act n° 2002-276 of 27 February 2002 Article 109 III Official Journal of 28 February 2002)

1. - The natural heritage inventory is undertaken for the entire national mainland, river and marine territory. By natural heritage inventory is meant the inventory of ecological, fauna, floral, geological, mineralogical and paleontological resources.

The State ensures its design, undertaking and assessment. The regions can be involved in the compiling of this inventory within the framework of their competencies. In addition, the territorial authorities can contribute to the knowledge of the natural heritage by compiling local inventories.

The Préfet for the region, the Préfets of the Départements and the other territorial authorities concerned are informed of these projects.

These inventories are compiled under the scientific aegis of the National Natural History Museum.

When drawing up a plan, programme or project, the Préfet will inform the commune or the competent public inter-commune co-operation body of all the data held in these inventories that might be useful in this case.

II. - The provisions of the law of 29 December 1892 on damage caused to private property by the execution of public works also apply to the execution of operations necessary to compiling these inventories. These provisions also apply to the knowledge of the soil and the vegetation and to any other type of ecological information on the areas on which inventories take place.

III. - Is set up in every region, a regional scientific council dealing with the natural heritage. This council is made up of designated specialists, selected for their scientific knowledge, especially from universities, research bodies, scholarly bodies and regional museums. It covers all life and earth sciences dealing with land, river and sea environments.

Its members are named by decree from the Préfet following the opinion of the chairman of the regional council.

The members will then elect a chairman.

It can be called upon for advice by the regional Préfet or by the chairman of the regional council on any question relating to the inventory and the conservation of the natural heritage.

A Conseil d'Etat decree defines its composition, its fields of intervention and specifies the conditions under which it can be called upon.

Article L411-6

Every three years the Government submits a report on actions undertaken to apply directive 79/409/CEE of the Council of 2 April 1979, on the conservation of wild birds and the waivers granted on the basis of Article 9 of the said directive.

Article L413-4

(Act no. 2005-157 of 23 February 2005 Article 167 I Official Journal of 24 February 2005)

1. - The following are subject to monitoring from the administrative authority when they hold non-domestic animal species:

1° The establishments defined in Article L. 413-3;

2° Scientific establishments;

3° Teaching establishments;

4° Establishments and institutes specialising in biomedical research, in biological control, and in organic productions;

5° The professional hunting establishments of a commercial nature described in article L. 424-3.

II. - A Conseil d'Etat decree sets out the methods by which this Article is applied.

Article L413-5

(Act no. 2005-157 of 23 February 2005 Article 158 I Official Journal of 24 February 2005)

Regardless of the legal proceedings that can be instigated under the terms of this Article, administrative measures that could lead to the closure of the establishment may be prescribed by the administrative authority.

A Conseil d'Etat decree sets out the methods by which this Article is applied.

SECTION II

Biological monitoring of the territory

Article L411-7

Article L411-7

Provisions relating to the biological monitoring of the territory are set out in the Code rural (Book II, Title V, Chapter I).

CHAPTER II

Activities subject to authorisation — Article L412-1

Article L412-1

The production, possession, transfer whether upon a fee or free of charge, use, transport, introduction from any source whatsoever, import under any customs regimes, export or re-export of all or part of non-domestic animal species and their products as well as non cultivated plant species and their seed or part of the plants, the list of which is set out by joint orders issued by the Minister of the Environment and, if necessary, by the competent minister(s), if requested by them, must be subjected to authorisation issued under the terms of and according to the rules set by a Conseil d'Etat decree.

CHAPTER III

Establishments holding non-domestic animal species — Articles L413-1 to L413-5

Article L413-1

The provisions of this Chapter do not apply to sea fishing or shellfish farming products intended for consumption, or to fishing establishments and the institutes responsible for monitoring them.

Article L413-2

The managers of breeding, selling, hiring establishments or establishments of transit for non-domestic animal species, as well as the establishments for the purpose of exhibiting live specimens of local or foreign wildlife to the public, must hold a certificate proving that they are able to care for these animals.

The provisions of this Article also apply to establishments that existed on the 14 July 1976 within the time periods and methods set by a Conseil d'Etat decree.

Article L413-3

Without prejudice to the existing provisions relating to scheduled establishments for the protection of the environment, the opening of breeding, selling, hiring establishments or establishments of transit for non-domestic animal species, as well as the opening of establishments for the purpose of exhibiting live specimens of local and foreign wildlife to the public, must be subject to a permit issued under the terms of and according to the methods set by a Conseil d'Etat decree.

The provisions of this Article also apply to establishments that existed on the 14 July 1976 within the time periods and methods set by a Conseil d'Etat decree.

Article L413-4

1. - The following are subject to monitoring from the administrative authority when they hold non-domestic animal species:

1° The establishments defined in Article L. 413-3,

2° Scientific establishments,

3° Teaching establishments,

4° Establishments and institutes specialising in biomedical research, in biological control, and in organic productions,

5° Breeding establishments,

II. - A Conseil d'Etat decree sets out the methods by which this Article is applied.

Article L413-5

Regardless of the legal proceedings that can be instigated under the terms of this Article, administrative measures that could lead to the closure of the establishment may be prescribed by the Minister of the Environment.

A Conseil d'Etat decree sets out the methods by which this Article is applied.

CHAPTER IV

Conservation of natural habitats and wild flora and fauna — Articles L414-1 to L414-8

SECTION I

Natura 2000 Sites — Articles L414-1 to L414-7

Article L414-1

(Order no. 2001-321 of 11 April 2001 Article 8 Official Journal 14 April 2001)

(Act no. 2005-157 of 23 February 2005 Article 140, Article 141, Article 142 Official Journal of 24 February 2005)

1. - Special conservation areas are sea and land sites to be protected containing:

- either natural habitats under threat of extinction or reduced to a very small scale, or offering outstanding examples of specific Alpine, Atlantic, Continental or Mediterranean characteristics;

- or habitats that shelter rare or vulnerable wild flora or fauna or wild flora or fauna under threat of extinction;

- or species of flora or wildlife considered worthy of specific attention due to the special nature of their habitat or the effects of their exploitation on their state of conservation;

II. - Special protection zones are:

- either sea and land sites that are particularly suitable for the survival and breeding of wild bird species appearing on a list drawn up under the terms set by a Conseil d'Etat decree;

- or sea and land sites that serve as breeding, moulting, hibernation areas or are stop-over areas on migration paths to bird species that are not shown on the abovementioned list.

III. - Before the European Commission is notified of the proposal to register a special conservation area, or before the decision to designate a special protection zone, the proposed perimeter of the area is subjected to consultation by the decision makers in the communes and the public inter-commune co-operation bodies concerned. The administrative authority cannot deviate from the justified opinions resulting from this consultation unless there is a justified decision to do so.

Before the European Commission is notified of the proposal to register a modified perimeter of a special conservation area or before the decision to modify the perimeter of a special protection zone, the draft modified perimeter of the zone is submitted for consultation to the decision makers in the communes and the public inter-commune cooperation bodies concerned by the modification of the perimeter. The administrative authority cannot deviate from the justified opinions resulting from this consultation unless there is a justified decision to do so.

IV. - sites designated as special conservation areas and special protection areas by decision of the administrative authority, form part of the European ecological network Natura 2000, under the common appellation "Natura 2000 sites".

V. - The Natura 2000 sites are the subject of measures designed to conserve or re-establish to a state that is favourable to their long term stability the natural habitats and the flora or wildlife species populations that justified their delimitation. The Natura 2000 sites are also the subject of appropriate preventive measures to avoid the degradation of these same natural habitats and disturbances that may have a significant effect on these same species.

These measures are defined in collaboration, notably with the local authorities concerned and their groupings concerned and with representatives of the owners and operators of the land included on the site.

They take into account economic, social and cultural requirements, as well as regional and local specificities. They are adapted to the specific threats that impact on these natural habitats and species. They do not lead to a prohibition of human activities as long as they do not have significant effects in relation to the objectives listed in the previous paragraph. Fish farming, hunting or other field sports carried out under the terms of and in the areas authorised by the laws and regulations in force, do not constitute disturbing activities or assimilated activities.

The measures are taken within the framework of the contracts or charters described in Article L. 414-3 or in application of the legislative and regulatory provisions, especially those relating to national parks, nature reserves, biotopes and classified sites.

Article L414-2

(Order no. 2001-321 of 11 April 2001 Article 8 Official Journal 14 April 2001)

(Act no. 2005-157 of 23 February 2005 Article 144 Official Journal of 24 February 2005)

I. - For each Natura 2000 site, a document d'objectifs (action plan) defines the broad outlines of management, the measures provided for in article L. 414-1, their implementation methods and the accompanying financial provisions.

The document d'objectifs may be drawn up and approved as of the notification to the European Commission of the proposal to register a special conservation area, or the designation of a special protection zone.

II. - For the drawing-up of the document d'objectifs and the monitoring of its implementation, a Natura 2000 steering committee is set up by the administrative authority.

The committee comprises the local authorities concerned and their groupings concerned as well as, notably, representatives of the owners and operators of the land included on the Natura 2000 site. State representatives sit on the committee in a consultative capacity.

III. - The representatives of the local authorities and their groupings concerned appoint the President of the Natura 2000 steering committee as well as the local authority or the grouping responsible for drawing up the document d'objectifs and for monitoring its implementation.

Failing these appointments, the presidency of the Natura 2000 steering committee and the drawing-up of the document d'objectifs and the coordination required for its implementation are carried out by the administrative authority.

IV. - Once drawn up, the document d'objectifs is approved by the administrative authority. If the document d'objectifs has not been submitted for its approval within two years following the set-up of the Natura 2000 steering committee, the administrative authority may take over responsibility for drawing it up.

V. - When the site is entirely included in an area of land under the responsibility of the Minister for defence, the administrative authority chairs the Natura 2000 steering committee and draws up the document d'objectifs in association with the Natura 2000 steering committee.

VI. - An agreement is concluded between the State and the local authority or the grouping appointed under the conditions provided for in III in order to define the necessary methods and means of assistance for the drawing-up of the document d'objectifs and the monitoring of its implementation.

Article L414-3

(Order no. 2001-321 of 11 April 2001 Article 8 Official Journal 14 April 2001)

(Act no. 2005-157 of 23 February 2005 Article 143 Official Journal of 24 February 2005)

I. - For the application of the document d'objectifs, the holders of real and personal rights to the land included in the site can sign, with the administrative authority, contracts entitled "Natura 2000 contracts". The Natura 2000 contracts signed by farmers can take the form of contracts bearing on agricultural-environmental undertakings.

The Natura 2000 contract includes a number of undertakings that comply with the actions and measures defined by the document d'objectifs, on the conservation and, if necessary, the rehabilitation of the natural habitats and the species

that justified the creation of the Natura 2000 site. It defines the type and the methods of State aid and the services to be provided in return by the beneficiary. In the event of failure to meet the commitments made, State aid must be reimbursed in ways set out by decree.

Disputes relating to the fulfilment of this contract are brought before the administrative courts.

II. - The holders of rights in rem and rights in personal relating to the lands included on the site may adhere to a Natura 2000 charter. The Natura 2000 charter includes a set of undertakings defined by the document d'objectifs and for which the document d'objectifs does not provide any financial assistance. It is annexed to the document d'objectifs.

Article L414-4

(Order no. 2001-321 of 11 April 2001 Article 8 Official Journal 14 April 2001)

(Order no. 2004-489 of 3 June 2004 Article 2 Official Journal of 5 June 2004, rectification JORF 10 July 2004)

1. - Programmes or projects of building or landscaping works subject to a permit or administrative approval, which may have a significant impact on a Natura 2000 site, are subject to an assessment of their impact in relation to the site's conservation objectives. For those of these programmes which are provided for by the legislative and regulatory arrangements and which are not subject to an impact study, the evaluation is conducted according to the procedure provided for in articles L. 122-4 and following of the present Code.

General, building or landscaping works planned in Natura 2000 contracts are exempted from the assessment procedure set out in the previous paragraph.

II. - The competent authority cannot authorise or approve a programme or project mentioned in the first paragraph of I if from the assessment it appears that the work would be prejudicial to the conservation status of the site.

III. - However, when there is no other solution than the fulfilment of a programme or project that may impact the conservation status of a site, the competent authority can give its permission for reasons of overriding public interest. In this case, it will check that compensatory measures are taken to maintain the overall consistency of the Natura 2000 network. These compensatory measures are at the expense of the beneficiary of the general, building or landscaping works. The European Commission is kept informed.

IV. - When the site hosts a priority type of natural habitat or species included, because of the reinforced protection they are covered by, on lists set out under the terms of a Conseil d'Etat decree, the agreement mentioned in III can only be awarded for reasons of public health or public safety, or be of major benefit to the environment or, following the opinion of the European Commission, be for overriding public interest reasons.

Article L414-5

(Inserted by Act no. 2001-321 of 11 April 2001 Article 8 Official Journal 14 April 2001)

1 - When a programme or project of building or landscaping works, falling under the provisions of Article L. 414-4, is carried out without prior assessment, without the required agreement or without a complete understanding of the agreement signed, the competent State Authority will officially warn the interested party to immediately cease the operation and return the site to its original condition, within a time limit that it will set.

With the exception of emergency cases, the interested party is invited to present its comments prior to the official warning.

II. - If, on expiry of the time limit awarded in order to return the site to its original condition, the interested party has not complied, the administrative authority may:

1° Order that the interested party place into the hands of a public accountant a sum of money equal to the amount of the operations to be carried out, which will then be returned, as and when the prescribed measures are fulfilled. The recovery of this sum is carried out in the same way as for foreign tax and property debts. While recovering this sum, the State benefits from the same rank as that laid down in Article 1920 of the Code général des impôts,

2° To have the site returned to its original condition ex officio and at the expense of the interested party.

III. - The sums seized in application of 1° of II can be used to settle the expenses incurred by the execution of the measures covered by 2° of II.

Article L414-6

(Inserted by Act no. 2001-321 of 11 April 2001 Article 8 Official Journal 14 April 2001)

A Conseil d'Etat decree sets out the methods by which this section is applied.

Article L414-7

(Inserted by Act no. 2001-321 of 11 April 2001 Article 8 Official Journal 14 April 2001)

The provisions of this section are not applicable in the French overseas territories.

SECTION II

Regional orientations for the management and conservation of the wild fauna and its habitats

Article L414-8

Article L414-8

(Inserted by Law no. 2005-157 of 23 February 2005 Article 159 I Official Journal of 24 February 2005)

In each region and in the local authority of Corsica, regional orientations for the management and conservation of the wild fauna and its habitats are drawn up with a view to promoting their sustainable management, in accordance with the principles listed in article L. 420-1 and bearing in mind the regional forestry orientations mentioned in article L. 4 of the Code forestier and the priorities of the policy orienting farm production and the development of farm structures mentioned in article L. 313-1 of the Code rural.

The regional orientations for the management and conservation of the wild fauna and its habitats specify the objectives to be reached with regard to the conservation and sustainable management of the huntable or non huntable fauna in the region and its habitats, and the coexistence of the different uses of nature. They include an evaluation of the main trends in the evolution of animal populations and their habitats, the threats due to human activities and the damage that they suffer. The département hunting management schemes described in article L. 425-1 contribute to this evaluation.

The regional orientations for the management and conservation of the wild fauna and its habitats are decided upon after assessment by the local authorities and the competent persons or entities in the domains concerned, by the Préfet of the region and, in Corsica, by the Préfet of Corsica.

CHAPTER V
Criminal provisions — Articles L415-1 to L415-5

SECTION I
Investigation of offences — Articles L415-1 to L415-2

Article L415-1

(Act no. 2003-239 of 18 March 2003 Article 91 II Official Journal 19 March 2003)

In addition to the officers and agents of the police listed in Articles 16, 20 and 21 of the Code de procédure pénale, the following are authorised to investigate offences against the provisions of Articles L. 411-1, L. 411-2, L. 411-3, L. 412-1 and L. 413-2 to L. 413-5:

1° Commissioned customs agents,

2° Civil servants and sworn agents commissioned for this purpose by the Minister of the Environment, and who can be additionally commissioned to investigate offences relating to hunting and fishing in nature reserves,

3° The agents of the State and the National Forestry Office, commissioned to investigate violations relating to forestry, hunting, fishing, sanitary inspection, the protection of animals and plants, within the boundaries for which they are sworn,

4° The sworn and commissioned agents of the national parks, those of the National Hunting and Wildlife Office and the Higher Fishing Council,

4°b The gardes champêtres (rangers),

5° When protective measures cover the public sea or inland water domain, agents empowered by the decree of 9 January 1852 on sea fishing to investigate violations against the regulations governing sea fishing, as well as those civil servants in the police force responsible for the public sea and inland water domain.

NOTE - Law 2003-329 Article 131: Articles 77, ... 86 to 89, 91 ... apply to Mayotte.

Article L415-2

The reports drawn up by the civil servants or agents described in Article L. 415-1 will have probative force unless proven otherwise.

They must be sent directly to the Procureur de la République within three days, or risk becoming null and void.

The criminal proceedings rules decreed by Articles 17 to 21 Part II of the decree of 9 January 1852 apply in the event of offences committed in the public maritime or inland water domain.

SECTION II
Sanctions — Articles L415-3 to L415-5

Article L415-3

(Order no. 2000-916 of 19 September 2000 Article 3 Official Journal of 22 September 2000 in force on 1st January 2002)

(Act no. 2003-591 of 2 July 2003 Article 31 III 13° Official Journal of 3 July 2003)

(Act no. 2005-157 of 23 February 2005 Article 158 II Official Journal of 24 February 2005)

The following are subject to six months' imprisonment and a fine of 9000 euros:

1° Any act in violation of the prohibitions provided by the provisions of Article L. 411-1 and the regulations provided in Article L. 411-2:

a) Interference with the conservation of a non-domestic animal species, other than intentional disturbances;

b) Interference with the conservation of non-cultivated plant species;

c) Destruction of sites containing fossils that enable the study of the history of the living world as well as early human activity, including the destruction or removal of fossils from these sites;

2° The wilful introduction into the natural environment, transport, peddling, use, putting up for sale, sale or purchase of an animal or plant species in violation of the provisions of Article L. 411-3 or the regulations for its application;

3° Any act of producing, holding, transferring, using, transporting, introducing, importing, exporting or re-exporting all or part of the animals or plants in violation of the provisions of Article L. 412-1 or the regulations for its application,

4° The running of a business, premises or any other establishment breeding, selling, hiring or transporting non-domestic animal species, or a business, premises or any other establishment destined to present live specimens of

local and foreign fauna to the public, without holding a certificate of competence as provided in Article L. 413-2,.

5° The opening or operation of such an establishment in violation of the provisions of article L. 413-3 or the regulations for its application.

Article L415-4

Furthermore, violations of the provisions of Article L. 411-1 are punishable by the penalties provided in Articles L. 428-9 and L. 428-11.

Article L415-5

The agents responsible for investigating the offences listed in Article L. 415-3 may confiscate the subject of the offence as well as the instruments and vehicles used to commit the offence.

The costs of transport, maintenance and storage of confiscated items are to be borne by the accused party.

A guilty verdict may result in the permanent confiscation of the subject of the offence as well as the instruments and vehicles used to commit the offence. An order to display or publish an extract of the judgement, at the expense of the guilty party, may also be given under the terms provided in Article 131-35 of the Code pénal.

TITLE II
Hunting **Articles L421-1 to L420-4**

Article L420-1

(Act no. 2003-698 of 30 July 2003 Article 2 Official Journal of 31 July 2003)
(Act no. 2005-157 of 23 February 2005 Article 149 Official Journal of 24 February 2005)

The sustainable management of faunal heritage and its habitat is in the general public interest. Hunting, an environmental, cultural, social and economic activity, forms part of this management and thus contributes to the balance between game, the environment and human activities, ensuring a true agricultural-fishing-hunting balance.

The principle of rational thinning of sustainable natural resources is imperative to the way in which these resources are used and operated. By their action of management and regulation of species the hunting of which is authorised, and by their operations in favour of biotopes, hunters contribute to the balanced management of ecosystems. They thus participate in the development of economic and ecological activities in natural environments, notably in rural areas.

Article L420-2

The Government monitors and polices hunting in the general public interest.

Article L420-3

(Act no. 2005-157 of 23 February 2005 Article 150, Article 151, Article 154 Official Journal of 24 February 2005)

Any wilful act relating to the seeking out, pursuit of or taking of game, whether for capture or killing, constitutes a hunting activity.

The preparatory act prior to actual seeking of the game, including when it consists of the unarmed tracking of the game on the territory where hunting rights are exercised, and the act of seeking out game by a hunt auxiliary, do not constitute acts of hunting. To mercy kill a grievously wounded animal or one at bay does not constitute a hunting activity, and nor does the training of hounds without capturing game on the territory where are exercised the hunting rights of their owner during the hunting periods set by the administrative authority.

Nor does the dog handler going in search of a wounded animal, or checking the result of a shot fired at an animal, constitute a hunting activity.

Training, competitions and trials of hunting dogs and birds used for falconry, authorised by the administrative authority, do not constitute hunting activities.

The act, at the end of the hunting action, of recovering one's lost dogs from another, is not considered as an infringement.

Article L420-4

The provisions of this Title are not applicable in Guyana, with the exception of Articles L. 421-1 and L. 428-24.

CHAPTER I
Organisation of hunting Articles L421-1 to L421-19

SECTION II
National Hunting and Wildlife Office Articles L421-1 to L421-4

Subsection 1
General provisions Article L421-1

Article L421-1

(Act no. 2003-698 of 30 July 2003 Article 3 Official Journal 31 July 2003)
(Act no. 2005-157 of 23 February 2005 Article 152, Article 159 II, Article 160, Article 161, Article 162 Official Journal of 24 February 2005)

1. - The National Hunting and Wildlife Office is a public establishment run by the State for administrative purposes,

and is under the dual supervision of the ministries for hunting and for agriculture. Its role is to carry out studies, research and experiments concerning the conservation, restoration and management of wildlife and its habitats and the enhancement of this process by the sustainable development of hunting, as well as the development and dissemination of systems and practices of appropriate management of rural territories. It offers training in these fields. It takes part in encouraging respect for wildlife and monitoring wildlife, as well as compliance with the regulations relating to hunt policing. Its officers responsible for policing assignments provide their assistance to the Préfet in matters of public order and administrative policing, within their field of competence.

It offers the State its assistance in assessing the status of wildlife, and its expertise and technical support the assessment of wildlife and habitat management and quality control documents.

The State entrusts it with the physical organisation of the examination of hunting permits.

The National Hunting and Wildlife Office can work hand-in-hand with the National Hunting Federation and with the Département Hunting Federations on questions relating to their respective fields of action. Activities undertaken jointly lead to the drawing up of specific agreements.

II. - The Management Board of the National Hunting and Wildlife Office is made up of twenty-two members, half of whom are representatives from hunting circles. It comprises representatives from hunting federations, representatives from the most representative specialised hunting associations appointed from a list drawn up by the National Hunting Federation, representatives from the State and its public establishments which manage natural spaces and forestland, professional farming and forestry organisations, nature protection bodies, personnel from the establishment and people qualified in the domain of hunting and wild fauna .

The Scientific Council of the National Hunting and Wildlife Office, answerable to the Senior Executive Officer, gives its opinion to the Senior Executive Officer on the establishment's policy regarding scientific and technical research. It assesses the scientific work of the establishment's researchers. It takes part in the assessment of the state of fauna and monitors its management.

The establishment is headed by a Senior Executive Officer appointed by decree, on the proposal of the Ministers for hunting and agriculture.

III. - The establishment's resources are made up of the revenue from hunting permits, grants and contributions from the State and other public corporate bodies with the tasks of sovereign power and patrimonial interest that it accomplishes, fees for services rendered, the revenue from loans, donations and bequests and revenue from the sales it makes within the framework of its assignments. A ruling sets the rules for presenting the budget and the accounts of the establishment, distinguishing, in terms of resources and responsibilities, the tasks of sovereign power and patrimonial interest of the hunting-related missions.

Subsection 2
General administration — Articles L421-2 to L421-4

Article L421-2

The gamekeepers of the National Hunting and Wildlife Office are subject to a national statute.

Article L421-3

The functions of an agent of the National Hunting and Wildlife Office, commissioned and sworn, are subject to the rules governing incompatibility set out in Article L. 341-4 of the Code forestier.

Article L421-4

I. - Under exceptional circumstances, the commissioned and sworn agents may, following a decision by the equal representation consultative committee, be subject to the following measures:

1° If they have accomplished a duly certified act of bravery or have been grievously injured in the exercise of their duties, they may be promoted to one of the ranks above their grade or to the next highest rank,

2° If they have been fatally injured under the same circumstances, they may be promoted to a higher rank posthumously.

II. - Agents to be promoted under the terms of the abovementioned provisions are, unless they are already included, entered onto the promotion list for the current year. In the event of death, they are promoted on the day of death.

III. - Exceptionally, trainee agents may, on decision of the equal representation consultative committee, be posthumously considered as contracted employees if they are fatally injured in the execution of their duties.

SECTION IV
Département hunting federations — Articles L421-5 to L421-11-1

Article L421-5

(Act no. 2003-698 of 30 July 2003 Article 6 Official Journal of 31 July 2003)
(Order no. 2003-719 of 1 August 2003 Article 1 Official Journal of 3 August 2003)
(Act no. 2005-157 of 23 February 2005 Article 168 VII, Article 177 Official Journal of 24 February 2005)

The associations known as fédérations départementales des chasseurs participate in the improvement of the hunting heritage of the département, in the protection and management of fauna and of its habitats. They carry out the promotion and defence of hunting as well as the interests of their members.

They provide their assistance in the prevention of poaching. They conduct informational, educational and technical

support actions aimed at land managers and hunters and, where applicable, individual game wardens.

They coordinate the actions of commune-level and inter-commune approved hunting associations.

They carry out actions to prevent damage to wildlife and to indemnify game-related damage under the terms set out in Articles L. 426-1 and L. 426-5.

In association with the owners, the managers and the users of the land concerned, they draw up a game management plan for the département, in accordance with the provisions of Article L. 425-1.

They can provide their assistance in approving hunting permits.

Specialist hunting associations are associated with the work of the federations.

The federations can recruit development agents for the fulfilment of their assignments, duly mandated for this purpose. In particular, these agents monitor compliance with the game management plan for the département. Under the terms set by a Conseil d'Etat decree, their investigations have probative force unless proven otherwise.

Article L421-6

(Act no. 2003-698 of 30 July 2003 Article 8 Official Journal 31 July 2003)

The département hunting federations can exercise rights recognised as being those of the civil party concerning acts constituting an infringement of the provisions of this Title and the enactments for its application, which cause direct or indirect damage to the collective, material or moral interests that it is their purpose to defend.

For this purpose, a copy of the official records and reports provided in Articles L. 428-19 and following is sent to the president of the département or inter-département federation concerned.

Article L421-7

(Act no. 2003-698 of 30 July 2003 Article 9, Article 10 1 Official Journal 31 July 2003)

I. - In accordance with the regional orientations for wildlife management and the improvement of the quality of habitats, as drawn up by the regional Préfet, or when the region has been asked to exercise this competence by the President of the regional council, a game management plan will be set up in each département. This plan is drawn up for a renewable period of five years. It is drawn up by the département hunting federation taking into account the département agricultural and forestry land management document mentioned in Article L. 112-1 of the Code rural and approved, following a decision from the département hunting and wildlife council, by the Préfet, who checks, in particular, its compliance with the principles set out in Article L. 420-1. It may be backed up by local plans, drawn up and approved using the same procedure. These plans are implemented under the supervision of the Préfet and govern the actions of the département hunting federation.

II. - In particular, the département game management plan includes:

1° The kill ratio and plan of operations,

2° The measures relating to the safety of hunters and non-hunters,

3° Actions with a view towards improving hunting practices, such as the design and compilation of approved plans of operations, the setting of the maximum authorised quotas, the regulation of predators and pests, game releases, the bloodline search in large game and the prescriptions relating to corn strewing,

4° The actions carried out with a view to conserving or restoring natural wildlife habitats.

III. - To ensure improved coordination of hunting actions, the beneficiaries of kill ratios and plans of operations are members of the département hunting federation.

IV. - The département game management plan applies to all the hunters, societies, groups and hunting associations of the département.

Article L421-8

(Act no. 2003-698 of 30 July 2003 Article 11 Official Journal 31 July 2003)

I. - There can only be one hunting federation per département.

II. - In the general public interest and in order to contribute to the coordination and consistency of hunting activities in the département, the hunting federation of each département includes:

1° The holders of a current hunting permit who have validated it in the département;

2° Persons and legal entities that hold hunting rights on the lands of a département and beneficiaries of kill ratios or plans of operations for all or part of the lands in question.

III. - Furthermore, other members of the federation may be:

1° Any other holder of a licence to hunt or holder of hunting rights on land located within the département;

2° Unless refused by the federation's Board of Directors, any other person wishing to have the benefit of the federation's services.

The same person can become a member of the département federation in his or her capacity as a holder of a hunting permit and as a holder of hunting rights.

IV. - Membership is confirmed by the payment of a yearly membership fee, the amount of which can vary depending on whether the member is a hunter or is the holder of hunting rights and which is proposed by the Board of Directors and set during the annual general meeting.

Members can also be asked for possible contributions decided upon by the federation to insure compensation for game-related damage, in accordance with Article L. 426-5.

Article L421-9

(Act no. 2003-698 of 30 July 2003 Article 12 Official Journal 31 July 2003)

The Articles of the département hunting federations must conform to a template provided by the Minister for hunting.

Their general meetings pronounce by a majority vote by the members either present or represented.

Each hunting permit holding member of a federation has one vote. They can give a proxy to another member of the same federation.

Each holder of hunting rights within the département who is a member of a federation has a certain number of votes, the total of which depends, subject to a ceiling, on the surface area of their land. They can give a proxy to another member of the same federation.

The allocation of the maximum number of direct or proxy votes available to each member is set out in the Articles template mentioned in the first paragraph.

Any person who is a member of a federation and has been the holder of a valid hunting permit for five consecutive years can be put forward as a candidate for the Board of Directors, irrespective of his or her age.

Article L421-9-1

(Act no. 2003-698 of 30 July 2003 Article 13 Official Journal of 31 July 2003)
(Act no. 2005-845 of 26 July 2005 Article 173 V Official Journal of 27 July 2005, in force on 1st January 2006 subject to Article 190)

Each département hunting federation appoints, in accordance with the terms of Article L. 612-3 of the Code de commerce, an auditor who will perform his or her duties in accordance with the methods set out in this Article.

The special report mentioned in the third paragraph of Article L. 612-3 of the Code de commerce is sent to the Préfet by the auditor.

Article L421-10

(Act no. 2003-698 of 30 July 2003 Article 14 Official Journal 31 July 2003)

The Préfet checks the performance of the public service assignments in which the département hunting federation takes part.

He or she receives the minutes of the decisions made by the general meeting, the yearly auditor's report and the yearly accounts.

The federation's budget is enforceable in all legality once it has been sent to the Préfet.

If the Préfet finds, after having listened to the comments of the federation's President, that the approved budget is insufficient to carry out its role in the compensation for game-related damage and in the organisation of the preparatory training required to examine hunting permits, he or she will officially proceed to the allocation of the required revenue and expenditure to this budget.

Article L421-11

(Act no. 2003-698 of 30 July 2003 Article 15 Official Journal 31 July 2003)

The département federations are free to use their reserve funds in compliance with the object of the federation.

Article L421-11-1

(Act no. 2003-698 of 30 July 2003 Article 14 Official Journal of 31 July 2003)
(Act no. 2005-845 of 26 July 2005 Article 173 V Official Journal of 27 July 2005, in force on 1st January 2006 subject to Article 190)

In the event of the implementation of the provisions contained in the third paragraph of Article L. 612-3 of the Code de commerce, or of serious and persistent failure on the part of a département federation to fulfil its role in the compensation for game-related damage and in the organisation of the preparatory training required to examine hunting permits officially noted following a procedure with all parties present, the Préfet sends his or her observations to the chambre régionale des comptes. If the chambre régionale des comptes finds that the département federation has not taken adequate measures to re-establish a normal operational situation, it can ask the Préfet to carry out administration of the federation or, ex officio, the management of its budget until execution.

SECTION V

Inter-département hunting federations Article L421-12

Article L421-12

(Act no. 2003-698 of 30 July 2003 Article 17 Official Journal 31 July 2003)

Two Inter-département hunting federations have been set up, one for the départements of Essonne, Val-d'Oise and Yvelines, and the other for the départements of Paris, Hauts-de-Seine, Seine-Saint-Denis and Val-de-Marne.

The provisions that apply to the département federations also apply to the federation mentioned in the first paragraph, subject to the reservations in terms of the adaptations required due to their inter-département nature.

The rules for appointing the Board of Directors for the Inter-département federation which includes Paris, Hauts-de-Seine, Seine-Saint-Denis and Val-de-Marne stipulate that half its members are appointed by the Minister for hunting from among persons qualified in the hunting sector and put forward as candidates by the national hunting federation, and that the other half are elected by federation members. The President is appointed by the Minister for hunting on the recommendations of the Board of Directors.

SECTION VI

Regional hunting federations Article L421-13

Article L421-13

(Act no. 2003-698 of 30 July 2003 Article 10 2°, Article 18 Official Journal 31 July 2003)
(Act no. 2005-157 of 23 February 2005 Article 153, Article 159 III Official Journal of 24 February 2005)

The associations that come under the name of regional hunting federation encompass all of the département and inter-département federations in the same administrative region of metropolitan France in which membership is confirmed by the payment of a mandatory membership fee. They ensure that the département and inter-département hunting federations are represented on a regional level. They conduct and coordinate actions in favour of the wild fauna and its habitats.

They are associated by the competent authority with the drawing-up of the region's orientations in terms of management and conservation of the wild fauna and its habitats mentioned in Article L. 414-8.

Specialist hunting associations are associated with the work of the regional federation.

The provisions of the first paragraph of Article L. 421-9, Article L. 421-10 and Article L. 421-11 apply to the regional hunting associations.

SECTION VII
National hunting federation — Articles L421-14 to L421-18

Article L421-14

(Act no. 2003-698 of 30 July 2003 Article 19, Article 20 Official Journal 31 July 2003)

The association that comes under the name of national hunting federation encompasses all of the département, inter-département and regional federations in which membership is confirmed by the payment of a mandatory membership fee. It ensures that the département, inter-département and regional federations are represented on the national stage.

It is responsible for the promotion and defence of hunting and also for representing hunting interests. It coordinates the actions of the département, inter-département and regional hunting federations.

Specialist hunting associations are associated with the work of the national federation.

Each year, at its general meeting, the national hunting federation decides on the minimum amounts of membership fees to be paid by each member of the département and inter-département hunting federations.

It manages, under the conditions set by a Conseil d'Etat decree, financial assets called national hunting funds which ensure, on the one hand, equalisation between the département hunting federations, depending on their resources and responsibilities and, on the other hand, the prevention of and compensation for game-related damage carried out by the département hunting federations. These funds are supplied by the mandatory contributions paid by the département hunting federations and also by the revenue of a national fee paid to the national hunting federation by each game hunter who has validated a national hunting permit.

The national hunting federation draws up a French Hunting Charter. This states the principles for the sustainable development of hunting and its contribution to biodiversity. This document establishes a code of behaviour for hunters and the good hunting practices implemented by each département hunting federation and its members.

Each year, the département and inter-département hunting federations notify the national federation of the number of members in each category for the current financial year. A copy of this file, described in Article L. 423-4, is sent yearly to the national hunting federation.

Article L421-15

(Act no. 2003-698 of 30 July 2003 Article 21 Official Journal of31 July 2003)
(Act no. 2005-845 of 26 July 2005 Article 173 V Official Journal of 27 July 2005, in force on 1st January 2006 subject to Article 190)

The Articles of the national hunting federation must conform to a template adopted by the Ministers for Hunting and Agriculture.

The national hunting federation appoints, in accordance with the terms of Article L. 612-3 of the Code de commerce, an auditor who will perform his or her duties in accordance with the methods stipulated in this Article.

The special report mentioned in the third paragraph of Article L. 612-3 of the Code de commerce is sent by the auditor to the Minister for hunting.

Article L421-16

(Inserted by Act no. 2003-698 of 30 July 2003 Article 21 Official Journal 31 July 2003)

The Minister for hunting checks the performance of the public service assignments in which the national hunting federation takes part. He or she receives the minutes of the decisions made by the general meeting, the yearly auditor's report and the yearly accounts.

The federation's budget is enforceable in all legality once it has been sent to the Minister for hunting. If the Minister for Hunting finds, after having listened to the comments of the President of the national federation, that the approved budget is insufficient to ensure operation of the equalisation funding, he or she will, ex officio, allocate the required revenue and expenditure to this budget.

Article L421-17

(Act no. 2003-698 of 30 July 2003 Article 21 Official Journal of 31 July 2003)
(Act no. 2005-845 of 26 July 2005 Article 173 V Official Journal of 27 July 2005, in force on 1st January 2006 subject to Article 190)

In the event of the implementation of the provisions contained in the third paragraph of Article L. 612-3 of the Code de commerce, or of serious and persistent failure on the part of a département federation to fulfil its fund management role mentioned in Article L. 421-14 of this Code, noted following a procedure with all parties present, the Minister for

hunting sends his or her observations to the Cour des comptes. If the Cour des comptes finds that the national federation has not taken adequate measures to re-establish a normal operational situation, it can ask the Minister to carry out administration or, ex officio, management of its budget until execution.

Article L421-18
(Inserted by Act no. 2003-698 of 30 July 2003 Article 22 Official Journal 31 July 2003)
The national federation is free to use its reserve funds in accordance with the object of the federation.

SECTION VIII
Miscellaneous provisions — Article L421-19

Article L421-19
(Inserted by Act no. 2003-698 of 30 July 2003 Article 23 Official Journal 31 July 2003)
A Conseil d'Etat decree sets the method by which this Chapter is applied.

CHAPTER II
Hunting territory — Articles L422-2 to L422-1

Article L422-1
Hunting is not permitted on another person's property without the consent of the owner or his or her legal representatives.

SECTION I
Approved commune and inter-commune hunting associations — Articles L422-2 to L422-26

Subsection 1
General provisions — Articles L422-2 to L422-5

Article L422-2
(Act no. 2005-157 of 23 February 2005 Article 169 Official Journal of 24 February 2005)
The aim of the approved commune and inter-commune hunting associations is to ensure correct technical organisation of hunting. They encourage the development of game and wildlife in their territory whilst observing a real agricultural-forestry-hunting balance, educate their members in good hunting practices, and ensure the regulation of pests and the respect of kill ratios by allocating the appropriate resources to this. Their role is also to provide the contribution of hunters to conserving natural wildlife habitats.
Their activity is carried out with all due respect to property, crops and harvests and is coordinated by the département hunting federation. The approved commune and inter-commune hunting associations cooperate with all the partners involved in rural life.

Article L422-3
The associations are formed in accordance with the Law of 1st July 1901 relating to association contracts.
Approval is granted by the Préfet.

Article L422-4
There can only be one approved association per commune.

Article L422-5
Commune hunting associations must be formed within one year following the publication of Ministerial or Prefecture rulings drawing up or completing the list of départements and communes mentioned in Articles L. 422-6 and L. 422-7.
On expiry of this same period of time, no hunting society or association located in these départements or communes can enjoy, unless approved by the Préfet, the benefit of this section, or call itself an approved commune hunting association.

Subsection 2
Set-up of approved commune hunting associations — Articles L422-6 to L422-7

Article L422-6
The list of départements in which commune hunting associations must be set up is decided upon by the Minister for hunting on the recommendations of the Préfets, following the assent of the General Councils, Chambers of Agriculture and the département hunting federations that have been consulted.

Article L422-7
In départements other than those mentioned in Article L. 422-6, the list of communes in which a commune hunting association will be created is decided upon by the Préfet on request, and justified by the amicable agreement of 60% of the owners representing 60% of the land area of the commune, this agreement remaining valid for a period of at least five years.

The territories already modified at 1st September 1963 and with a surface area larger than that determined in Article L. 422-13 are not included in the calculation.

Subsection 3
Methods of constitution — Articles L422-8 to L422-9

Article L422-8

In the communes in which a commune hunting association is to be set up, an enquiry, on the behest of the Préfet, determines the land subject to the actions of the commune hunting association relating to the contribution of owners and holders of hunting rights.

Article L422-9

On the request of the commune association, these contributions are considered to be made automatically for a period of five years, renewable, if within three months after the displaying at the Town Hall of a notice announcing the constitution of the commune association, and the sending of registered letters with acknowledgement of receipt to all owners or holders of hunting rights fulfilling the conditions set out in Article L. 422-13, the people mentioned in parts 3 and 5 of Article L. 422-10 have not made known, and justified, their opposition to the contribution of their hunting territory by means of a registered letter with acknowledgement of receipt.

Subsection 4
Territory — Articles L422-10 to L422-20

Article L422-10

The commune association is set up on land other than that:

1° Located within a radius of 150 metres around any form of dwelling;

2° Surrounded by an enclosure as defined in Article L. 424-3;

3° Having been the subject of opposition by the owners and holders of hunting rights on the land area of one sole holder greater than the minimum land areas mentioned in Article L. 422-13;

4° Being part of the State owned, département and commune public estates, State forests and the French railway network and the Société nationale des chemins de fer français (French Railway Company) holdings;

5° Having been the subject of opposition by the owners and co-owners who, out of personal conviction are collectively and unanimously opposed to the practice of hunting, prohibit, including for themselves, the practice of hunting on their property, without prejudice to the consequences linked to the owner's liability, most notably in respect of damage which could be caused by game coming from their property.

When the owner is a legal entity, opposition can be formulated by the manager of the organisation specifically mandated to do so.

Article L422-11

In State forests, and notwithstanding the provisions of Article L. 422-10, certain lands may, on the decision of the appropriate authority, be leased to the commune or inter-commune association. Other areas part of the private State-owned land may, if decided upon by the appropriate authority, be excluded, irrespective of surface area, from the scope of this present section.

Article L422-12

The association may include in its zone, on request by the owners and holders of hunting rights, land that belongs to neighbouring estates, as long as these areas do not impinge on the neighbouring hunting association's land by more than one tenth of its extent.

Article L422-13

I. - To be admissible, opposition by the owners or holders of hunting rights mentioned in 3° of Article L. 422-10 must relate to lands in a single stretch and with a minimum surface area of twenty hectares.

II. - This minimum is lowered for the hunting of water game:

1° To three hectares for non reclaimed marshland;

2° To one hectare for isolated lakes;

3° To fifty ares for lakes on which static huts and hides were already installed on 1st September 1963,

III. - This minimum is lowered for pigeon hunting to one hectare on land where static positions for this type of hunting were already installed on 1st September 1963.

IV. - This minimum is raised to one hundred hectares for mountain lands located above the forest line.

V. - Rulings made per département can, under the conditions stipulated in Article L. 422-6, increase the minimum land areas thus defined. Increases cannot exceed twice the set minimums.

Article L422-14

(Act no. 2005-157 of 23 February 2005 Article 168 XI Official Journal of 24 February 2005)

The opposition mentioned in 5° of Article L. 422-10 is admissible on condition that the opposition relates to all of the land belonging to the owners or co-owners concerned.

This opposition is taken as a renunciation of the right to hunt on these lands. It does not constitute any obstacle to

the application of Article L. 415-7 of the Code rural. In this case, the permit holder's right to hunt is subject to the same restrictions as those that come under the auspices of the local customs that apply on neighbouring hunting lands and those resulting from the département hunt management plan described in Section 1 of Chapter V of Title II of Book IV.

Article L422-15

The person who has expressed opposition is obliged to signpost his or her land in order to indicate that hunting is prohibited.

The owner or the holder of hunting rights who has stated opposition is obliged to carry out, or have carried out the destruction of pest animals and the regulation of species on their property that cause damage.

The crossing by hunting dogs of lands classified as a reserve or under opposition in respect of 3° and 5° of Article L. 422-10 cannot be considered as hunting on a reserve or another person's property, unless the dogs are encouraged by the hunter to do so.

Article L422-16

The contribution of hunting rights by an owner or holder of hunting rights leads to the extinguishing of all other hunting rights, unless a clause specifying otherwise is concluded between the parties.

Article L422-17

Contribution gives rise to compensation from the association if the owner suffers a loss in revenue resulting from being deprived of what previously had been a source of income.

The amount of this compensation is set by the competent court, as is that due from the association to a holder of hunting rights who contributes to improvements on the land for which he or she has hunting rights.

Article L422-18

Opposition expressed in application of 3° and 5° of Article L. 422-10 takes effect on expiry of the current five year period, on condition that notification has been given six months prior to the end of this period. Failing this, it will come into effect on expiry of the next period. The person who formulates the opposition notifies the Préfet.

In this case, the association can claim compensation from them, the amount of which is set by the competent court and corresponds to the value of the improvements that it has contributed.

Article L422-19

When land that has been excluded from the territory of the commune association in application of 5° of Article L. 422-10 changes ownership, the new owner may, within a deadline of six months from the change of ownership, maintain opposition for reasons of personal conviction. Otherwise, the land will be included in the association's hunting lands.

Article L422-20

In organised hunts such as the private commune hunting associations, the right to hunt in enclaves of a surface area less that the minimums set out in Article L. 422-13 must be ceded to the hunting federation, which should, by way of exchange, agreement or rental, transfer them to the holder of hunting rights on the land where these enclaves are located, or reserve them.

Subsection 5

Mandatory provisions contained in approved commune hunting association Articles

Articles L422-21 to L422-22

Article L422-21

(Act no. 2001-602 of 9 July 2001 Article 64 Official Journal 11 July 2001)
(Act no. 2003-698 of 30 July 2003 Article 21 Official Journal 31 July 2003)

I. - Each association's Articles should contain a provision for admitting holders of valid hunting permits:

1° Either living in the commune or having a residence in the commune for which they, on the year they are admitted to the association, have fulfilled for four years in succession, the position of one of the four direct contributors;

2° Or owners or holders of hunting rights having contributed their hunting rights, as well as, if they are also holders of a hunting permit, their partners, parents, children and grandchildren, son-in-laws, daughter-in-laws of the contributing partner(s);

2°(cont.) Or persons having contributed their hunting rights attached to one or more land parcels, prior to the transfer of ownership of this land to a forestry unit, as well as, if they also are holders of a hunting permit, their partners, parents, children and grandchildren, son-in-laws, daughter-in-laws of the contributing partner(s);

3° Or lessees of a rural property when the owner has contributed his or her hunting rights;

4° Or owners of land used for hunting by the association and who have become owners due to inheritance or a donation between inheritors during a five-year period.

II. - These Articles should also state the minimum number of association members and allow for the admission of a minimum percentage of hunters that does not come into any of the aforementioned categories.

III. - Unless he or she has stated his or her opposition to hunting under the terms set out in 5° of Article L. 422-10, the non-hunter owner of lands incorporated in the association's hunting land becomes, on his or her request and free of charge, a member of the association, without being obliged to cover any possible deficit of the association. The association will undertake the required procedures in respect of him or her.

IV. - The owner or holder of hunting rights having exercised the right of opposition cannot become a member of the association, unless decided otherwise by the approved commune hunting association on its own authority.

V. - In addition to the above listed provisions, the Articles of each association should contain the mandatory clauses set by the Conseil d'Etat.

Article L422-22

The membership of a commune hunting association confers the right to hunt over the whole of the association's hunting lands, in compliance with its regulations.

Subsection 6
Reserves and game-keeping — Article L422-23

Article L422-23

Approved commune and inter-commune hunting associations are obliged to create one or more commune or inter-commune game reserves.

The minimum land area of these reserves is one tenth of the association's total land area.

Subsection 7
Approved inter-commune hunting associations — Article L422-24

Article L422-24

Approved commune hunting associations can constitute one or more approved inter-commune hunting associations under the terms set by a Conseil d'Etat decree.

Subsection 8
Miscellaneous provisions — Articles L422-25 to L422-26

Article L422-25

Approved commune or inter-commune hunting associations are exonerated from all duties and taxes that could be received from game reserves.

Article L422-26

A Conseil d'Etat decree sets out the terms under which this section is applied.

SECTION II
Game reserves — Article L422-27

Article L422-27

(Act no. 2002-92 of 22 January 2002 Article 24 XII Official Journal of January 2002)
(Act no. 2005-157 of 23 February 2005 Article 164 Official Journal of 24 February 2005)

Game and wild fauna reserves have the following purposes:
- protecting the populations of migratory birds in accordance with international undertakings;
- ensuring the protection of natural environments that are indispensable to safeguarding endangered species;
- encouraging the development of tools for the management of wild fauna and its habitats;
- contributing to the sustainable development of hunting on rural territories.

They are set up by the administrative authority at the initiative of the person who holds hunting rights or the département or inter-département federation of hunters when actions in the public interest are to be consolidated.

National game and wild fauna reserves are organised into a national network under the responsibility of the National Hunting and Wildlife Office and the National Hunting Federation.

The other reserves may be organised into département-level networks, the coordination of which is carried out by département or inter-département federations of hunters.

A Conseil d'Etat decree sets the conditions for setting up and operating game reserves. In particular, it sets out the conditions under which the appropriate measures are to be taken to avoid adverse effects on human activities, to encourage the protection of game and its habitats and to maintain biological equilibriums.

In Corsica, the conditions for setting up and operating game reserves are set by decision of the Corsican Assembly.

SECTION III
Maritime hunting — Article L422-28

Article L422-28

I. - Maritime hunting is that which is carried out in:
1° The sea, within territorial waters;
2° Salt water lakes and water basins;
3° That part of tributary water basins, waterways, rivers and canals which is located upstream of the salt water limit;
4° The public maritime domain.
II. - Its purpose, within the zones defined in I, is the pursuit, capture or destruction of birds and other game.
III. - It is governed by this Title.

SECTION IV
Hunting operations on State-owned property — Article L422-29

Article L422-29

As stated in Article L. 137-3 of the Code forestier:

"In the event of public adjudication for the purpose of the rental of hunting rights, the appropriate authority for hunting operations may grant, under the terms set by a Conseil d'Etat decree, the departing tenant a priority, to the highest bid".

CHAPTER III
Autorisation to hunt Articles L423-5 to L423-4

Article L423-1

(Act no. 2005-157 of 23 February 2005 Article 165 I Official Journal of 24 February 2005)

No-one has the right to hunt without holding a valid hunting permit.

A hunting permit is valid following on the one hand the payment of the hunting duties and stamp duty mentioned in article L. 423-12 and on the other hand the payment of the fees stipulated in article L. 423-13, as well as the participation payments provided for in article L. 426-5 and the national contribution set out in article L. 421-14 when the hunting of large game is concerned.

Article L423-2

(Act no. 2005-157 of 23 February 2005 Article 165 II, Article 166 VIII Official Journal of 24 February 2005)

However, holders of a valid authorisation to hunt may hunt in the presence of and under the responsibility of a person who has held a valid hunting permit for at least five years and who has never had their right to have or hold a permit withdrawn by a court of law. For hunting with guns, the authorised person and the companion may not have more than one gun between them in the hunt zone.

Except for the persons described in article L. 423-25, the authorisation to hunt is issued free of charge by the administrative authority for one year and once per person, to minors of over fifteen years and majors who have received elementary practical training given by the département or inter-département federation of hunters, with the assistance of the National Hunting and Wildlife Office.

Articles L.424-4 and L. 424-5 apply to holders of authorisations to hunt.

A Conseil d'Etat decree sets the conditions under which this authorisation to hunt is issued.

NB: As the modification resulting from VIII of article 166 of Law no. 2005-157 is incompatible with that of II of article 165, it could not be made.

Article L423-3

For sea fishing, the professional deep sea fishermen and shellfish farmers, administratively assimilated into these said fishermen, are dispensed from validating their hunting permit, as long as they hold an authorisation issued free of charge by the administrative authority on presentation of an insurance certificate drawn up under the terms set in this Chapter.

Article L423-4

(Act no. 2003-698 of 30 July 2003 Article 25 Official Journal of 31 July 2003)
(Act no. 2005-157 of 23 February 2005 Article 166 I Official Journal of 24 February 2005)

I. - There is compiled a central national file of permits issued, validations and authorisations to hunt, the management of which is entrusted to the National Hunting Federation under the control of the National Hunting and Wildlife Office. The département and inter-département hunting federations send the list of their members who hold a permit, an approval and an authorisation to hunt to the file manager every year.

The judiciary authority informs the National Hunting and Wildlife Office and completes the central file described in the first paragraph regarding the sentences passed under the terms of L. 428-14 and L. 428-15 of the present Code, as well as of any withdrawal of hunting permits pronounced under the terms of Articles 131-14 and 131-16 of the Code pénal. The administrative authority informs the National Hunting and Wildlife Office and completes the central file regarding the inclusion on the computerised national file of persons prohibited from acquiring and holding arms as provided for in article L. 2336-6 of the Code de la défense.

II. - A Conseil d'Etat decree following the opinion of the National Computerised Data and Privacy Commission specifies the means by which this Article is applied.

SECTION I
Examination for the granting of a hunting permit Articles L423-5 to L423-8

Article L423-5

(Act no. 2005-157 of 23 February 2005 Article 166 II Official Journal of 24 February 2005)

The award of a hunting permit is subject to passing an examination. This examination mainly covers knowledge of wildlife, hunting regulations, as well as the safety rules that must be followed when handling arms, mastery over which will be assessed during a practical trial. It includes eliminatory procedures and is organised on behalf of the State by the National Hunting and Wildlife Office, with the assistance of the département and inter-département federations of

hunters under conditions defined by regulatory means.

The administrative authority called upon to award the hunting permit will first consult a panel composed half of State representatives and half of representatives of the département federation of hunters.

However, people who obtained their hunting permit or authorisation from the maritime affairs administration prior to 1st July 1976 are exempted from the examination.

Article L423-6

(Order no. 2000-916 of 19 September 2000 appendix Official Journal of 22 September 2000 in force on 1st January 2002)

(Act no. 2005-157 of 23 February 2005 Article 166 III Official Journal of 24 February 2005)

In order to enter for the examination for the hunting permit, the applicant must give the National Hunting and Wildlife Office a medical certificate attesting that his or her physical and psychological state of health is compatible with the possession of a weapon.

A fixed duty of up to 16 euros is also payable, by decree of the Minister for hunting and the Minister for the budget.

The revenue from these duties is handed over to the National Hunting and Wildlife Office to be allocated to the organisation of examinations.

Article L423-7

The following people are obliged to take the examination provided for under Article L. 423-5 before a new hunting permit can be issued:

1° Those with their right to obtain or hold a hunting permit temporarily suspended by court order;

2° Those whose permit would be legally null and void under the terms of Article L. 423-11.

Article L423-8

The Département Hunting Federations organise the training of candidates for the theoretical and practical examinations for the award of hunting permits. Hunting arms are made available to the people taking part in this training.

The Département Hunting Federations also organise training open to hunting permit holders, and aimed at a more in-depth understanding of wildlife, hunting regulations and arms.

SECTION II

Granting and validation of a hunting permit — Articles L423-9 to L423-26

Subsection 1

Granting — Articles L423-9 to L423-11

Article L423-9

The hunting permit is granted by the administrative authority for life.

Article L423-10

For the issuing of the hunting permit and for every duplicate, stamp duty is payable as set in Article 964 of the Code général des impôts.

People exempted from the examination are also exempted from stamp duty.

Article L423-11

(Act no. 2005-157 of 23 February 2005 Article 166 IV Official Journal of 24 February 2005)

The following may not be awarded a hunting permit:

1 People aged under sixteen years old;

2 Majors under guardianship, unless they are authorised to hunt by the tutelage judge;

3 Those who, following a sentence, are forbidden to carry arms;

4 Those who have not served the sentences passed against them for one of the infringements stipulated by the present Title;

5 Any person condemned to local banishment;

6 Those who have not produced the medical certificate stipulated in article L. 423-6;

7 People who have formed the opposition stipulated in 5 of article L. 422-10;

8 People, who, in accordance with article L. 428-14, do not have the right to hold or obtain a hunting permit;

9 Those who are listed on the computerised national file naming the persons prohibited from acquiring and holding arms as described in article L. 2336-6 of the Code de la défense.

On pain of the penalties incurred for the violations provided for in Article 441-6 of the Code pénal, any person applying for a hunting permit must make a sworn declaration that he or she is not included in one of the cases of incapacity or prohibition stipulated above.

A hunting permit issued under a false declaration is legally null and void. In this case, it must be given to the Préfet on request. The sentences provided for may be applied to those who hunt without a valid permit.

Subsection 2

Validation of a hunting permit — Articles L423-12 to L423-18

Article L423-12

(Order no. 2003-719 of 1 August 2003 Article 2 Official Journal of 5 August 2003)

(Act no. 2005-157 of 23 February 2005 Article 166 IX Official Journal of 24 February 2005)

The payment of one of the hunting duties listed in sub-section 3 and the stamp duty mentioned in Article 964 of the Code général des impôts is considered as validation of the hunting permit as long as the holder fulfils the conditions set out in Articles L. 423-13, L. 423-15, and L. 423-16.

Article L423-13

No-one can obtain validation of the hunting permit without being a member of a Hunting Federation and without paying the statutory fees. The Hunting Federation may not refuse membership to a person with a valid hunting permit.

Article L423-15

(Act no. 2005-157 of 23 February 2005 Article 166 V Official Journal of 24 February 2005)

The following may not obtain the validation of their hunting permit:

1 Non-emancipated minors aged under sixteen years, unless the validation is requested for them by their father, mother or guardian;

2 Majors under guardianship, unless they are authorised to hunt by the tutelage judge;

3 Those who, following a sentence, are forbidden to carry arms;

4 Those who have not served the sentences passed against them for one of the infringements stipulated by the present Title;

5 Any person condemned to local banishment;

6 People suffering from a medical condition or infirmity, the list of which is set by a Conseil d'Etat decree, making the practice of hunting dangerous;

7 People who have formed the opposition stipulated in 5 of article L. 422-10;

8 People, who, in accordance with article L. 428-14, do not have the right to hold or obtain a hunting permit, or whose permit is suspended in accordance with article L. 428-15;

9 Those who are listed on the computerised national file naming the persons prohibited from acquiring and holding arms as described in article L. 2336-6 of the Code de la défense.

On pain of the penalties incurred for the violations provided for in Article 441-6 of the Code pénal, any person applying for a hunting permit must make a sworn declaration that he or she is not included in one of the cases of incapacity or prohibition stipulated above.

A hunting permit issued under a false declaration is legally null and void. In this case, the validation document must be given to the Préfet on request. The sentences provided for may be applied to those who hunt without a valid permit.

In case of doubt about the declaration relating to the conditions mentioned in 6, the Préfet may request a medical certificate.

Article L423-16

(Act no. 2003-719 of 1 August 2003 Article 3 Official Journal of 5 August 2003)

The hunter must have had taken out hunting liability insurance cover with a company authorised to practice in France to cover civil liability for an unlimited sum and without any deduction being opposable to victims or their legal representatives, for bodily harm caused by any hunting activity or culling of pests. This insurance must also cover the hunter's civil liability for damage by hunting dogs, under the same conditions.

Article L423-17

Any insurance policy covering the civil liability of hunters is, notwithstanding any clause to the contrary, considered to include guarantees at least equivalent to those set in Article L. 423-16.

Article L423-18

The hunting permit ceases to be valid, and is provisionally withdrawn by the administrative authority, if the insurance contract is terminated or if the guarantee provided by the policy is suspended for any reason whatsoever.

The termination of the contract or suspension of the guarantee must be notified to the administrative authority by the insurance company.

The penalties set out in Article L. 428-3 apply to any person who refuses to hand over their hunting permit to the representative of the appropriate authority under the terms of the provisions in this Article.

Subsection 3

Methods of validation of a hunting permit — Articles L423-19 to L423-21-1

Article L423-19

The validation of the hunting permit gives rise to the annual payment of a département-level or national hunting duty.

To obtain département-level validation of the hunting permit, the applicant must be a member of the corresponding hunting federation.

Article L423-20

(Act no. 2005-157 of 23 February 2005 Article 166 VI Official Journal of 24 February 2005)

The hunting permit can be validated for a period of nine consecutive days. This validation is conditional on the

payment of temporary hunting duties and a contribution to a federation. It can only be obtained once per hunting season.

The hunting permit can also be validated for a period of three consecutive days. This validation may be renewed twice in the course pf the same hunting season. It gives rise, on each occasion, to the payment of temporary hunting duties and a contribution to a federation.

These two methods of temporary validation may not be granted at the same time.

Article L423-21

(Act no. 2005-157 of 23 February 2005 Article 166 VII Official Journal of 24 February 2005)

The exercise of hunting in France by non-residents, either French or foreign, holding hunting permits issued abroad or any other administrative document of the same value, is conditional on the validation of these documents under the conditions applicable to hunting permits issued in France.

Article L423-21-1

(Act no. 2000-1353 of 30 December 2000 special amending acts Article 47 I, II Official Journal of 31 December 2000 in force on 27 July 2000)

(Act no. 2000-1353 of 30 December 2000 special amending acts Article 47 III Official Journal of 31 December 2000 in force on 1st January 2002)

(Act no. 2003-719 of 1 August 2003 Article 4 Official Journal of 5 August 2003)

The amount of the hunting duties is set by a joint decree issued by the Minister for Hunting and the Minister for the Budget, subject to the following ceilings:

National hunting duty: 194 euros

Temporary national hunting duty: 116 euros

Département hunting duty: 38 euros

Temporary département hunting duty: 23 euros

Water fowl hunting duty: 15 euros

Hunting duties are paid to a Treasury accountant or a State controller assigned to a département or inter-département hunting federation and authorised, in compliance with the rules and applicable guarantees in terms of stamp duty.

Subsection 5

Licences — Article L423-22

Article L423-22

French citizens living abroad and non-resident foreigners may hunt as long as they have a temporary nine consecutive day hunting licence that can be renewed three times a year by the administrative authority on presentation of the insurance certificate mentioned in Article L. 423-16 and of a hunting permit issued in France or in their country of residence, or any other administrative document that might replace it.

The granting of this hunting licence gives rise to the payment of the département or national temporary hunting duty and a temporary federal contribution.

Subsection 6

Refusals and exclusions — Articles L423-23 to L423-25

Article L423-23

Validation of the hunting permit is not granted:

1° to minors under 16 years old;

2° to non-emancipated minors of more than sixteen years of age, unless their father, mother or guardian requests validation,

3° To adults who are wards of the State, unless the Judge for Wards authorises them to hunt.

Article L423-24

A hunting permit is not granted and not validated:

1° To any person who, after sentencing, is refused the right to carry arms;

2° To any person who has not purged the sentence placed on them for one of the offences covered by this present Title;

3° Any person who after sentence is refused the right to remain in the country;

4° Any person suffering from one of the disorders or infirmities included on the list set by a Conseil d'Etat decree, which result in making hunting dangerous;

5° Any person who has expressed opposition as covered in 5° of Article L. 422-10.

Article L423-25

I. - The granting of a hunting permit can be refused and a valid permit withdrawn in the case of:

1° Any individual who has been sentenced by law to lose one or more of the rights listed in Article131-26 of Code pénal;

2° Any person sentenced to more than six months' imprisonment for rebellion or violence against representatives of the public authorities;

3° Any person sentenced for the offence of belonging to an illegal organisation, the manufacture, sale and

distribution of explosives, munitions and weapons of war; written or verbal menaces with orders or under conditions; obstruction to seed transactions; the destruction of trees or cultivated harvests, and of plants whether sown naturally or by man;

4° Any person who has been sentenced for theft, false pretences, and confidence trickery.

II. - The facility to refuse the granting or to withdraw validation of a hunting permit to people convicted for the offences mentioned in 2°, 3° and 4° expires five years after sentence has been purged .

Subsection 7
Provisions specific to certain officials — Article L423-26

Article L423-26

The Préfet can place any limitations that he or she considers necessary, in the interest of gamekeepers or police, on hunting by the officials mentioned in 1° and 2° of Article L. 428-20.

SECTION III
Allocation of hunting permit fees — Article L423-27

Article L423-27

(Act no. 2005-157 of 23 February 2005 Article 166 VIII Official Journal of 24 February 2005)

The amount of the fees mentioned in Article L. 423-19 is paid to the National Hunting and Wildlife Office to be allocated to its expenditure.

CHAPTER IV
Hunting activity — Articles L424-1 to L424-16

SECTION I
Protection of game — Article L424-1

Article L424-1

Without any influence on his or her right to decree the culling of the wild animals listed in Article L. 427-9, the Minister for Hunting can issue rulings for the purpose of:

- preventing the culling and encouraging the repopulation of birds and all other species of game;
- postponing the date for the clearing of all fallow land to be put to agricultural use in order to prevent the culling and encourage the repopulation of all species of game.

SECTION II
Hunting seasons — Articles L424-2 to L424-3

Article L424-2

(Act no. 2001-602 of 9 July 2001 Article 5 Official Journal of 11 July 2001)
(Act no. 2003-698 of 30 July 2003 Article 27 Official Journal of 31 July 2003)
(Act no. 2005-157 of 23 February 2005 Article 168 XI Official Journal of 24 February 2005)

No hunting is permitted outside the open hunting season periods set by the administrative authority, in accordance with the conditions set out by a Conseil d'Etat decree.

Birds cannot be hunted either during nesting or during the various stages of reproduction and dependency. Migratory birds cannot be hunted on their return flight to their nesting grounds.

Nonetheless, to enable, under strictly controlled and selective conditions, the capture, the holding and any other judicious activity involving very small numbers of various migratory land and water birds, exemptions may, in compliance with the provisions of Article L. 425-14, be granted.

A Conseil d'Etat decree sets the conditions under which this provision is applied.

Article L424-3

(Act no. 2005-157 of 23 February 2005 Article 167 I Official Journal of 24 February 2005)

I. Nonetheless, the owner or holder can at all times hunt or have hunted furred game in his or her possession adjoining a dwelling and enclosed by unbroken fencing creating a barrier with neighbouring properties and totally inhibiting the passage of both game and human beings.

In this case, the provisions of articles L. 425-4 to L. 425-14 are not applicable and the participation in the cost of compensating for damage by game provided for in article L. 426-5 is not due.

II. Professional hunting establishments of a commercial nature may be formed of open or closed territories in accordance with I of the present article. They possess this quality by being listed on the business register or on the farming scheme. Their activity is subject to declaration to the local Préfet and gives rise to the holding of a register.

In these establishments, the dates for hunting farm-reared birds are set by a ruling of the Minister for hunting.

SECTION III
Hunting methods and resources — Articles L424-4 to L424-7

Article L424-4

(Act no. 2005-157 of 23 February 2005 Article 167 II Official Journal of 24 February 2005)

During the period in which the hunting season is open, the hunting permit gives the right to daytime hunting to its holders, either to shoot, to hunt, by beating, or on the wing, in accordance with the distinctions laid down in the decrees issued by the Minister for hunting. Daytime means the time which begins one hour before sunrise in the principal town of the département and ends one hour after sunset.

It also gives the right to hunt water fowl in flight during legal hours, starting from two hours before dawn and up two hours after sunset, in the places mentioned in article L. 424-6.

In order to enable the strictly controlled selective hunting of very small numbers of migratory birds, the Minister for hunting authorises, under the terms which he or she defines, the use of traditional hunting methods and resources derogatory to those authorised by the first paragraph.

All methods of electronic assistance in the exercise of hunting other than those authorised by ministerial ruling are prohibited.

Limed twigs will be set up one hour before sunrise and removed at eleven a.m.

All other methods of hunting, including the use of aircraft and vehicles, even as a means of beating, are prohibited.

However, the use of a motorised vehicle is authorised as a means of transport to a shooting station on condition that the hunting action is finished and the firearm is disassembled or placed in a gun bag or case.

Notwithstanding the provisions of the previous paragraph, for hunting with hounds, transport in a motorised vehicle from one shooting station to another may be authorised under the conditions set by the département hunting management scheme if the firearm is disassembled or placed in a gun bag or case.

Persons suffering from a motor handicap may make use of a motorised vehicle to go to their station. They may only shoot from their vehicle once they have switched the engine off.

Article L424-5

(Act no. 2003-698 of 30 July 2003 Article 28, Article 29, Art 31 Official Journal of 31 July 2003)

During the period in which the hunting season is open, the hunting permit also gives the holder the right to hunt waterfowl during the hours of darkness from static firing points such as hides, cabins, barrels and blinds which were already in existence on 1st January 2000 in the départements where this type of hunting is traditional. These départements are: Aisne, Ardennes, Aube, Aude, Bouches-du-Rhône, Calvados, Charente-Maritime, Côtes-d'Armor, Eure, Finistère, Haute-Garonne, Gironde, Hérault, Ille-et-Vilaine, Landes, Manche, Marne, Meuse, Nord, Oise, Orne, Pas-de-Calais, Pyrénées-Atlantiques, Hautes-Pyrénées, Seine-Maritime, Seine-et-Marne and Somme.

The moving of a static station requires the authorisation from the Préfet. Nonetheless, for hides, only a change of the land parcel or lot used for hunting is subject to authorisation.

Each owner of a static station as described in the first paragraph must declare it to the administrative authority and receive an acknowledgement which should be carried by the hunters carrying out night-time hunting from this static station.

The declaration of a static station commits its owner, in accordance with the methods laid down in the département hunting plan for the improvement of hunting facilities, to take part in the upkeep of the water basins and adjacent marsh and wetlands on which waterfowl hunting from this station is carried out. When there are several owners of static stations using the same water basin, they are collectively committed to taking part in the upkeep of these water basins and adjacent wetlands.

A written record of kills must be maintained for each static station described in the first paragraph.

Article L424-6

(Act no. 2005-157 of 23 February 2005 Article 167 III Official Journal of 24 February 2005)

In periods outside of the general opening and closing of the hunting season, hunting is open, water fowl can only be hunted:

1° In maritime hunting areas;

2° In non-reclaimed marshlands;

3° On waterways, rivers, canals, reservoirs, large and small lakes and water covered areas; hunting and firing at this type of game is only authorised at a maximum distance of thirty metres from the water covered area, providing the hunter has the right to hunt on it.

Article L424-7

Nets, prohibited weapons or other hunting apparatus must not be held, supplied or carried outside of the home.

SECTION IV

Sale and transport of game — Articles L424-8 to L429-1

Subsection 1

Permanent prohibition — Articles L424-8 to L424-11

Article L424-8

(Act no. 2005-157 of 23 February 2005 Article 167 IV Official Journal of 24 February 2005)

I. The transport, sale, putting on sale, holding for sale and purchase of living animals of species of which hunting is

authorised or animals legally killed in hunts are:

1 Authorised all year round for mammals;

2 Prohibited for birds and their eggs, except for:

- their transport for non-commercial purposes, including transport of decoys;
- species the list of which is set by a ruling of the Minister for hunting.

II. However, restrictions may be brought by the administrative authority to these provisions to prevent destruction or encourage the restocking of game.

III. The transport, sale, putting on sale, holding for sale and purchase of living or dead animals of species of which hunting is authorised and which are born and bred in captivity are authorised all year round.

IV. Notwithstanding the provisions of I and III, transport for the sale, putting on sale, holding for sale and purchase of animals killed in hunts or dead from farms described in III are authorised if they respect the provisions relating to the traceability of products stipulated in articles L. 232-1, L. 232-1-1, L. 232-2 and L. 232-3 of the Code rural and if the animals have undergone a sanitary inspection in accordance with articles L. 231-1, L. 231-2 and L. 231-3 of the same Code.

V. A Conseil d'Etat decree specifies the conditions under which this Article is applied.

Article L424-9

(Act no. 2005-157 of 23 February 2005 Article 167 V Official Journal of 24 February 2005)

Large game killed accidentally and at any time following a collision with an automobile vehicle may be transported providing that the driver first warns the national gendarmerie or the national police force.

Article L424-10

(Act no. 2005-157 of 23 February 2005 Article 167 VI Official Journal of 24 February 2005)

It is prohibited to destroy, remove or intentionally damage nests and eggs, to collect eggs in the environment and to take them. It is prohibited to destroy, remove, sell, buy and transport the offspring or young of all mammals the hunting of which is authorised, subject to the provisions relating to pests.

Holders of hunting rights and their representatives have the right to gather eggs uncovered by ground clearance or harvesting in order to incubate them.

Article L424-11

(Act no. 2005-157 of 23 February 2005 Article 167 VII Official Journal of 24 February 2005)

The introduction into the natural environment of large game animals and rabbits, and the culling in the natural environment of living animals of species the hunting of which is authorised is subject to an authorisation from the Préfecture, under the conditions and according to the methods set by a joint ruling of the Minister for hunting and the Minister for agriculture.

Subsection 2

Temporary prohibition — Articles L424-12 to L429-1

Article L424-12

In each département during the hunting season, in order to safeguard certain species that are particularly threatened, the Préfet may, as an exceptional measure, prohibit them from being put on sale, sale, purchase, transport with a view towards sale or peddling.

Article L424-13

The Minister for Hunting, the National Hunting and Wildlife Council, can with a view to ensuring the survival of mountain game species threatened with extinction, totally prohibit their being put on sale, their sale and purchase in all forms, especially in the form of pâté or preserved meats, their transport with a view to sale or their peddling, for a maximum period of three years.

Article L429-1

(Act no. 2005-157 of 23 February 2005 Article 168 X Official Journal of 24 February 2005)

The provisions of this Title all apply to the Bas-Rhin, Haut-Rhin and Moselle départements, with the exception of those of Articles: L. 422-2 to L. 422-26, L. 424-8, L. 425-4, L. 426-1 to L. 426-8, L. 427-9 and L. 428-1, Paragraphs 1 and 2, and subject to the provisions of this Chapter.

SECTION V

Special provisions for maritime hunting — Article L424-14

Article L424-14

With regard to maritime hunting, the authorities competent to exercise the powers defined in Articles L.424-1 and L. 424-4 are determined by a Conseil d'Etat decree.

SECTION VI

Safety rules — Articles L424-15 to L424-16

Article L424-15

The rules guaranteeing the safety of hunters and third parties during a hunting foray or cull must be observed, especially when guns are being used.

Article L424-16

The provisions of application of section are specified by a Conseil d'Etat decree.

CHAPTER V
Management — Articles L425-1 to L425-15

SECTION I
Département hunting management plans — Articles L425-1 to L425-3

Article L425-1

(Act no. 2005-157 of 23 February 2005 Article 168 III Official Journal of 24 February 2005)

A département hunting management plan is set up in each département. This plan is set for a renewable period of six years. It is drawn up by the département or inter-département federation of hunters in conjunction, notably, with the chamber of agriculture representatives of rural private property and representatives of forestry interests. It takes account of the local management of farming and forestland areas document mentioned in article L. 112-1 of the Code rural and of regional orientations for the management and conservation of wild fauna and its habitat mentioned in article L. 414-8 of the present Code. It is approved, after an assessment by the local commission competent in matters of hunting or wild fauna, by the Préfet, who checks, notably, its compatibility with the principles listed in article L. 420-1 and the provisions of article L. 425-4.

Article L425-2

(Act no. 2005-157 of 23 February 2005 Article 168 I Official Journal of 24 February 2005)
(Act no. 2005-157 of 23 February 2005 Article 168 IV Official Journal of 24 February 2005)

The département hunting management plan comprises, notably:

1 Kill ratios and management plans;

2 Measures relating to the safety of hunters and non-hunters;

3 Actions with a view to improving the practice of hunting, such as the conception and production of approved management plans, the setting of maximum authorised culls, the regulation of predatory and pest animals, releases of game, the tracking of wounded large game by following blood trails and the prescriptions relating to bait and feed provided for in article L. 425-5 and the shooting of water game with bait.

4 Actions conducted with a view to preserving and protecting by adapted measures, or restoring, the natural habitat of wild fauna.

5 Provisions enabling the achievement of an agricultural-forestry-hunting balance.

Article L425-3

(Act no. 2002-92 of 22 January 2002 Article 24 XIII Official Journal of 23 January 2002)
(Order no. 2004-637 of 1 July 2004 Article 29 Official Journal of 2 July 2004 in force on 1st July 2005)
(Act no. 2005-157 of 23 February 2005 Article 168 I Official Journal of 24 February 2005)
(Act no. 2005-157 of 23 February 2005 Article 168 V Official Journal of 24 February 2005)

The département hunting management plan is opposable to hunters and to hunting societies, groupings and associations in the département.

SECTION II
Agricultural-forestry-hunting balance — Articles L425-5 to L425-4

Article L425-5

(Act no. 2003-698 of 30 July 2003 Article 32 Official Journal of 31 July 2003)
(Act no. 2005-157 of 23 February 2005 Article 168 I Official Journal of 24 February 2005)
(Act no. 2005-157 of 23 February 2005 Article 168 VIII Official Journal of 24 February 2005)

Baiting and feeding are authorised under the conditions defined by the département hunting management plan.

Article L425-4

(Order no. 2000-916 of 19 September 2000 appendix Official Journal of 22 September 2000 in force on 1st January 2002)
(Act no. 2005-157 of 23 February 2005 Article 168 I Official Journal of 24 February 2005)
(Act no. 2005-157 of 23 February 2005 Article 168 VIII Official Journal of 24 February 2005)

The agricultural-forestry-hunting balance consists of ensuring compatibility between the sustainable presence of a rich and varied wild fauna and the sustainability and economic profitability of farming and forestry activities.

In accordance with the principles defined in article L. 420-1, this balance is ensured by the concerted and sustainable management of wild fauna species and their farmland and forestland habitats.

The agricultural-forestry-hunting balance is sought by a combination of the following means: hunting, regulation, prevention of game damage by the set-up of protective measures and dissuasive measures, as well as, where

applicable, authorised destruction processes. The search for management practices and systems taking account of both the production objectives of the managers of farmland and forestland habitats and the presence of wild fauna contributes to this. The compensation mentioned in article L. 426-1 may contribute to this balance.

The agricultural-forestry-hunting balance allows the regeneration of forest populations under economic conditions that are satisfactory to the owner in the forest territory concerned. It takes account of the principles defined in article L. 1 of the Code forestier and the provisions of regional forestry orientations.

SECTION III
Kill ratio — Articles L425-6 to L425-13

Article L425-6
(Inserted by Law no. 2005-157 of 23 February 2005 Article 168 IX Official Journal of 24 February 2005)

The kill ratio determines the minimum and maximum number of animals to be culled on the hunting territory. It aims to ensure the sustainable development of game populations and to preserve their habitats, while reconciling farming, forestry and hunting interests.

For large game, after consultation of representatives from farming and forestry, the kill ratio is set for a period which may be three years and revisable annually; it is set for one year for small game.

To ensure agricultural, forestry and hunting balance, the kill ratio is applied over the entire national territory for certain species of game, the list of which is set by a Conseil d'Etat decree. When this refers or wild boar, the kill ratio is implemented after an assessment by the département or inter-département federations of hunters.

Article L425-7
(Inserted by Law no. 2005-157 of 23 February 2005 Article 168 IX Official Journal of 24 February 2005)

Any person with hunting rights on a territory and who wishes to obtain an individual kill ratio must make a request for it. However, when the contract for rental or free availability of the hunting right expressly provides for it, the request is made by the owner or his or her representative.

When the holder of the hunting right is not the owner of the territory for which the request is made and when he or she does not rent his or her hunting right, the holder of the hunting right informs the owner(s) of the territory or their representatives of his or her request for an individual kill ratio. They may then make known their disagreement if needs be, and formulate their own request for a kill ratio.

The owners mentioned in the previous paragraph may have recourse to the provisions of article L. 247-8 of the Code forestier.

Article L425-8
(Act no. 2005-157 of 23 February 2005 Article 168 I, XIV Official Journal of 24 February 2005)
(Order no. 2004-637 of 1 July 2004 Article 29 Official Journal of 2 July 2004 in force on 1st July 2006)
(Act no. 2005-157 of 23 February 2005 Article 168 I Official Journal of 24 February 2005)

The kill ratio, which takes into account the orientations of the département hunting management plan, is implemented, following the opinion of the département commission competent in matters of hunting and wildlife, by the State representative in the département. In the event of exceptional circumstances, a new kill ratio may replace the current kill ratio. In Corsica, this ratio is drawn up and implemented by the Corsican territorial authority.

NB: The date on which article 29 of Order 2004-637 comes into force has been modified by Order 2004-727.

Article L425-10
(Inserted by Law no. 2005-157 of 23 February 2005 Article 168 IX Official Journal of 24 February 2005)

When the agricultural-forestry-hunting balance is disturbed or threatened, the Préfet suspends the application of the provisions of the kill ratio specifying the characteristics of animals to be shot, in order to facilitate the return to population levels compatible with this balance and consistent with the objectives of the kill ratio.

Article L425-11
(Inserted by Law no. 2005-157 of 23 February 2005 Article 168 IX Official Journal of 24 February 2005)

When the beneficiary of the kill ratio does not cull the minimum number of animals attributed to him or her, his or her financial liability may be engaged to bear all or part of the costs relating to the compensation mentioned in article L. 426-1 and the prevention of game-relating damage mentioned in article L. 421-5.

The same is true of people who have formed the opposition provided for in 5 of article L. 422-10 and who have not proceeded to the regulation of large game species.

Article L425-12
(Inserted by Law no. 2005-157 of 23 February 2005 Article 168 IX Official Journal of 24 February 2005)

When the agricultural-forestry-hunting balance is highly disturbed on a forestry territory managed in accordance with one of the management documents described in article L. 4 of the Code forestier, the beneficiary of the hunting right who has not culled the minimum number of animals attributed to him or her under the kill ratio must pay the owner, who is not the holder of the hunting right or who does not rent it, and who makes the detailed request for it:

- either all or part of the indispensable protection expenditure that has been engaged to assure the sustainability of the populations;
- or, if the forest population has been damaged significantly by a large game species subject to a kill ratio, a flat-rate compensation, the amount per hectare of which is set by a Préfecture ruling after assessment by the département

commission competent in matters of hunting and wildlife, and respecting an inter-ministerial scale jointly defined by the Ministers for hunting and for forestry.

Article L425-13
(Inserted by Law no. 2005-157 of 23 February 2005 Article 168 IX Official Journal of 24 February 2005)
A Conseil d'Etat decree determines the methods of application of the present section.

SECTION IV
Maximum authorised cull Article L425-14

Article L425-14
(Inserted by Law no. 2005-157 of 23 February 2005 Article 168 I Official Journal of 24 February 2005)
Under the terms set by a Conseil d'Etat decree, the Minister can, following an opinion from the National Hunting Federation and the National Hunting and Wildlife Office, set the maximum number of animals that a hunter is authorised to kill during a given period and over a given territory.
Under the same conditions, the Préfet may, on a proposal from the département or inter-département hunting federation, set the maximum number of animals that a hunter or group of hunters is authorised to kill during a given period and over a given territory.
These provisions take into account the orientations of the Département hunting management plan.

SECTION V
Hunting management plan Article L425-15

Article L425-15
(Inserted by Law no. 2005-157 of 23 February 2005 Article 171 Official Journal of 24 February 2005)
On a proposal by the département or inter-département federation of hunters, the Préfet inscribes in the annual ruling for the opening or closure of the hunting season the methods of management of one or more species of game when those species are not subject to the implementation of the kill ratio.

CHAPTER VI
Compensation for game-related damage Articles L426-1 to L426-8

SECTION I
Compensation for wild boar- and large game-related crop damage by the département hunting federations Articles L426-1 to L426-6

Article L426-1
(Act no. 2005-157 of 23 February 2005 Article 172 I Official Journal of 24 February 2005)
In the event of damage to farm crops or harvests by wild boar or by other large game species coming from a reserve where they are being bred or from a stock subject to a kill ratio, the operator who has suffered damage requiring repair or bringing about agricultural losses can claim compensation from the département or inter-département federation of hunters.

Article L426-2
(Act no. 2005-157 of 23 February 2005 Article 172 I Official Journal of 24 February 2005)
No-one can claim compensation for damage caused by game from his or her own stock.

Article L426-3
(Act no. 2005-157 of 23 February 2005 Article 172 I Official Journal of 24 February 2005)
The compensation mentioned in Article L. 426-1 is only due if the amount of the damage is higher than the minimum set by a Conseil d'Etat decree.
Whatever the case, the compensation is subject to a proportional reduction set by a Conseil d'Etat decree.
Furthermore, it can be reduced if it is shown that the victim of the damage has, by any means whatsoever, encouraged the incursion of game onto his or her land, in particular by repeatedly sowing crops that are likely to attract them and without respecting the crop rotation practiced in the region. The same is true when the victim of the damage has refused the methods of prevention proposed to him or her by the département or inter-département federation of hunters.
In the event that the amount of the prejudice declared is more than ten times higher than that of the compensation before abatement, the assessment costs are deducted from this compensation.

Article L426-4
(Act no. 2005-157 of 23 February 2005 Article 172 I Official Journal of 24 February 2005)
The possibility of compensation from the Département federation of hunters leaves open the right to instigate proceedings against the person responsible as described in Article 1382 of the Code civil.
In the event that the injured party obtains compensation awarded by the courts, he or she must repay the Département federation of hunters the compensation that has already been paid by it.
In the event that the injured party obtains compensation by out-of-court means from the person responsible, without the agreement of the Département federation of hunters, then he or she loses his or her right to compensation, and must

repay any sums that may have been paid.

The Département federation of hunters can always ask the responsible person, either through the courts or out of court, to pay the amount of compensation that it has awarded.

Article L426-5

(Act no. 2005-157 of 23 February 2005 Article 172 I Official Journal of 24 February 2005)
(Order no. 2004-637 of 1 July 2004 Article 30 Official Journal of 2 July 2004 in force on 1st July 2006)
(Act no. 2005-157 of 23 February 2005 Article 172 I Official Journal of 24 February 2005)

The Département federation of hunters investigates requests for compensation and offers compensation to claimants according to a département compensation scale. This scale is set by the département commission competent in matters of hunting and wildlife, which also sets the amount of the compensation in the event of disagreement between the claimant and the Département federation of hunters. A National compensation commission for game damage sets each year, for the main commodities, the minimum and maximum values of the prices to be taken into account in setting of département scales. Each year and for the same purposes, it also sets the minimum and maximum values of the costs of repair. When the scale adopted by a commission does not respect the values thus set, the National compensation commission is referred to. It can be referred to for appeals against the département commission decisions.

The composition of the National compensation commission for game damage and the département commissions competent in matters of hunting and wildlife ensures State representation, and particularly that of the National Hunting and Wildlife Office, hunters, farming and forestry interests under the terms set by a Conseil d'Etat decree.

In the framework of the kill ratio mentioned in article L. 425-6,a contribution is payable per animal by hunters for deer, fallow deer, mouflon sheep, roe deer and wild boar, whether male or female, young or adult, in order to ensure an indemnity to farmers whose crops or harvests have suffered major damage owing to these animals. The amount of this contribution is set by the general assembly of the département or inter-département federation of hunters, on a proposal of the administrative board.

When the revenue from the contributions described in the previous paragraph is not sufficient to cover the amount of the damage to be compensated, the département or inter-département federation of hunters will undertake to pay the excess compensation. It shares out the amount between its members or certain categories of members. It can demand a personal contribution from large game and wild boar hunters, or a donation for every game marking initiative or a combination of these two types of contribution. These contributions may be modulated according to the species of game, the sex, the categories of age, the hunting territories, and the management units.

A Conseil d'Etat decree specifies the terms under which Articles L. 426-1 to L. 426-4 of this Article are applied.

NB: The date on which article 30 of Order 2004-637 comes into force has been modified by Order 2004-727.

Article L426-6

(Act no. 2005-157 of 23 February 2005 Article 172 I Official Journal of 24 February 2005)

All disputes arising from the application of Articles L. 426-1 to L. 426-4 come under the jurisdiction of the law courts.

SECTION II
Legal compensation for crop damage — Articles L426-7 to L426-8

Article L426-7

(Act no. 2005-157 of 23 February 2005 Article 172 II Official Journal of 24 February 2005)

Actions to repair the damage caused to crops and harvests by game are barred at the end of six months from the day the damage occurs.

Article L426-8

(Act no. 2005-157 of 23 February 2005 Article 172 II Official Journal of 24 February 2005)

The compensation allocated to farmers for damage caused to their crops by any game whatsoever, cannot be reduced by any proportion whatsoever for motives relating to neighbourhood.

CHAPTER VII
Destruction and control of pests — Articles L427-1 to L427-10

SECTION I
Administrative measures — Articles L427-1 to L427-7

Subsection 1
Control — Articles L427-1 to L427-3

Article L427-1

(Act no. 2005-157 of 23 February 2005 Article 170, Article 172 III Official Journal of 24 February 2005)

Pest control officers are appointed by the administrative authority and take part, under its supervision, in the

destruction of animals mentioned in articles L. 427-6 and L. 427-8 or, on occasion, in the animal regulation operations that it has ordered. They are consulted where needs be on the problems posed by the management of wild fauna.

Article L427-2

Pest control officers are sworn. They are authorised to investigate violations of hunting policing within their area.

In the fulfilment of their roles they carry their commission and an insignia defined by the Minister for hunting.

Article L427-3

A decree by the Minister for Hunting sets the methods of application of this sub-section.

Subsection 2
Administrative culls — Articles L427-4 to L427-7

Article L427-4

Under the administrative supervision of the Préfet, the Mayor is responsible for taking the measures set out in Article L. 2122-21 (9°) of the Code général des collectivités territoriales.

Article L427-5

Culls decided upon by Mayors under the terms of Article L. 2122-21 (9°) of the Code général des collectivités territoriales are organised under the technical responsibility of the pest control officers.

Article L427-6

(Decree no. 2001-450 of 25 May 2001 Article 1 Official Journal of 27 May 2001)
(Act no. 2005-157 of 23 February 2005 Article 155, Article 168 XI Official Journal of 24 February 2005)

Without prejudice to the provisions of Article L. 2122-21 (9°) of the Code Général des Collectivités Territoriales, hunts and general culls of pest animals in general or specific species are arranged whenever required, on the orders of the Préfet, following the opinion of the Director of Agriculture and Forestry of the department and the President of the département or inter-département federation of hunters. These hunts and culls may relate to animal species covered by a kill ratio as in Article L. 425-6. They may also be organised on the lands covered in 5° of Article L. 422-10.

Article L427-7

(Act no. 2003-698 of 30 July 2003 Article 7 Official Journal of 31 July 2003)

In communes located close to forestry plantations where crops are periodically threatened with destruction by wild boars, or those where professional breeders are periodically threatened by foxes, the list drawn up by the Préfet, who can delegate his or her powers to the Mayors concerned. Culls are organised under the supervision and technical responsibility of Pest Control Officers.

SECTION II
Rights of the individual — Articles L427-8 to L427-9

Article L427-8

A Conseil d'Etat decree appoints the administrative authority competent to determine the species of noxious animals and pests that the owner, holder or farmer has the right to exterminate throughout the year on their lands, and the conditions under which they may exercise this right.

Article L427-9

(Act no. 2005-157 of 23 February 2005 Article 168 XI Official Journal of 24 February 2005)

Without prejudice to the provisions set out in Article L. 427-8, every owner or farmer can evict or destroy, using firearms but not the snare or pit, wild animals causing damage to their property; however they are not authorised to cull wild boar, even in the départements where a kill ratio is applied under Section 3 of Chapter V of Title II of Book IV, and in which large game are subject to the ratio.

SECTION III
Sale and transport — Article L427-10

Article L427-10

A decree may regulate the putting on sale, sale, purchase, transport and peddling of animals classified as pests and exterminated ex officio under the terms of this present Title.

CHAPTER VIII
Criminal provisions — Articles L428-1 to L428-33

SECTION I
Penalties — Articles L428-1 to L428-3

Subsection 1

Article L428-1

(Order no. 2000-916 of 19 September 2000 Article 3 Official Journal 22 September 2000, in force on 1st January 2002)

A sentence of three months' imprisonment and a fine of 3750 euros are imposed for hunting on another person's property without their consent; if this land is adjacent to an inhabited house or one serving as a dwelling, and if it is enclosed by unbroken fencing creating a barrier with neighbouring properties.

If the offence is committed during the night, the prison sentence is raised to two years.

The fine set for fifth level contraventions is imposed for hunting in State game reserves approved or established under the provisions of Article L. 422-27.

Note: Order 2000-914 of 18 September 2000 Article 5 III: This will be repealed from the entry into force of the regulatory section of the Code de l'environnement, 3rd paragraph of Article L428-1.

Subsection 2
Hunting permit Articles L428-2 to L428-3

Article L428-2

The sentences set out in Article 434-41 of the Code pénal are imposed on the act of hunting, either after being refused the right to obtain and hold a hunting permit or the authorisation to hunt mentioned in Article L. 423-2 in application of Article L. 428-14, or after receiving notification of the suspension of the hunting permit or authorisation to hunt, as applied under Article L. 428-15.

Article L428-3

I. - The penalties provided for in Article 434-41 of the Code pénal are imposed on a hunter for refusing to hand over his or her permit or authorisation to a representative of the authority responsible for enforcing the decision to withdraw the hunting permit or authorisation mentioned in Article L. 423-2, in application of Article L. 428-14, or a decision to suspend the hunting permit or authorisation mentioned in Article L. 423-2, in application of Article L. 428-15.

II. - The fine set for fifth level contraventions is imposed for hunting whilst prohibited or during the night under circumstances other than those cited in Articles L. 424-4 and L. 424-5.

III. - The fine set for fifth level contraventions is imposed for:

1° Hunting using prohibited weapons or apparatus or by other means than those cited in Articles L. 424-4 and L. 427-8;

2° Using drugs or bait designed to intoxicate or destroy game;

3° Being in possession or being found to be supplied with or carrying nets, weapons or other apparatus prohibited for the purpose of hunting outside of the home.

IV. - The fine set for fifth level contraventions is imposed for putting on sale, selling, purchasing, transporting and peddling of game outside the periods authorised by the application of Article L. 424-8.

V. - The fine set for fifth level contraventions is imposed in all seasons for knowingly putting on sale, selling, transporting, peddling or purchasing game that has been killed using any prohibited weapon or apparatus.

* Note: Order 2000-914 of 18 September 2000 Article 5 III: This will be repealed from the entry into force of the regulatory section of the Code de l'environnement, II to V of Article L428-3 and the character I.* will be deleted.

SECTION II
Aggravating circumstances Articles L428-4 to L428-7-1

Article L428-4

(Order no. 2000-916 of 19 September 2000 Article 3 Official Journal 22 September 2000, in force on 1st January 2002)
(Act no. 2005-157 of 23 February 2005 Article 173 I Official Journal of 24 February 2005)

I. A sentence of two years' imprisonment and a fine of 30,000 euros are imposed for hunting when the following circumstances are combined:

1 During the night or in prohibited periods;

2 On the land of another person or in a hunting reserve approved by the State or established under the provisions of Article L. 422-27;

3 Using prohibited machines and instruments or means other than those authorised by articles L. 424-4 and L. 427-8, or using drugs and bait designed to intoxicate or destroy game;

4 When one of the hunters is carrying an overt or concealed weapon.

II. The same sentences are imposed for putting on sale, selling, purchasing, transporting and peddling game outside the periods authorised by the application of Article L. 424-8, when the game comes from acts of hunting committed in one of the circumstances described 1, 2 and 3 of I of the present article.

III. The same sentences are imposed for, in all seasons, knowingly putting on sale, selling, transporting, peddling or purchasing game that has been killed using any prohibited machines or apparatus when the game comes from acts of hunting committed in one of the circumstances described 1, 2 and 3 of I of the present article.

Article L428-5

(Order no. 2000-916 of 19 September 2000 Article 3 Official Journal 22 September 2000, in force on 1st January 2002)

(Act no. 2005-157 of 23 February 2005 Article 173 I Official Journal of 24 February 2005)

I. - A sentence of one year's imprisonment and a fine of 15,000 euros is imposed as punishment for committing one of the following infringements:

1° Hunting on another person's property without their consent, if this land is adjacent to an inhabited house or one serving as a dwelling, and if it is enclosed by unbroken fencing creating a barrier with neighbouring properties;

2° Hunting in State hunting reserves approved or established under the provisions of Article L. 422-27;

3° Hunting during prohibited periods and at night time;

4° Hunting using prohibited machines or apparatus or by other means than those authorised by Articles L. 424-4 and L. 427-8;

5° Using drugs or bait designed to intoxicate or destroy game;

6° Being in possession or being found to be supplied with or carrying nets, machines or other apparatus prohibited for the purpose of hunting outside of the home, with one of the following circumstances:

a) Being disguised or masked;

b) Having taken a false identity;

c) Having used violence towards other people without causing any total leave from work or a total leave from work of under eight days;

d) Having made use of a vehicle of any sort to reach or escape from the location where the offence occurred.

II. The same sentences are imposed, when the game comes from acts of hunting committed with one of the circumstances described from a to d of I, for committing one of the following infringements:

1° Putting on sale, selling, purchasing, transporting and peddling game outside the periods authorised by the application of Article L. 424-8;

2° In all seasons, knowingly putting on sale, selling, transporting, peddling or purchasing game that has been killed using any prohibited machine or apparatus.

III. The same sentences are imposed for committing, without aggravating circumstances but if it is a repeat offence under the terms of article L. 428-6, one of the infringements described in I and II.

Article L428-6

When, within twelve months preceding an infraction sanctioned by one of the provisions of this Title, the guilty party has been found to have committed an offence of the hunting regulations, this is considered to be a repeat offence.

Article L428-7

(Act no. 2001-602 of19 July 2000 Article 47 Official Journal 11 July 2001)

(Act no. 2005-157 of 23 February 2005 Article 174 Official Journal of 24 February 2005)

When the offender has not satisfied previous convictions and has repeated the offence, a sentence of three months' imprisonment may be imposed for offences relating to:

1° Hunting on land belonging to another person, not respecting the provisions relating to hunting in forests covered by forestry regulations, on public authority property and in public establishments;

2° Failure to have a valid hunting permit or authorisation to hunt;

3° Regulatory provisions relating to the killing of all species of game and the destruction of their nests or eggs, hunting in snow, dogs, waterfowl and migratory game, and the collection and transport of game;

4° Extermination of pest animals;

5° Game bag searches.

Article L428-8

The sentences provided for in the third paragraph of Article L. 428-1, and II to V of Article L. 428-3 and the offences defined in Article L. 428-7 are always imposed to the maximum when committed by:

1° Rangers;

2° Technicians and representatives of the State and the National Forestry Commission, responsible for forestry;

3° The maritime hunting officials mentioned in Article L. 428-22.

Note: Order 2000-914 of 18 September 2000 Article 5 III: Will be repealed from the entry into force of the regulatory section of the Code de l'environnement, the words: "third paragraph of Article L428-1" and the words: "the II to V of Article L428-3.

Article L428-5-1

(Inserted by Law no. 2005-157 of 23 February 2005 Article 173 I Official Journal of 24 February 2005)

I. A sentence of four years' imprisonment and a fine of 60,000 euros are imposed for hunting when the following circumstances are combined:

1 During the night or in prohibited periods;

2 Having made use of a vehicle of any sort to reach or escape from the location where the offence occurred;

3 Carrying an overt or concealed weapon;

4 In a group

II. The same sentences are imposed for putting on sale, selling, purchasing, transporting and peddling game outside the periods authorised by the application of Article L. 424-8, when the game comes from the infringement described in I of the present article.

III. The same sentences are imposed for, in all seasons, knowingly putting on sale, selling, transporting, peddling or purchasing game that has been killed using any prohibited machines or apparatus when the game comes from the infringement described in I.

Article L428-7-1

(Inserted by Law no. 2005-157 of 23 February 2005 Article 174 Official Journal of 24 February 2005)

I. Legal entities may be declared criminally responsible under the conditions provided for in article 121-2 of the Code pénal for the infringements defined in this title.

II. The sentences incurred by legal entities are:

1 A fine in accordance with the methods provided for by article 131-38 of the Code pénal;

2 The sentences mentioned in 8 and 9 of article 131-39 of the same Code.

SECTION III

Associated and additional penalties — Articles L428-9 to L428-18

Subsection 1

Confiscation — Articles L428-9 to L428-11

Article L428-9

Any sentencing judgement may result, under any constraints that it may set, in the confiscation of arms, nets, weapons and other hunting apparatus, as well as aircraft, automobiles and other vehicles used by the offenders.

In addition, if called for, it orders the destruction of prohibited hunting equipment.

Article L428-10

If the arms, nets, weapons and other hunting apparatus and means of transport were not seized, the offender may be sentenced to surrender them or to pay their value, in accordance with that set by the judgement.

Article L428-11

The items listed in Article L. 428-10 and abandoned by the unidentified offenders are seized and placed with the office of the clerk of the appropriate court. Confiscation and, if called for, destruction are ordered following the drawing up of an official report.

Subsection 2

Hunting permit validation costs — Articles L428-12 to L428-13

Article L428-12

(Act no. 2003-698 of 30 July 2003 Article 26 Official Journal 31 July 2003)

(Act no. 2005-157 of 23 February 2005 Article 174 Official Journal of 24 February 2005)

People who hunt without being holders of a current and duly validated hunting permit are sentenced to pay the statuary fees to the département hunting federation and the national hunting federation, as well as the hunting fees covered in Article L. 423-19. The President of the jurisdiction, after the sentence is pronounced, warns the sentenced person, if he or she is present, of the consequences that this sentencing brings to the payment of these contributions and fees.

The recovery of the amount to be paid is pursued even if the main sentence is ordered to be deferred, as set out in Article 734 of the Code de procédure pénale.

Article L428-13

The provisions of Article L. 428-12 also apply to people who hunt during prohibited periods.

Subsection 3

Hunting permit withdrawal and suspension — Articles L428-14 to L428-17

Article L428-14

In the event of being found guilty of an offence against hunting laws or for manslaughter or for accidental shooting and injury that occurred whilst hunting or being engaged in the extermination of pest animals, the court can remove the right of the guilty party to retain or obtain a hunting permit or authorisation as mentioned in Article L. 423-2 or the authorisation mentioned in Article L. 423-3n, for a period not exceeding five years.

When the manslaughter or accidental shooting and injury covered in the previous paragraph is the result of a direct shot without the target being previously identified, the court may order the permanent withdrawal of the guilty party's hunting permit or authorisation mentioned in Article L. 423-3. If manslaughter or accidental shooting and injury are committed by a holder of a hunting authorisation described in Article L. 423-2, the court can remove the guilty party's right to obtain a hunting licence for a period that cannot exceed ten years.

Article L428-15

(Act no. 2005-157 of 23 February 2005 Article 174 Official Journal of 24 February 2005)

I. - The legal authorities may suspend a hunting permit or authorisation as mentioned in Article L. 423-2:

1° In the event of manslaughter or accidental shooting and injury that occurred whilst hunting or being engaged in the extermination of pest animals;

2° When one of the following offences has been committed:

a) Night-time hunting on another person's land using a motor vehicle;

b) Hunting in approved game reserves and national parklands in which hunting is prohibited;

c) Hunting in an enclosed area, whether or not adjacent to a dwelling, without the owner's consent;

d) The killing of protected animal species;

e) Violations of large game kill ratios;

f) Menacing or violent acts committed against persons on the occasion of a hunting violation.

Article L428-16

In the cases mentioned in Article L. 428-15, a certified true copy of the official document reporting one of the offences listed under the said Article is sent to the judge of the tribunal d'instance under whose jurisdiction the offence was committed.

The judge can order the immediate suspension of the hunting permit held by the person accused of the offence. The person concerned is notified of this suspension through administrative channels and is given a copy of the suspension order.

Article L428-17

This suspension only remains in force until a decision is handed down by the court under whose jurisdiction the offence was committed. Nonetheless, the person accused of the offence may, at any moment prior to this decision, ask the judge of the tribunal d'instance to reinstate his or her permit provisionally.

Subsection 4

Driving licence suspension — Article L428-18

Article L428-18

(Act no. 2005-157 of 23 February 2005 Article 174 Official Journal of 24 February 2005)

.Persons found guilty of the infringements defined in articles L. 428-1, L. 428-4, L. 428-5 and L. 428-5-1 also incur the suspension, for a maximum duration of three years, of their driving licence when the infringement has been committed with the use of a motor vehicle. This suspension may be limited to driving outside of professional activity requirements.

SECTION IV

Investigation of offences and proceedings — Articles L428-19 to L428-33

Subsection 1

Investigation of offences — Articles L428-19 to L428-26

Article L428-19

The offences covered by this Title are substantiated either by statements and reports, or by witnesses in the place of, or in support of statements and reports.

Article L428-20

(Act no. 2005-157 of 23 February 2005 Article 230 VII Official Journal of 24 February 2005, in force on 1st July 2005)

I. - Without prejudice to the provisions of Article L. 428-21, in addition to officers of the Judicial Police Department acting under the authority of the provisions of the Code pénal, the following persons are authorised to identify and investigate infringements of the provisions of this Title and the enactments for its application, insofar as they are sworn to this effect:

1° Officials representing the State, the National Hunting and Wildlife Office, the Higher Fishing Council, the Domaine National de Chambord, and the National Forestry and Parks Office commissioned to investigate forestry, hunting and fishing offences;

2° Rangers;

3° Forest Pest Control Officers.

II. - The reports drawn up by these officials and officers have probative force unless proven otherwise.

NB: Law no. 2005-157, article 230 VIII: "A decree sets the conditions of application of the present article (art. 230), notably the methods of organisation and operation of the establishment, of conservation of the Château and of management of the forest."

These provisions take effect on the date upon which the decree provided for in article 230 (VIII) comes into force, and at the latest on 1st July 2005.

Article L428-21

Sworn private gamekeepers investigate, by means of official reports, infringements of the provisions of this Title which are prejudicial to the holders of the hunting rights who employ them.

Their reports have probative force unless proven otherwise.

On the request of owners or holders of hunting rights, an agreement can be drawn up between them and the département hunting federation of which they are members, that the specific patrolling of their land be carried out by the federation's development agents. The officers appointed by the federation to carry out this function are approved by the

State representative in the département and are covered, within the boundaries of the lands they are patrolling, by the provisions described in the first two paragraphs of this Article.

Article L428-22

Have probative force unless proven otherwise, the reports drawn up for offences relating to maritime hunting regulations, by:

1° Officers of the Judicial Police Department;

2° Officers, officials, representatives and gamekeepers authorised by the provisions in force to investigate infringements against the maritime fishing and land based hunting rules;

3° If needs be, and under conditions set out by decree, maritime fishing wardens are commissioned for this purpose by ministerial appointment and sworn before the tribunal d'instance of their place of residence.

Article L428-23

Have probative force unless proven otherwise, the reports drawn up by indirect taxation officers when, within the limits of their respective responsibilities, these officers identify and investigate infringements of the provisions of Articles L. 424-8 and L. 424-12.

Article L428-24

The Minister for Hunting commissions officers working for the National Hunting and Wildlife Office to carry out the duties of water and forestry technical officers.

Article L428-25

In order not to be considered null and void, reports must be sent directly to the Procureur de la République within three days following the closure of the investigation.

In terms of maritime hunting, the competent Procureur de la République is the Procureur in closest proximity to the tribunal de grande instance of the territory in which is located the commune nearest to where the offence was committed.

Article L428-26

A bonus per conviction not exceeding the fine imposed and received is granted to rangers and gendarmes making arrests for offences listed under this Title.

Subsection 2

Identification of offences — Articles L428-27 to L428-32

Article L428-27

The search in domiciles for game can only be performed on the premises of innkeepers, food stores, and premises open to the public.

Article L428-28

In the case covered by Article L. 424-13, the search for mountain game can also be performed at the homes of all traders of living or dead game, whether they be wholesalers, cash-and-carry warehouse owners or retailers, hoteliers, restaurant owners, canteen managers or directors, butchers, delicatessen sausage makers, potted meat manufacturers, and in general, anyone who is likely to hold stocks of meat.

Article L428-29

(Act no. 2003-591 of 2 July 2003 Article 31 III 14° Official Journal of 3 July 2003)

Outside of their homes, hunters and people accompanying them are obliged to open for inspection their game bags and other bags upon request by any of the following officials: officers of the Judicial Police Department, police and gendarmerie officers not members of the Judicial Police Department, officials mentioned in 1° and 3° of I of Article L. 428-20, as well as gamekeepers of the département hunting federations mentioned in the third paragraph of Article L. 428-21, under the terms provided for in this Article.

This form of check can only be carried out in the areas where the aforementioned visiting officers and officials can issue a report in relation to hunting.

Article L428-30

The police officers, officials and gamekeepers mentioned in Article L. 428-22, excluding private non-commissioned wardens, can enter, for the purpose of investigating offences perpetuated during maritime hunting, all maritime vessels and all installations located in the public maritime domain and used for the purpose of hunting from a concealed location.

Article L428-31

The officials mentioned in Article L. 428-20 can confiscate the object causing the offence, weapons and also any apparatus or vehicles listed in Article L. 428-9.

In the event of an infringement of Articles L. 424-8 to L. 424-13 and the regulatory provisions relating to the transport and sale of game, the game is immediately confiscated and delivered to the nearest charitable establishment.

Article L428-32

(Act no. 2005-157 of 23 February 2005 Article 174 Official Journal of 24 February 2005)

The only people authorised to arrest those who commit the infringements defined in the present chapter are:

1 Judiciary police officers and officials under the conditions provided for by the Code de procédure pénale;

2 In cases of flagrante delicto, the officers mentioned in 1 and 2 of article L. 428-20, subject to the arrested persons being taken before the nearest judiciary police officer.

Subsection 3
Proceedings — Article L428-33

Article L428-33

(Act no. 2005-157 of 23 February 2005 Article 174 Official Journal of 24 February 2005)

In the case of hunting on another person's land without the owner's consent, proceedings cannot be instigated by the Public Prosecutors Office, without a complaint being filed by the injured party, unless the offence was committed in an enclosed area, in accordance with Article L. 424-3, and attached to a dwelling or on land where the produce has not yet been harvested.

CHAPTER IX
Specific provisions relating to the départements of Bas-Rhin, Haut-Rhin and Moselle — Articles L429-2 to L429-40

SECTION I
Hunting administration by commune-level proclamation — Articles L429-2 to L429-18

Subsection 1
Commune-level proclamation — Articles L429-2 to L429-6

Article L429-2

The right to hunt on lands or water-covered areas is administered by the commune for and on behalf of the owners.

Article L429-3

The provisions of Article L. 429-2 do not apply to:

1° Military property;

2° The French railway network and the Société nationale des chemins de fer français (French Railway Company) holdings;

3° State forests;

4° Forests shared between the State and other owners;

5° Lands which are enclosed by unbroken fencing creating a barrier with neighbouring properties.

Article L429-4

The owner may reserve the right to hunt on land up to twenty-five hectares with at least one tenant, on lakes and ponds with a surface of at least five hectares.

Railways, roads and waterways do not interrupt the continuity of a holding, unless facilities hinder the passage of large game.

The existence of such facilities as described in the previous paragraph at 21 June 1996 is not opposable to owners who exercised their right prior to this date.

Article L429-5

A commune-level Hunting Consultative Commission, representing the various parties involved, is placed under the chairmanship of the Mayor. If necessary, an inter-commune commission can be set up.

Article L429-6

Owners who wish to reserve the right to hunt under the terms of Article L. 429-4 or who wish to benefit from the right to priority to rent out hunting rights on fenced lands under the terms of Article L. 429-17, notify the Mayor by means of a written declaration within ten days of the date of publication of the decision covered in Article L. 429-13.

When the reserved or fenced areas are located over several commune areas, the declaration is addressed to the Mayor of each of these communes.

Subsection 2
Use of hunting rights — Articles L429-7 to L429-16

Article L429-7

(Act no. 2001-602 of 9 July 2001 Article 63 II Official Journal of 11 July 2001)

Subject to the provisions of Article L. 2541-12 of the Code général des collectivités territoriales, hunting on commune proclamation is leased for a period of nine years by public adjudication. The lessee in situ for at least three years benefits from a priority right to renew the lease at the end of the lease.

Nevertheless, following the opinion of the commune or inter-commune consultative hunting commission, the lease can be renewed for an equal duration, for the current lessee in situ for at least three years before the current lease expires. The rental amount may not be less than that calculated on the basis of the average lease per hectare calculated

at the time that lots with comparable hunting characteristics and located within the commune or département were adjudicated. The rental amount set by agreement is, if necessary, increased accordingly. Failure to accept this increase by the lessee is considered to be refusal of the agreement. In this case the lot in question is offered for lease under the terms set in the first paragraph of this Article.

When the lessee in situ has not made it known that he or she intends to request the renewal of the lease, hunting rights may also be leased out, following the opinion of the commune or inter-commune consultative hunting commission for a nine year period, by means of a call for tender.

The proclamation may be divided into several lots with a surface area of at least two hundred hectares.

II. - The lease takes place under the terms of a regulation, known as the standard specifications, drawn up by the Préfet, following consultation of the representative bodies of the communes, the hunters, the farmers and farm and forestry owners.

More particularly, this regulation sets the technical hunting management rules, the role, composition and operating methods of the commune or inter-commune consultative hunting commission, and the lease revision methods on request from the Mayor.

Article L429-8

Each commune may associate itself with one or more neighbouring communes to constitute one or more inter-commune hunting lots, forming a more homogenous or easily operable territory.

In this case, an inter-commune consultative hunting commission is set up under the chairmanship of the Mayor of one of the communes.

Article L429-9

I. - The following may be lessees of a commune or inter-commune hunting ground:

1° Private individuals whose main residence meets the distance conditions set in relation to the hunting ground. The standard specifications mentioned in Article L. 429-7 define these distance terms in the interest of rational hunting management. However, these terms do not apply to lessees in place on 21 June 1996,

2° Duly registered or listed legal entities, where at least 50% of the members fulfil this residential condition.

II. - The conditions mentioned in 1° and 2° of I must apply throughout the hunting lease; failure to comply with this will lead to the termination of the lease in full legality.

Article L429-10

The choice of adjudication date or the date of receipt of offers is set at the expiry of the ten-day period set in Article L. 429-6.

The date of adjudication or the date of reception of offers is announced at least six weeks in advance.

Article L429-11

The revenue from the hunting lease is paid to the commune.

In the event of creating inter-commune lots, the revenue from the lease of these lots is divided on a pro rata basis to the areas contributed by each commune.

Article L429-12

The distribution of hunting lease revenue between the various owners takes place in proportion to the cadastral surface area of the ground included in the lot in question.

Sums that have not been withdrawn within a deadline of two years from the publication of the report indicating the amount awarded to each owner, are awarded to the commune.

Article L429-13

Hunting lease revenue reverts to the commune when this has been expressly decided by at least two thirds of the owners, representing at least two thirds of the land area on the commune territory and subject to the provisions of this section.

The decision relating to the abandoning of hunting lease revenue to the commune is taken by the double majority required in the previous paragraph, either within the framework of an owners' meeting or within the framework of a written consultation of the owners.

The decision on whether or not to abandon the hunt lease revenue is published. It is valid throughout the hunting ground lease period.

Article L429-14

When the decision provided for in Article L. 429-13 has been taken, the owners who have reserved hunting rights in accordance with the provisions of Article L. 429-4 are expected to pay the commune a contribution in proportion to the cadastral extent of the hunting ground they have reserved for themselves. This contribution is added to the revenue from the lease of the commune proclaimed hunting ground.

Article L429-15

Communes that own land satisfying the terms set out in Article L. 429-4 in another commune are not permitted to take the decision mentioned in Article L. 429-13.

In the event that such a decision has been taken, they are not expected to pay the other commune the contribution set out in Article L. 429-14.

Article L429-16

By public proclamation, the Mayor sets the date on which the parties concerned will take the decision mentioned in Article L. 429-13.

Subsection 3
Enclaves — Article L429-17

Article L429-17

When land areas of less than twenty-five hectares are enclaved, whether totally or the main part, within the lands subject to the reserve covered in Article L. 429-4, the owner of the most extensive reserved hunting ground has priority to rent hunting rights on the enclaved land.

This lease is granted, on request, throughout the lease period, against an indemnity calculated in proportion to the price of hunting ground leasing on commune proclamation.

If the owner does not declare his or her intention to use this right within the deadline set in Article L. 429-6, by sending a written declaration to the Mayor, the enclaved land remains within the commune hunting lot.

Subsection 4
Miscellaneous provisions — Article L429-18

Article L429-18

A ruling by the Minister for Hunting sets the provisions of application of this section.

SECTION II
Hunting — Articles L429-19 to L429-22

Subsection 1
Hunting times — Article L429-19

Article L429-19

(Act no. 2003-698 of 30 July 2003 Article 33 Official Journal of 31 July 2003)

Night extends from the time starting one hour after sunset and ends one hour before sunrise.

Notwithstanding Article L. 424-4 and during the period when it is open season for wild boar, the administrative authority may authorise, under the terms that it will set, night hunting, whether from hides or by flushing, without the aid of light sources.

Subsection 3
Hunting methods and means — Article L429-20

Article L429-20

The administrative authority may prohibit all hunting methods and equipment that are not appropriate to regular hunting practices.

Subsection 4
Sale and transport of game — Articles L429-21 to L429-22

Article L429-21

It is prohibited to put on sale, sell, buy, transport or peddle game during periods in which hunting is not authorised. This prohibition comes into force as from the fifteenth day following closure.

This provision does not apply to the sale or transport of game authorised by the administrative authority.

Article L429-22

The prohibitions mentioned in Article L. 429-21 do not apply to the sale of certain species of game kept in refrigeration, as long as this takes place under control and in compliance with the measures laid down by the Minister for Hunting. The costs of control are to be borne by the owners of the refrigeration plants and may be paid in the form of a duty subject to pricing terms.

SECTION III
Compensation for game-related damage — Articles L429-23 to L429-32

Subsection 1
General arrangements — Articles L429-23 to L429-26

Article L429-23

When grounds, where hunting rights are not held by the owner, have been damaged by wild boar, deer, elk, fallow deer, roebuck, pheasant, hares or rabbits, the holder of hunting rights is obliged to compensate the damage that the animals have caused to the revenue from crops that have already been cut but have not yet been gathered in.

Article L429-24

The responsibility of the holder of hunting rights replaces that of the owner if:

a) The latter is legally deprived of his or her right to hunt,

b) Owing to the location of the ground, which can only be used in common with the hunting rights of another ground, he or she has leased out his or her hunting rights to the owner of this other ground.

Article L429-25

Damage caused to gardens, orchards, nursery gardens and isolated trees cannot give rise to compensation if the appropriate protective measures have not been taken to avoid damage.

Article L429-26

For the compensation of damage caused by game, with the exception of that committed by wild boar, the hunting lessee takes the place of the commune that granted the hunting lease, in compliance with Article L. 429-7.

The commune may nevertheless be held responsible for compensating damage committed by animals other than wild boar, in the event that the hunting lessee and the guarantor are insolvent, unless it instigates proceedings against the latter parties.

Subsection 2

Specific provisions for compensating damage caused by wild boar — Articles L429-27 to L429-32

Article L429-27

(Act no. 2005-157 of 23 February 2005 Article 175 Official Journal of 24 February 2005)

In each of the départements of Bas-Rhin, Haut-Rhin and Moselle, there is constituted a département fund for the compensation of wild boar related damage, given the status of a legal entity. The purpose of the département funds for the compensation of wild boar related damage is to compensate farmers for the damage caused to crops by wild boars. They can conduct and impose preventive actions. Each fund is made up of the holders of hunting rights defined below:

1° All of the domain and commune hunt lessees,

2° All of the owners that have reserved the right to hunt on the territories that they own, in compliance with Article L. 429-4;

3° The National Forestry Commission for lots managed as state forests by the granting of licenses or placing as reserve.

Article L429-28

(Act no. 2005-157 of 23 February 2005 Article 175 Official Journal of 24 February 2005)

The département funds for the compensation of wild boar related damage agree to draw up template Articles. These template Articles are approved by rulings of the Préfets of Bas-Rhin, Haut Rhin and Moselle. In the event of disagreement between the Préfets and the département funds, the template Articles are set by a Conseil d'Etat decree. Each fund then brings together its members for a general assembly to adopt the template Articles.

General Assembly decisions are taken by a majority vote of the members present and represented. Each member of a département fund has a minimum of one vote, irrespective of the surface area, and a maximum of ten votes. Votes are distributed as follows: one per full section of 100 wooded hectares, and one per full section of 200 non-wooded hectares, for the cumulative surface area of their hunting territory.

By wooded surface area is meant that of forests, copses, groves, hedgerows and reed-marshes, added together and certified by the commune for each commune proclamation.

Article L429-29

(Act no. 2005-157 of 23 February 2005 Article 175 Official Journal of 24 February 2005)

Membership of département funds for the compensation of wild boar related damage is compulsory for any person designated in 1, 2 and 3 of article L. 429-27.

Article L429-30

(Act no. 2005-157 of 23 February 2005 Article 175 Official Journal of 24 February 2005)

The members of the département funds for the compensation of wild boar related damage designated in articles L. 429-27 and L. 429-29 pay, before 1st April each year, to the treasury of each département fund of which they are members, a contribution fixed by their general assembly, not exceeding 12% of the annual hunting rent or the contribution defined in Article L. 429-14.

Any sum due to the département funds and not paid on the due date will be subject to interest payments equal to one and a half times the legal interest rate.

Article L429-31

(Act no. 2005-157 of 23 February 2005 Article 175 Official Journal of 24 February 2005)

In the event that the resources of a year resulting from the provisions of article L. 429-30 and from the reserve account are not sufficient to cover the expenditure of a département fund for compensation, its general assembly sets one or more of the following extra contributions for that year:

a) A complementary contribution due by the members of the département fund, proportionally to the wooded surface area of their hunting territory;

b) A complementary contribution determined by hunting zone in the département, due by the members of the

département fund for the zone of which they are part, proportionally to the total surface area of their hunting territory, or proportionally to the wooded surface area;

c) A single personal contribution due by all hunters on the first day that they hunt wild boar in the département.

Conversely, in the event that the resources of a year made up of the payments provided for in article L. 429-30 should exceed the expenditure of a département fund, the surplus will be paid into the reserve account of this département.

When, at the end of the financial year, the reserve account exceeds the average amount of expenditure over the previous three financial years, the surplus is to be deducted from the sums payable the following year, under the terms of article L. 429-30

Article L429-32

(Act no. 2005-157 of 23 February 2005 Article 175 Official Journal of 24 February 2005)

Any request for compensation for damage caused by wild boar is sent, as soon as the damage is noted, to the département fund, which delegates an assessor to examine the damaged farming crops in the presence of the requester. The assessor immediately gives his or her conclusions on the attribution of the damage to wild boar, the imputability of the damage, the surface area affected by the damage, the percentage of this surface area affected and the likely loss of harvest.

Failing agreement on the conclusions of the assessor, the farmer or the département fund, within eight days following the date of assessment and on penalty of preclusion, refers to the district court of the place where the damaged crops are located, for a request for the appointment of an expert.

In the event of disagreement on the conclusions of this legal expert, the farmer or the département fund, within eight days following the date of the expert's report and on penalty of preclusion, refers to this same court for a request to set compensation.

No request for assessment or legal expertise may be taken into consideration after the harvesting of the damaged crops.

SECTION IV
Penalties — Articles L429-33 to L429-40

Subsection 1
Sentences — Articles L429-33 to L429-37

Article L429-33

It is prohibited to pursue wounded game or to remove game that has fallen on another person's hunting ground, without that person's permission.

Article L429-34

Order no. 2000-916 of 19 September 2000 Article 3 Official Journal of 22 September 2000 in force on 1st January 2002)

Anyone found hunting on land where they do not have hunting rights is punishable by three months' imprisonment and a fine of 3750 euros.

If the guilty party is a relative of the person who does have hunting rights, then proceedings will only take place if a complaint is filed. A filed complaint may be withdrawn.

Article L429-35

For the violation defined in Article L. 429-34, the sentences can be doubled depending on whether firearms or dogs were used, or snares, nets, traps or other implements, or if the violation has been committed in prohibited weather conditions, or in the forests, or during the night, or by a group of people.

Article L429-36

If the party guilty of the violation described in Article L. 429-34 indulges in prohibited hunting on a professional basis, he or she will be punishable by three months' imprisonment. Furthermore, he or she may be deprived of his or her civic rights and be kept under police surveillance.

Article L429-37

Article L. 428-15 applies to the violations covered by the said Article as defined by the laws relating to hunting and protection of the environment in force in the départements of Bas-Rhin, Haut-Rhin and Moselle.

Subsection 2
Repeat offences — Article L429-38

Article L429-38

A repeat offence in the sense of this Chapter occurs when the guilty party has already been found guilty of a violation under this Chapter within two years prior to this conviction.

Subsection 3

Accessory and additional sentences — Articles L429-39 to L429-40

Article L429-39

The guilty party's gun, hunting equipment and dogs that were with him or her at the time of the offence as defined in Article L. 429-34 are confiscated, as well as any snares, traps or other implements, whether they belong to the guilty party or not.

Article L429-40

The court can pronounce the confiscation of the prohibited implements under Article L. 429-20, whether they belong to the guilty party or not.

TITLE III

Freshwater fishing and management of fish-farming resources — **Articles L431-1 to L430-1**

Article L430-1

The conservation of water environments and the protection of fish farming heritage are in the general public interest.

The protection of fish farming heritage implies a balanced management of the fishing resources, the main constituent of which is fishing, a social and economic activity.

CHAPTER I

Scope — Articles L431-1 to L431-8

SECTION I

General provisions — Articles L431-1 to L431-5

Article L431-1

Fishermen, who fish in waters as defined in Article L. 431-3, for whatever reason and in whatever manner, in particular for leisure or business purposes, are subject to the provisions of this Title.

Article L431-2

The provisions of this Title relating to fish also apply to shellfish, frogs and spawn.

Article L431-3

Subject to the provisions of Articles L. 431-6 and L. 431-7, the provisions in this Title apply to all the water courses, canals, streams, as well as to the lakes with which they join.

In water courses and canals leading to the sea, the provisions of this Title apply upstream of the salt limit in the water.

Article L431-4

Lake draining operations aimed exclusively at collecting fish do not constitute a joining in the sense of Article L. 431-3.

Article L431-5

Owners of lakes other than those mentioned in paragraph 1 of Article L. 431-3 may request for these lakes the application of the provisions of this Title for a minimum duration of five consecutive years, under the terms set by a Conseil d'Etat decree.

SECTION II

Fish farming — Articles L431-6 to L431-8

Article L431-6

(Order no. 2000-916 of 19 September 2000 Article 3 Official Journal of 22 September 2000 in force on 1st January 2002)

(Order no. 2005-805 of 18 July 2005 Article 7 Official Journal of 19 July 2005)

A fish farm is, within the meaning assigned by Title I of Book II and Title III of Book IV, an operation whose purpose is breeding fish for consumption, re-stocking, ornamentation, scientific or experimental purposes, or for the promotion of tourism. In the latter case, the capture of fish using rod and line in lakes is permitted.

NB: Order no. 2005-805 2005-07-18 Article 22:

I. - A decree relating to the nomenclature provided for in article L. 214-2 of the Code de l'Environnement will be made within a period of one year following the publication of the present Order.

II. - Article 7 of the present Order will come into force on the same date.

Article L431-7

(Order no. 2005-805 of 18 July 2005 Article 8 Official Journal of 19 July 2005)

With the exception of Articles L. 432-2, L. 432-10, L. 432-11 and L. 432-12, the provisions of this Title do not apply to fish farms lawfully authorised and declared and to lakes existing on 30 June 1984, established by diverting water or by damming and equipped with permanent facilities inhibiting the free travel of fish between these lakes and the waters with which they connect:

1° Either if they have been created in accordance with a title-based right entitling the interception of fish travelling through,

2° Or they have been created by damming with a view towards fish farming before 15 April 1829, across a state owned water course that has not been classified under the fish ladder scheme mentioned in Article L. 432-7, and do not appear in the list mentioned in Article L. 432-6 ;

3° Or if they result from a concession or administrative authorisation, up to the end of the period for which the concession or authorisation has been granted. Holders of these authorisations or concessions can request renewal in accordance with the provisions of Articles L. 214-2 to L. 214-4.

Article L431-8

As from 1st January 1992 only those people holding rights, concessions or authorisations and having declared themselves to the administrative authority may benefit from the provisions of Article L. 431-1.

CHAPTER II

Conservation of water environments and protection of the fish-farming heritage — Articles L432-1 to L432-12

SECTION I

General obligations — Article L432-1

Article L432-1

Any owner of fishing rights, or his or her representative, is obliged to take part in protection of the fishing heritage and the water environment. For this reason he or she must not harm them and, if the need should arise, should carry out maintenance work on the banks and the bed of the water course, in order to maintain aquatic life.

With the owner's permission, this obligation may be handled by an approved fishing and fish farming association, or by the département Federation of Approved Fishing and Fish Farming Associations which, in return, has free fishing rights throughout the time it fulfils this obligation. This duration can be set contractually.

In the event of failure to respect this obligation to participate in protecting the fishing heritage and water environment, the required work may be carried out ex officio by the authorities at the owner's expense, or, if the latter is excused from this obligation, at the expense of the association or federation that has taken it on.

SECTION II

Protection of farmed fish and their habitat — Articles L432-2 to L432-4

Article L432-2

(Order no. 2000-916 of 19 September 2000 Article 3 Official Journal of 22 September 2000 in force on 1st January 2002)

The act of discharging, tipping or letting flow into the waters mentioned in Article. 431-3, whether directly or indirectly, substances the action or reaction of which has killed fish or damaged their nutrition, reproduction or food value, is punishable by two years' imprisonment and a fine of 18 000 euros.

Furthermore, the court may order the publication of an extract of the sentence in two or more newspapers at the guilty party's expense.

Article L432-3

(Order no. 2000-916 of 19 September 2000 Article 3 Official Journal of 22 September 2000 in force on 1st January 2002)

(Repealed by Order no. 2005-805 of 18 July 2005 Article 22 II subject to reserves Official Journal of 19 July 2005)

When they are likely to destroy spawning grounds, nursery zones, feeding areas or food reserves for aquatic wildlife, the installation or improvement of structures, as well as any work on the river bed are subject to authorisation. Failure to have an authorisation is punishable by a fine of 18 000 euros.

The authorisation issued under the terms of this Article sets compensatory measures aimed at restoring the aquatic environment to its original condition

NB: Order no. 2005-805 of 18 July 2005, Article 22 II: Article L. 432-3 is repealed on the date of publication of the decree provided for in I of the present Title.

Article L432-4

In the event a conviction for a violation of the provisions of Articles L. 432-2 and L. 432-3, the court will, if necessary, set the measures to be taken to terminate the violation or avoid any repeat offence and the time limit within which these measures must be fulfilled, as well as a periodic penalty payment as defined in Article L. 437-20.

SECTION III

Obligations relating to constructions — Articles L432-5 to L432-9

Article L432-5

Any structure to be built in a riverbed must include devices ensuring that a minimum flow is guaranteed over this bed to sustain life, circulation and the reproduction of the species that populate the waters at the time the structure is built, as well, should the need arise, as devices to prevent fish entering into inlet or escape ducts.

This minimal flow must not be less than one tenth of the water course module in line with the structure, corresponding to the average inter-annual throughput, assessed on the basis of available data relating to a minimum period of five years, or on the throughput immediately upstream of the structure, if this is less.

Nevertheless, for water courses or sections of water courses where the module is higher than 80 cubic metres per second, decrees approved by the Conseil d'Etat may, for each one, set a lower limit for this minimal throughput, which should not be lower than one twentieth of the module.

The operator of the construction is obliged to ensure the operation and maintenance of the devices guaranteeing the minimal flow through the river bed as defined in the previous paragraphs.

The provisions set out in the previous paragraphs extend to all structures existing on 30 June 1984, by progressive reduction of the difference in relation to the current situation. These provisions likewise apply to all renewals of licences and permits for these structures.

As of 30 June 1987, their minimal throughput, unless this is technically impossible owing to the design, cannot be less than one quarter of the values set in the second and third paragraphs of this Article.

The application of the provisions of this Article does not give rise to any indemnity.

The provisions of this Article do not apply to the Rhine or the Rhône, due to the International status of these two rivers.

Article L432-6

In water courses or parts of water courses and canals that are listed by decree, following the opinion by general councils submitted within a time limit of six months, all structures must include devices to ensure the passage of migrating fish. The operator of the structure is obliged to ensure the operation and maintenance of these devices.

Existing structures must be brought into conformity, without compensation, with the provisions of this Article within a time limit of five years from the publication date of a list of migrating species per basin or sub-basin, set by the Minister for Fresh Water Fishing and, if necessary, the Minister for the Sea.

Article L432-7

The classification of water courses, parts of water courses and canals which took place under the terms of the fish ladders prior to 1 January 1986 is considered as classification under the first paragraph of Article L. 432-6.

Article L432-8

(Order no. 2000-916 of 19 September 2000 Article 3 Official Journal of 22 September 2000 in force on 1st January 2002)

Failure to respect the provisions of Articles L. 432-5 and L. 432-6 is punishable by a fine of 12 000 euros.

When a person is found guilty under the terms of this Article, the court may decide that, failing execution within the time limits it sets, measures will be taken for the purposes described in the abovementioned Articles, leading to the payment of a periodic penalty payment as defined in Article L. 437-20.

Article L432-9

(Order No. 2000-916 of 19 September 2000 Article 3 Official Journal of 22 September 2000 in force on 1st January 2002)

(Repealed by Order no. 2005-805 of 18 July 2005 Article 22 II subject to reserves Official Journal of 19 July 2005)

The draining of water areas, whether mentioned or not in Article L. 431-3 is subject to authorisation under the terms of this Article. These authorisations determine the schedule for the operation and the destination of the fish.

The act of draining without the authorisation mentioned in the previous paragraph is punishable by a fine of 12 000 euros.

NB: Order no. 2005-805 of 18 July 2005, Article 22 II: Article L. 432-9 is repealed on the date of publication of the decree provided for in I of the present Title.

SECTION IV

Population control — Articles L432-10 to L432-12

Article L432-10

(Order No. 2000-916 of 19 September 2000 Article 3 Official Journal of 22 September 2000 in force on 1st January 2002)

The following are punishable by a fine of 9000 euros:

1° Introducing fish belonging to species that are likely to cause biological unbalances, the list of which is set by decree, into the waters mentioned in this Title,

2° Introducing fish that do not already exist into waters mentioned in this Title without permission; the list of fish represented is set by the Minister for Fresh Water Fishing,

3° Introducing fish of the following categories into water classified as primary category under the terms of 10° in Article L. 436-5: pike, perch, zander and black-bass; however this provision does not apply to Lakes Geneva, Annecy or Bourget.

Article L432-11

The transport of fish belonging to the species mentioned in 1° of Article L. 432-10 is prohibited without an authorisation issued under the terms set by a Conseil d'Etat decree.

Article L432-12

(Order No. 2000-916 of 19 September 2000 Article 3 Official Journal of 22 September 2000 in force on 1st January 2002)

The introduction of fish that do not come from approved fish farms or breeders, under the terms set by a Conseil d'Etat decree, into the waters mentioned in this Title, is punishable by a fine of 9000 euros.

CHAPTER III
Management of aquatic environments and fish-farming resources — Articles L433-1 to L433-3

SECTION I
Guidelines for water basins — Article L433-1

Article L433-1

In each hydrographic basin, a commission made up of fishing managers, qualified people, neighbourhood representatives, local authorities, the administrations concerned and environmental protection associations, is responsible for proposing the guidelines for protecting and managing the aquatic environments in the basin and giving its opinion on related questions. These guidelines are decided upon by the Minister for Fresh Water Fishing.

A decree sets the composition and the operating rules for the basin commission.

SECTION II
Département fishing plan — Article L433-2

Article L433-2

The département federation of approved fishing associations and the approved association of professional fishermen take part in drawing up the département fishing plan in compliance with the basin guidelines defined by the Minister for Fresh Water Fishing.

SECTION III
Obligation of management — Article L433-3

Article L433-3

The exercise of fishing rights carries with it the obligation to manage fishing resources. This carries with it the drawing up of a management plan. Failure to respect this obligation may result in measures being taken ex officio by the administration, at the expense of the individual or legal entity holding fishing rights.

CHAPTER IV
Fishermen's organisations — Articles L434-1 to L434-6

SECTION I
Higher Fishing Council — Articles L434-1 to L434-2

Article L434-1

The Higher Fishing Council is a public establishment to which is allocated the revenue from fishing taxes. It uses its funds to improve and monitor the national fishing domain, in particular through interventions, creations, research, studies and teaching in favour of fishing and the protection of fishing heritage.

Furthermore, the Higher Fishing Council is a consultative body to the Minister for Fresh Water Fishing.

Article L434-2

The commissioned agents mentioned in 1° of Article L. 437-1 are managed by the Higher Fishing Council. Their purpose in normal working circumstances is to be available to the département federations of approved fishing and fish farming associations.

SECTION II
Organisation of leisure fishing — Articles L434-3 to L434-5

Article L434-3

The approved fishing and fish farming associations contribute to monitoring fishing, using the fishing rights they hold, take part in protecting fishing and aquatic environment heritage and carry out fish farming management operations.

The approved associations of amateur implement and net fishermen in public domain waters also have the same competences for the fishing parcels where their members are permitted to fish.

In each département the approved fishing and fish farming associations and the approved associations of amateur

implement and net fishermen in public domain waters are grouped by law into a département federation of approved fishing and fish farming associations.

Article L434-4

The département federation of approved fishing and fish farming associations are considered to be of public utility. They are expected to improve and monitor the département fishing domain.

For this reason, they take part in organising the monitoring of fishing, the protection of fishing heritage and aquatic environments. They coordinate the actions of approved fishing and fish farming associations. In the interest of the members of approved fishing and fish farming associations in the département they operate the fishing rights that they hold. They carry out information and education actions on the topic of protecting aquatic environments.

Furthermore, they can be entrusted with any other assignment in the general public interest that relates to their activities.

The constitution of federations grouping together the approved associations from several départements can be authorised by the Ministry for Fresh Water Fishing.

Article L434-5

The conditions for approving the Articles of federations, the methods for designating their managing bodies, the means of checking the administration of the federations and associations as well as the conditions for when the administration can replace the federations in the event of failure are set by a Conseil d'Etat decree.

SECTION III
Organisation of professional fishing — Article L434-6

Article L434-6

The approved associations of professional fishermen group together, within the département or inter-département framework, professional fishermen working full or part time.

These associations contribute to monitoring fishing and take part in protecting fishing heritage and aquatic environments.

The conditions for joining these associations, the methods for approving their Articles as well as checking administration are set by a Conseil d'Etat decree.

CHAPTER V
Fishing rights — Articles L435-1 to L435-9

SECTION I
State fishing rights — Articles L435-1 to L435-3

Article L435-1

I. - Fishing rights belong to the State and are used to its advantage:

1° In the public sector as defined in the 1st Article of the Code du domaine public fluvial et de la navigation intérieure, with the exception of cases in which fishing rights belong to a private individual in accordance with a title-based right,

2° In freshwater parts of non-State owned water courses and canals that lead to the sea, which are located within the limits of the merchant marine register prior to 8 November and 28 December 1926. These parts are set by decree.

II. - A Conseil d'Etat decree sets the operating conditions by adjudication, leasing or licensing, of the State fishing rights, and the methods of managing state-owned fishing resources and the water courses and canals mentioned in 1° and 2° of I. In particular it sets the list of civil servants, agents and members of their family that can directly or indirectly take part in the rental of these fishing rights.

Article L435-2

The provisions of Article 313-6 of the Code pénal apply to adjudications of State fishing rights.

Any adjudication pronounced in favour of a person found guilty under the terms of these said provisions is declared null and void.

Article L435-3

Disputes between the administration and the adjudicators relating to the interpretation and fulfilment of the lease terms and adjudications, and all those that arise between the administration or its co-contractors and third parties on the subject of their rights or properties will be brought before the tribunal de grande instance.

SECTION II
Fishing rights of local residents — Articles L435-4 to L435-5

Article L435-4

In water courses and canals other than those described in Article L. 435-1, neighbouring owners have fishing rights on their side, up to the middle of the water course or canal, subject to other rights that might be established in their freeholds.

Regarding water areas other than those covered in Article L. 435-1, fishing rights belong to their owner.

Article L435-5

When the neighbouring owners of the waters mentioned in Article L. 435-4 benefit from State grants they have requested for the upgrading or improvement of banks and bases, then in exchange, fishing rights are free of charge for a maximum of twenty years, either for an approved fishing and fish farming association designated by the administration, or by the département Federation of Approved Fishing and Fish Farming Associations.

However, when a grant is paid to a local authority or a union of local authorities following a declaration of public utility, the owner may repay that part of the grant corresponding with work carried out on his or her land. In this case, the provisions of this Article do not apply.

For the application of this Article, the length of time during which the association or federation can fish free of charge depends on the proportion of the work carried out that has been financed by grants from public funds.

The association or federation that exercises free fishing rights under the terms of this Article must satisfy the obligations defined in Articles L. 432-1 and L. 433-3.

During the period that an association or federation is exercising free fishing rights, the owner retains the right to fish for himself or herself and his or her partner, children or parents.

The means of applying this Article are defined by a Conseil d'Etat decree.

SECTION III

Right of way — Articles L435-6 to L435-9

Article L435-6

The exercise of fishing rights brings with it a right of way that must be used, whenever possible, by following the banks of the river, and causing the least possible damage. The method by which this right of way is used can be the subject of an agreement with the neighbouring owner.

Article L435-7

When an association or federation as defined in Article L. 434-3 and L. 434-5 exercises free fishing rights, it is obliged to repair any damage that the neighbouring owner or his or her representative might suffer through the exercise of this right.

Article L435-8

Article L. 215-21 applies to work carried out and the measures taken under the terms of Articles L. 432-1, L. 435-3 and L. 435-5.

Article L435-9

Any owner, lessee, farmer or holder of a genuine right, neighbour to a state owned water course or state owned lake, is obliged to hold a free space of 3.25 metres wide along the banks of it for fishermen.

When fishing and maintenance and monitoring of water courses and lakes requirements permit, the Ministers for Fresh Water Fishing and Management of the State Inland Waterways, or the Préfet by delegation, may reduce this 3.25 metres to 1.50 metres.

The length of water courses removed from the list of navigable waterways but still maintained by the public sector, the width of free space for the use of fishermen is 1.50 metres.

Along canals, fishermen can use the towpath and that part of the banks that is part of the public domain, as long as they allow operation of the waterway.

This right may be removed under exceptional circumstances, either for reasons that are in the general public interest, or for safety reasons, when the banks are included in industrial developments, on decision by the Ministers for Fresh Water Fishing and Management of the State Inland Waterways, or the Préfet by delegation.

In the event of failure to respect the provisions of this Article relating to right of way, the neighbour must, on injunction from the administration, return the site to its original condition within a set time limit. Failure to do so within the given time will lead to this work being carried out ex officio by the administration or its representative at the neighbour's cost.

CHAPTER VI

Conditions for exercising fishing rights — Articles L436-1 to L436-16

SECTION I

General provisions — Articles L436-1 to L436-8

Article L436-1

Any person who practices fishing must prove his or her membership of an approved fishing and fish farming association, or of an approved amateur implement or net fishing association for fishing in water belonging to the public domain, or an approved association of professional fishermen that have paid, over and above the statutory fee, a yearly tax the income from which is allocated to the expenses for the surveillance and enhancement of the national fish and fishing domain.

Article L436-2

The partners of people having paid the fishing tax, holders of low income cards, seriously disabled war veterans or disabled workers who have a 85% or above disability pension, national service conscripts and young people under the age of sixteen are exonerated from paying the fishing tax if they use a single fishing line fitted with no more than two ordinary hooks, cast fishing excepted.

Using this line, the members of the approved associations cited above are allowed to fish freely and without formality in public domain waters as well as in the water sources where the fishing rights are owned by the State. This also applies in water sources other than those in the domain defined in 1st Article of the Code du domaine public fluvial et de la navigation intérieure, subject to having the permission of the person owning the fishing rights.

Article L436-3

The département federations of approved fishing and fish farming associations and approved professional fishermen associations, collect where appropriate, the fishing tax centralised by the Higher Fishing Council in application of Article L. 434-1.

Article L436-4

(Act no. 2003-699 of 30 July 2003 Article 57 Official Journal 31 July 2003)

I. - In addition to the individual or collective rights that he or she may have, any member of an approved fishing and fish farming association may fish:

1° From the bank or whilst wading, in areas classified under 10° of Article L. 436-5, as first category public waterways where the fishing rights are owned by the State;

2° From the bank, whilst wading or from a boat, in areas of the said waterways classified under 10° of Article L. 436-5, as second category, as well as in water sources, irrespective of category where the fishing rights are owned by the State. However, in this case, the Minister for Fresh Water Fishing or, by delegation, the Préfet may, in exceptional circumstances prohibit whom they so wish from line fishing from a boat;

3° From the bank, only for salmon fishing irrespective of the category of waterway; However, the Minister for Fresh Water Fishing or, by delegation, the Préfet may authorise salmon fishermen to wade in the water over a given stretch of water.

II. - The right to fish as defined in this Article can only be practised using a single line.

III. - The provisions of I and II also apply in water that was part of the State public waterways at the date the promulgation of Act no. 2003-699 of 30 July 2003 relating to the prevention of technological and natural risks, compensation for damage, and that which has been the subject of a transfer to a local authority in application of the said law.

Article L436-5

Decrees approved by the Conseil d'Etat and issued, following advice from the Higher Fishing Council, dictate the terms per basin under which may be set:

1° The weather conditions, seasons, and hours during which fishing is prohibited;

2° The sizes below which certain species of fish which, if fished must be put back in the water; these sizes must not be less than the sizes that correspond to their initial reproduction cycle;

3° The number of catches allowed for certain fish species and, if needs be, the conditions under which they are caught;

4° The dimensions of fishing nets, implements and instruments authorised to be used;

5° The method of checking the authorised mesh of the fishing nets for each species of fish;

6° The fishing nets, implements and instruments which are prohibited as they are liable to be harmful to fish repopulation, as provided for in this Title;

7° Prohibited processes in and methods of fishing;

8° The fish species for which the baiting of hooks, trapping using cages, nets and other implements is prohibited;

9° The waterways or sections of waterway where wading fishing is prohibited in order to protect the aquatic environment;

10° The classifying of waterways, canals and water basins into two categories:

a) The first category includes those that are mainly populated with trout, as well as those where it appears important to ensure specific protection of this species of fish;

b) The second category includes all the other waterways, canals and water basins covered by the provisions of this Title.

Article L436-6

(Order no. 2000-916 of 19 September 2000 Article 3 Official Journal of 22 September 2000 in force on 1st January 2002)

The act of setting up of any type of dam, apparatus or fishing structure aimed at completely stopping the free passage of fish in order to hold them captive is punishable by a fine of 3750 euros.

Under the terms defined in Article L. 437-20, and without prejudice to the application of the provisions of this Title, the court may order the rehabilitation of the site along with the imposition of a periodic penalty payment.

Article L436-7

(Order no. 2000-916 of 19 September 2000 Article 3 Official Journal of 22 September 2000 in force on 1st January 2002)

The act of throwing drugs or bait into water sources defined in Article L. 431-3 with the intention of intoxicating or destroying fish is punishable by two years' imprisonment and a fine of 4 500 euros.

Any person who uses explosives; electric shocks, or unauthorised products or methods with the intention of capturing or destroying fish will receive the same sentence.

Article L436-8

Boat owners, layers of nautical buoys and seamen who use the State-owned waterways, canals and lakes cannot carry on their boats any fishing net or implement other than those designed for line fishing.

They can only fish from their vessels using a line, fly fishing and trawling excepted, and on the condition that they comply with the provisions of this Title and the enactments to enforce it.

SECTION II

Special authorisations — Article L436-9

Article L436-9

The administrative authority responsible for freshwater fishing may, during the closed season for fishing, authorise the capture and transport of fish for reproduction or repopulation purposes.

It may, at any time, authorise the capture and the transport of fish for sanitary or scientific purposes, and their transport and sale in the event of a biological imbalance.

SECTION III

Estuaries — Articles L436-10 to L436-11

Article L436-10

In the area between the salt water line and the limits of the merchant marine register set on 17 June 1938, professional sea fishermen holding a licence can fish under the same terms as licence-holding professional freshwater fishermen.

In waterways and canals open to the sea, upstream of the salt water line up to the earlier limits of the merchant marine register, which were set prior to 8 November and 28 December 1926, professional sea fishermen who, on 1st January 1927, were fishing in this area under the terms of the merchant marine register and who made their request prior to 1st January 1928, retain the right to continue this fishing using a licence which is issued free.

Article L436-11

As regards freshwater and maritime fishing in waterways and canals open to the sea, decrees approved by the Conseil d'Etat govern in a uniform manner, the conditions under which, for species which live in both salt and fresh water, are set:

1° The times during which it is prohibited to fish these type of fish;
2° The legal sizes under which these species cannot be fished;
3° The measures which facilitate the reproduction, development, conservation and movement of these species;
4° The list of species the sale or peddling of which is prohibited;
5° The list of fish that are prohibited from being introduced;
6° The number and sizes of fishing nets, implements and apparatus which are permitted.

SECTION IV

Permanent reserves and prohibitions — Article L436-12

Article L436-12

(Act no. 2002-92 of January 2002 Article 24 Official Journal 23 January 2002)

A Conseil d'Etat decree or, in Corsica, the deliberations of the Corsican Assembly, sets out the conditions under which fishing is prohibited in certain sections of waterways, canals or water basins in order to encourage the protection and reproduction of fish. The indemnities to which are entitled the adjacent property owners who have been denied the right to fish for more than one complete year in accordance with this Article, are set, if an out-of-court settlement cannot be reached, by the administrative courts.

SECTION V

Sale — Articles L436-13 to L436-16

Article L436-13

Only full- or part-time professional fishermen are authorised to sell their catch.

Article L436-14

(Order no. 2000-916 of 19 September 2000 Article 3 Official Journal of 22 September 2000 in force on 1st January 2002)

Subject to the provisions of Article L. 436-15, for any person who is not classified as a professional freshwater fisherman, the act of selling his or her catch is punishable by a fine of 3750 euros.

Any person who knowingly purchases or sells the catch of someone who is not classified as a professional freshwater fisherman is subject to the same punishment.

Article L436-15

I. - It is prohibited to put on sale, sell, purchase, transport, peddle and export the various fish species during prohibited fishing periods.

II. - This provision does not apply, subject to their origin being able to be proven, to:

1° Fish that have been caught either in waters not mentioned in Article L. 431-3, or waters defined in Articles L. 431-6 and L. 431-7;

2° Any fish currently represented in waters mentioned in this Title that are caught, during an authorised fishing season, in waters that are subject to maritime regulations;

3° Any fish originating from a foreign country and authorised to be imported.

Article L436-16

It is prohibited to peddle, sell, or purchase trout, grayling, brook trout or salmon that have been fished in the waters mentioned in this Title.

However, this provision does not apply to professional freshwater fishermen when fishing in waterways, canals and water basins that are in the public domain, or in dammed water basins where fishing rights are owned by the State, or in non State-owned water basins the list of which is set by the Minister responsible for freshwater fishing.

CHAPTER VII Additional criminal provisions	Articles L437-1 to L437-23
SECTION I Identification and investigation of offences	Articles L437-1 to L437-13
Subsection 1 Authorised officials	Articles L437-1 to L437-3

Article L437-1

(Act no. 2005-157 of 23 February 2005 Article 230 VII Official Journal of 24 February 2005 in force on 26 June 2005)
(Order no. 2005-805 of 18 July 2005 Article 9 Official Journal of 19 July 2005)

I. - In addition to the officers of the Judicial Police Department listed in Articles 16, 20 and 21 of the Code de procédure pénale, and officers authorised under special laws, the following persons are authorised to identify and investigate infringements of the provisions of this Title and the enactments for its application, irrespective of where these offences are committed:

1° Sworn officials of the Higher Fishing Council and the Domaine National de Chambord commissioned for this purpose by a decision of the administrative authority;

2° Rural water and forest engineering specialists; public works engineers and qualified officers responsible for policing fishing in the département agriculture and forest departments and National Forests and Parks Office , specialists and officials of the canal services commissioned for this purpose by a decision of the administrative authority, and insofar as they are sworn to this effect;

3° Specialists belonging to the National Forestry Office and its sworn officials described in Article L. 122-7 of the Code forestier;

4° Rangers;

5° Officers of the National Hunting and Wildlife Office commissioned and sworn in the area to which they are assigned.

II. - The officers commissioned by the Higher Fishing Council can inspect the conditions under which those fish species that live in both salt and fresh water are fished above the salt water line.

III. - Also able to identify and investigate infringements of the provisions of this Title and the enactments for its application are custom officers and officers authorised by the decree of 9 January 1852 relating to maritime fishing.

NB: Law no. 2005-157 Article 230 VIII: "A decree determines the conditions of application of the present article (art. 230), notably the methods for organising and operating the establishment, conserving the Château, and managing the forest."

These provisions take effect on the date upon which the decree provided for in article 230 (VIII) comes into force, and at the latest on 1st July 2005.

Article L437-2

The officials mentioned in Article L. 437-1 identify and make official reports on offences in the jurisdiction of the court in which they are duly sworn.

Article L437-3

With regard to the fulfilment of their policing role, officials commissioned by the Higher Fishing Council have the same status as State Forestry technicians.

Subsection 2

Reports — Articles L437-4 to L437-5

Article L437-4

Infringements of the provisions of this Title and the enactments for its application are subject to official reports written up and signed by two officers or officials, which substantiate, until proven otherwise or registered as false, the material actions relating to the offences investigated.

Article L437-5

(Order no. 2005-805 of 18 July 2005 Article 10 Official Journal of 19 July 2005 rectification JORF 23 July 2005)

In order not to be considered null and void, reports must be sent directly to the Procureur de la République within five days following the closure of the investigation.

A copy is sent, within the same period, to the interested party, to the administrative authority, to the President of the département federation of approved fishing and fish farming associations and the President of the approved association of professional freshwater fishermen.

Subsection 3

Identification of offences — Articles L437-6 to L437-12

Article L437-6

Fish which has been caught, held, transported or sold in violation of the provisions of this Title or the enactments for its application can be identified day and night throughout the year by the officers or officials described in Article L. 437-1, on sites open to the public where fish is sold or consumed, as well as on premises not open to he public, such as warehouses, freezer centres and canning factories.

Only the provisions of the Code de procédure pénale apply to premises other than those mentioned in the previous paragraph. Nonetheless, the officers and officials mentioned in Article L. 437-1 assist, if so requested, the officers of the Judicial Police Department carrying out the investigations.

Article L437-7

Every fisherman is obliged to present his boat and open its cages, refrigerators, depots, baskets, chests, creels and other tanks and submersible live fish carriers whenever required to do so by the officers and officials responsible for policing fishing.

In addition, these officers and officials can carry out inspections of the water courses of water mills and other permanent facilities located in or on the channels of waterways.

Article L437-8

Boat owners, layers of nautical buoys and seamen are obliged to accept the boarding and inspection of their boats and crews by the officers and officials responsible for policing fishing at any time.

Article L437-9

The officers and officials responsible for policing fishing have the right to call directly upon the police in order to suppress fishing related offences, and to seize fishing equipment, illegally caught fish, vessels, automobiles and other vehicles covered in Article L. 437-10.

Article L437-10

The officers or officials mentioned in Article L. 437-1 are able to seize all prohibited lines, nets, implements and other fishing equipment, and may seize authorised equipment used in the performance of an infringement of provisions of this Title and the enactments for its application. In addition, they may seize vessels, automobiles and other vehicles used by the offenders to reach the place where the offence was committed, or to transport fish that has been caught, put on sale, sold or purchased as the result of an infringement of the provisions of this Title and the enactments for its application.

Article L437-11

The officers and officials mentioned in Article L. 437-1 are able to seize fish that has been caught, transported, sold or purchased as the result of an infringement of the provisions of this Title and the enactments for its application. The confiscated fish are either put back into the water or destroyed, or sold with the proceeds going to the Treasury, or given by the authorities to a charitable institution.

Article L437-12

The perpetrator of the offence is obliged to hand over the seized item when requested by the officer or official who has investigated the offence.

Subsection 4

Private fishing guards — Article L437-13

Article L437-13

Sworn private fishing guards make official reports on infringements of the provisions of this Title and the enactments for its application which are prejudicial to the holders of the fishing rights that employ them.

The provisions of Article 29 of the Code de procédure pénale apply to these reports, which have probative force

unless proven otherwise.

The provisions of Articles L. 437-7, first paragraph, L. 437-9, L. 437-10, L. 437-11 and L. 437-12, apply, inasmuch as they relate to the seizure of fishing equipment, to sworn private fishing guards.

SECTION II
Transaction — Article L437-14

Article L437-14
(Order no. 2005-805 of 18 July 2005 Article 11 Official Journal of 19 July 2005)

For infringements of the provisions of this Title and the enactments for its application, the administrative authority responsible for freshwater fishing has the right to come to terms, following approval by the Procureur de la République, and according to the methods set out by a Conseil d'Etat decree.

This right does not apply to infringements of the first four classes, for which public action is extinguished by the payment of a flat-rate fine in application of article 429 of the Code de procédure pénale.

Public action is extinguished when the person convicted of the infringement has, within the periods stipulated, fulfilled his or her obligations resulting from the acceptance of the transaction.

For offences mentioned in Article L. 432-2 which relate to companies described in Title 1 of Book V of this Code, before any transaction, the opinion of the inspector of classified facilities must be sought on the conditions under which the offender has applied the provisions of the first Title of Book V.

SECTION III
Proceedings — Articles L437-15 to L437-17

Article L437-15

The legally appointed officials in conjunction with the public ministry carry out all proceedings and actions for redressing these offences, excluding violations of fishing prohibitions without the permission of the holder of the fishing rights.

Article L437-16

The legally appointed officials mentioned in Article L. 437-15 have the right to place the case before a court and are heard in order to argue their conclusions.

They can, on behalf of the administration they represent, appeal against a judgement, and lodge an appeal with the Supreme Court.

Article L437-17

Officials commissioned by the Higher Fishing Council and State forestry technicians can, in actions and proceedings undertaken on behalf of the administration, quote and give details of events, but cannot carry out seizures and forced sales.

SECTION IV
Civil action — Article L437-18

Article L437-18

The département federation of approved fishing and fish farming associations and the approved association of professional freshwater fishermen can exercise their accepted rights under civil law when acts which constitute an infringement of the provisions of this Title and the enactments for its application are directly or indirectly prejudicial to the collective interest that they are obliged to defend.

SECTION V
Sanctions — Articles L437-19 to L437-23

Subsection 1
Aggravating circumstances — Article L437-19

Article L437-19

Sentences can be doubled when offences are committed at night.

Subsection 2
Periodic penalty payments — Article L437-20

Article L437-20
(Order no. 2000-916 of 19 September 2000 Article 3 Official Journal of 22 September 2000 in force on 1st January 2002)
(Act no. 2004-204 of 9 March 2004 Article 198 Official Journal of 10 March 2004 in force on 1st January 2005)
(Order no. 2005-805 of 18 July 2005 Article 22 II subject to reserves Official Journal of 19 July 2005)

The periodic penalty payment imposed by the court in application of Articles L. 431-6, L. 432-4, L. 432-8 and L. 436-6 is for an amount of 15 to 300 euros per day of delay in the execution of that the mandatory measures imposed by

the court.

The periodic penalty payment ceases to apply on the day that the aforementioned measures are fulfilled. The money is, on the request of the injured party, then released by the court and recovered by the Treasury Accounts Office in the same way as a criminal fine.

It does not give rise to legal restraint.

NB: Order 2005-805 of 18 July 2005 Article 22 II: The reference made to article L. 431-6 by article L. 437-20 is repealed on the date of publication of the decree provided for in I of the present article.

Subsection 3
Confiscation — Article L437-21

Article L437-21

Prohibited lines, nets and implements which have been seized are deposited with the Clerk of The Court's office and, following the handing down of a final judgement, are surrendered to the administration responsible for freshwater fishing for destruction.

Forfeiture of seized non-prohibited lines, nets and implements, as well as vessels, automobiles and other vehicles used by the guilty parties can be ordered. The forfeiture of vessels, automobiles and other vehicles can be ordered in value.

If forfeiture is not ordered or ordered in value, the seized items and vehicles are returned.

Subsection 4
Exclusion from approved associations — Article L437-22

Article L437-22

(Order no. 2000-916 of 19 September 2000 Article 3 Official Journal of 22 September 2000 in force on 1st January 2002)

Any judgement or order pronouncing a conviction for a fishing offence, excluding offences involving fishing when prohibited, other than with the permission of the holder of the fishing rights, can exclude the guilty party from being a member of an approved association for a period of not less than one year, and not more than three years. In the event that this is a repeat offence, this exclusion is for a period of not less than two years, and not more than five years. When the guilty party is a professional fisherman carrying out his business activity, the court can order his exclusion from membership of approved professional fishing associations for a period not exceeding two years; in the case of a repeat offence, exclusion cannot be for more than five years.

Any person who continues to fish during the period that he or she is excluded, will be punished by a fine of 3750 euros. Lines, nets and implements will be confiscated.

Subsection 5
Responsibility of legal entities — Article L437-23

Article L437-23

I. - Legal entities can be declared criminally responsible under the conditions provided for in Article 121-2 of the Code pénal for infringements of the provisions of Chapter II of this Title.

II. - The punishments incurred by legal entities are:

1° Fines, in accordance with the terms set out in Article 131-38 of the Code pénal;

2° The penalties mentioned in 2°, 3°, 4°, 5°, 6°, 8° and 9° of Article 131-39 of the same Code.

III. - The prohibition mentioned in 2° of Article 131-39 of the same Code covers the activity in which or during which the offence was committed.

CHAPTER VIII
Miscellaneous provisions — Articles L438-1 to L438-2

Article L438-1

The laws and regulations relating to river fishing are declared enforceable in the départements of Bas-Rhin, Haut-Rhin and Moselle from 1st January 1946, subject to the application of the International Conventions of 30 June 1885, 18 May 1887 and 19 December 1890.

Article L438-2

A Conseil d'Etat decree sets, as required, the methods by which this Title is applied.

BOOK V
Prevention of pollution, risks and nuisances — Articles L511-1 to L582-1

TITLE I
Classified facilities for the protection of the environment — Articles L511-1 to L517-2

CHAPTER I

General provisions — Articles L511-1 to L511-2

Article L511-1

(Act no. 2001-44 of 17 January 2001 Article 11 IV Official Journal of 18 January 2001)

The provisions of the present Title apply to factories, workshops, depots, work sites and, in general, to all facilities operated or owned by any public or private person or entity, which might present hazards or drawbacks for the convenience of the neighbourhood, or for public health and safety, or for agriculture, or for the protection of nature and the environment, or for the conservation of sites and monuments or elements of the archaeological heritage.

The provisions of the present Article are also applicable to quarry operations as defined in Articles 1 and 4 of the Code minier.

Article L511-2

The facilities concerned by Article L. 511-1 are defined in the nomenclature of classified facilities set by a Conseil d'Etat decree issued on the basis of a report from the Minister responsible for classified facilities, after the opinion of the Higher Council for Classified Facilities. This decree defines the facilities as being subject to authorisation or to declaration, according to the gravity of the hazards or drawbacks their operation might present.

CHAPTER II

Installations subject to authorisation or declaration — Articles L512-1 to L512-19

SECTION I

Facilities subject to authorisation — Articles L512-1 to L512-7

Article L512-1

(Act no. 2003-699 of 30 July 2003 Article 4, Article 25 Official Journal of 31 July 2003)
(Act no. 2006-11 of 5 January 2006 Article 77 Official Journal of 6 January 2006)

The facilities that present serious hazards or drawbacks for the interests referred to in Article L. 511-1 are subject to authorisation by the Préfecture.

The authorisation may be granted only if these hazards or drawbacks can be prevented by measures which are specified in the ruling of the Préfecture.

The applicant supplies a risk study specifying the risks to which the facility may expose the interests referred to in Article L. 511-1, directly or indirectly, in case of an accident for whatever reason, be it internal or external to the facility.

The content of the risk study must relate to the scale of the risks caused by the facility. Where needs be, this study gives rise to a risk analysis which takes into consideration the probability of an accident occurring and the kinetics and gravity of potential accidents, in accordance with a methodology which is explained in the said analysis.

It defines and justifies appropriate measures to reduce the probability and effects of such accidents.

The granting of the authorisation, for these facilities, may be subject in particular to their distance from dwellings, from buildings habitually occupied by third parties, establishments receiving the public, waterways, communication routes, water catchment areas, or zones destined for dwellings by binding planning documents. It takes into account the technical and financial capacities of the applicant to conduct his or her project in compliance with the interests referred to in Article L. 511-1 and to fulfil the obligations of Article L. 512-17 when the activity ceases.

Article L512-2

(Order no. 2005-1527 of 8 December 2005 Article 28 Official Journal of 9 December 2005, in force on 1st July 2007)

The authorisation provided for in Article L. 512-1 is granted by the Préfet, after a public enquiry into any possible incidences the project might have on the interests mentioned in Article L. 511-1 and after the municipal councils concerned have given their opinion. A département-level commission is also consulted; it may vary in accordance with the type of facilities in question and its composition, set by a Conseil d'Etat decree, includes notably representatives of the State, of the local authorities, of the professions concerned, of environmental protection associations and competent persons. The authorisation is granted by the Minister responsible for classified facilities, after an opinion has been given by the Higher Council of Classified Facilities, in any case in which the risks may concern several départements or regions.

A Conseil d'Etat decree sets the terms of application of the preceding paragraph. It also sets the conditions under which the Conseils Généraux and the Conseils Régionaux must be consulted and the form of that consultation.

If a building permit has been applied for, it may be granted but may not be executed before the closure of the public enquiry.

Article L512-3

The installation and operation conditions considered indispensable for the protection of the interests mentioned in Article L. 511-1, the means of analysis and measurement and the means of intervention in case of an incident are set out in the authorisation ruling and, should the occasion arise, by complementary rulings issued after the said ruling.

Article L512-4

For facilities whose operation for an unlimited duration would create unacceptable dangers or drawbacks for the

interests referred to in Article L. 511-1, due to increasing use of the surface or sub-surface, the authorisation must set the maximum duration of the operation or of the phase of operation in question and, should the occasion arise, the maximum volume of products stored or extracted, as well as the conditions applicable for the redevelopment of the site after the end of the operations.

A Conseil d'Etat decree sets the terms of application of this Article and, notably, the categories of facilities to which it applies.

Article L512-5

For the protection of the interests mentioned in Article L. 511-1, the Minister responsible for classified facilities may set out by decree, after consultation with the Ministers concerned and the Higher Council of Classified Facilities, the general rules and technical regulations applicable to the facilities subject to the present section. These rules and regulations determine the appropriate measures to prevent and reduce the risks of an accident or of pollution of any kind occurring, as well as the conditions of integration of the facility into the environment and of rehabilitation of the site after operations have ceased.

These rulings apply automatically to new facilities. They stipulate, after the opinion of the professional organisations concerned, the timeframe and the terms by which they apply to existing facilities. They also set out the conditions under which some of these rules may be adapted to local circumstances by the authorisation ruling made by the Préfecture.

Article L512-6

In communes which include a production area of wines of designated origin, the authority competent to issue the authorisation consults the National Institute of Designations of Origin.

This institute is also consulted, at its request, when a facility subject to authorisation as defined above is to be opened in a commune bordering a commune which includes a production area of wines of designated origin.

It is also consulted, at its request, when a facility subject to authorisation as defined above is to be opened in a commune bordering a commune which includes a production area of a product of designated origin other than wine.

The National Institute for Designations of Origin has a period of three months in which to give its opinion. This period commences on the day on which the competent authority refers the case to it. Once this period expires, it is deemed to have given its assent.

Article L512-7

(Act no. 2003-699 of 30 July 2003 Article 26 Official Journal of 31 July 2003)

In order to protect the interests referred to in Article L. 511-1, the Préfet may order the evaluations to be conducted or the remedies to be implemented which are rendered necessary either by the consequences of an accident or an incident occurring in the facility, or by the consequences of a failure to comply with the conditions imposed by the present Title, or by any other hazard or drawback interfering or threatening to harm the aforementioned interests. These measures are set out in rulings issued, except in case of an emergency, after an opinion has been given by the competent advisory commission on the level of the département.

SECTION II

Facilities subject to declaration — Articles L512-8 to L512-13

Article L512-8

Those facilities which, while not presenting serious hazards or drawbacks for the interests referred to in L. 511-1, must nonetheless comply with the general regulations enacted by the Préfet in order to protect the interests referred to in Article L. 511-1, are subject to declaration.

Article L512-9

The general regulations provided for in Article L. 512-8 are enacted by rulings of the Préfecture, issued after the opinion of the competent advisory commission of the département and, for workshops above ground level, that of the agriculture orientation commission of the département. They apply automatically to any new facility or to any facility subject to a new declaration.

Later modifications of these general regulations may be rendered applicable to existing facilities in accordance with the terms and timeframe provided for in the ruling of the Préfecture also setting the conditions in which the general regulations can be adapted to local circumstances.

Establishments subject to declaration under the terms of the Law of 19 December 1917 and having obtained, by virtue of Article 19, paragraph 1 or 4, of the said Law, the suppression or mitigation of one or several regulations resulting from the rulings of the Préfecture, retain the benefit of these derogations. However, the said derogations may be terminated by a ruling of the Préfecture issued after an opinion has been given by the competent advisory commission of the département in accordance with the terms and the time limit set by the said ruling.

Article L512-10

For the protection of the interests mentioned in Article L. 511-1, the Minister responsible for classified facilities may set out by a ruling, after consultation with the Ministers concerned and the High Council of Classified Facilities, the general rules and technical regulations applicable to certain categories of facilities subject to declaration.

These rulings apply automatically to new facilities

They stipulate, after the opinion of the professional organisations concerned, the timeframe and the terms by which they apply to existing facilities. They also set out the conditions under which some of these rules may be adapted to

local circumstances by the authorisation ruling made by the Préfecture.

Article L512-11

Certain categories of facilities concerned by the present section and defined by a Conseil d'Etat decree according to the risks they present, may be subject to periodical inspections enabling the operator to check that its facilities are operating in compliance with the conditions required by the regulations. These inspections are conducted by accredited organisations at the expense of the operator.

A Conseil d'Etat decree stipulates the terms of application of the present Article. It sets, in particular, the frequency and the working methods of the inspection system and, in particular, the conditions applicable to the accreditation of the inspection organisations and the conditions in which the results may be held at the disposal of the administration.

Article L512-12

If the interests mentioned in Article L. 511-1 are not guaranteed, by the application of the general regulations, against the drawbacks inherent to the operation of a facility subject to declaration, the Préfet may, possibly at the request of any third parties who might be concerned and after an opinion has been given by the competent advisory commission of the département, impose any special regulations that might be necessary by a ruling.

In order to protect the interests referred to in Article L. 511-1, the Préfet may order the evaluations to be conducted or the remedies to be implemented which are rendered necessary either by the consequences of an accident or an incident occurring in the facility, or by the consequences of a failure to comply with the conditions imposed by the present Chapter. These measures are set out in rulings issued, except in case of an emergency, after an opinion has been given by the competent advisory commission on the level of the département.

Article L512-13

Facilities which, while being subject to declaration by virtue of the present Title, benefited from a lawful authorisation before the effective date of the Law of 19 December 1917, are exempted from any declaration; they are subject to the provisions of Articles L. 512-9 and L. 512-12.

SECTION III

Provisions common to authorisation and declaration — Articles L512-14 to L512-19

Article L512-14

The provisions for the application of the present Title must, when they concern waste, take into account the objectives referred to in Article L. 541-1.

Article L512-15

The operator is required to send its application for authorisation or its declaration at the same time as its building permit application.

It must renew its authorisation application or its declaration in case of transfer, in case of extension or transformation of its facilities or in case of a change in its manufacturing processes giving rise to the hazards or drawbacks mentioned in Article L. 511-1.

Article L512-16

A Conseil d'Etat decree defines the cases and conditions in which a change of operator is subject to an authorisation issued by the Préfecture in consideration of the technical and financial capacities necessary to conduct the activity or rehabilitate the site in compliance with the protection of the interests referred to in Article L. 511-1.

Article L512-17

(Inserted by Act no. 2003-699 of 30 July 2003 Article 27 Official Journal of 31 July 2003)

When a facility is stopped definitively, its operator must place its site in such a condition that it cannot harm the interests mentioned in Article L. 511-1 and that it enables a future use of the site determined jointly with the Mayor or the President of the inter-commune public cooperation body competent in town planning matters and, if it is not the operator, the owner of the land on which the facility is located.

Failing an agreement between the persons mentioned in the first paragraph, when the facility is stopped definitively, its operator places the site in such a condition that it cannot harm the interests mentioned in Article L. 511-1 and that it enables a future use of the site comparable to that of the last period of operation of the facility that has been stopped.

However, in cases where the rehabilitation provided for in application of the previous paragraph is overtly incompatible with the future use of the zone, appraised notably on the basis of the town planning documents in force on the date on which the operator informed the administration of its decision to stop the facility definitively and on the use of the land located in the vicinity of the site, the Préfet may set, after an opinion has been given by the persons mentioned in the first paragraph, more restrictive rehabilitation instructions enabling a use of the site that is consistent with the said town planning documents.

For a new site on which facilities have been authorised on a date more than 6 months later than that of the publication of Act no. 2003-699 of 30 July 2003 relating to the prevention of technological and natural risks and the repair of damages, the authorisation ruling determines, after an opinion has been given by the persons mentioned in the first paragraph, the condition to which the site must be returned when the facility stops definitively.

The terms of application of the present Article are defined by a Conseil d'Etat decree.

Article L512-18

(Inserted by Act no. 2003-699 of 30 July 2003 Article 28 Official Journal of 31 July 2003)

The operator of a classified facility in the categories referred to in Article L. 516-1 is required, at each notable change in its operating conditions, to make an updated report on the pollution of the soils on which the facility is located. This report is transmitted by the operator to the Préfet, to the Mayor of the commune in question and, if applicable, to the President of the inter-commune public cooperation body competent in town planning matters and to the owner of the land on which the facility is located. The latest report must be attached to any unilateral undertaking to sell or to buy, and to any contract performing or noting the sale of the land on which the classified facility is located.

The terms of application of the present Article are defined by a Conseil d'Etat decree.

Article L512-19

(Inserted by Act no. 2003-699 of 30 July 2003 Article 28 Official Journal of 31 July 2003)

When a facility has not been operated for three consecutive years, the Préfet may serve formal notice to the operator requiring it to stop the facility definitively.

CHAPTER III

Facilities operating by virtue of vested interests — Article L513-1

Article L513-1

Those facilities which, having been lawfully put into service, become subject, by virtue of a decree relating to the nomenclature of classified facilities, to authorisation or declaration, may continue to operate without the said authorisation or declaration on the sole condition that the operator has already informed the Préfet or informs the Préfet in the course of the year following the publication of the decree.

The information which the operator must supply to the Préfet and the measures the latter may impose in order to safeguard the interests mentioned in Article L. 511-1 are specified by a Conseil d'Etat decree.

CHAPTER IV

Inspections and disputes relating to classified facilities — Articles L514-1 to L514-20

SECTION I

Inspection and administrative sanctions — Articles L514-1 to L514-8

Article L514-1

I. - Regardless of any criminal proceedings that might be brought, and when an inspector of classified facilities or an expert appointed by the Minister responsible for classified facilities has ascertained a failure to comply with the conditions imposed on the operator of a classified facility, the Préfet serves formal notice to the latter to comply with the said conditions by a set deadline. If, on expiry of the deadline set for performance, the operator has not complied with the said order, the Préfet may:

1° Oblige the operator to deposit with the Treasury a sum corresponding to the amount of the work to be carried out, which sum will be returned to the operator gradually as the required measures are performed; the said sum is collected in the same way as that applied in matters of debts not relating to tax or to real estate. In the collection of the said sum, the State benefits from a preferential claim of the same rank as that provided for in Article 1920 of the Code général des impôts;

2° Have the required measures enforced ex officio and at the expense of the operator;

3° Issue a ruling, after an opinion has been given by the competent advisory commission of the département, suspending the operation of the facility until the conditions imposed have been fulfilled and take the necessary provisional measures.

II. - The sums deposited in application of 1° of I may be used to settle any expenses caused by the forced implementation of the measures provided for in 2° and 3° of I.

III. - When the enforceable order issued by the administrative authority to demand the payment of a deposit is subject to an objection lodged with the Administrative Judge, the President of the Administrative Tribunal or the magistrate delegated by the said President may, in a summary procedure, notwithstanding this objection, at the request of the representative of the State or of any other person concerned, decide that this action is not suspensive, when the motives put forward by the operator do not seem serious. The President of the Tribunal must give a decision within fifteen days of the case being referred to him or her.

Article L514-2

When a classified facility is operated without the declaration or authorisation required by virtue of the present Title, the Préfet serves the operator with official notice to regularise the said situation before a given date limit, by submitting, as applicable, a declaration or an authorisation application. The Préfet may, by a ruling stipulating its motives, suspend the operation of the facility until the declaration has been submitted or until the decision relating to the authorisation application.

If the operator does not comply with the notice to regularise its situation or if its authorisation application is rejected, the Préfet may, if necessary, order the closure or the suppression of the facility. If the operator does not comply within the set deadline, the Préfet may apply the procedures provided for in clauses 1° and 2° of I of Article L. 514-1.

The Préfet may have a member of the law enforcement services affix seals on any facility continuing to operate

either in infringement of measures to suppress, close or suspend it by virtue of Article L. 514-1, Article L. 514-7, or of the first two paragraphs of the present Article, or despite a ruling issued to refuse authorisation.

Article L514-3

For the duration of the suspension of operations pronounced for the application of Article L. 514-1 or Article L. 514-2, the operator is required to provide for the payment to its personnel of the salaries, allowances and remuneration of all kinds to which they were entitled hitherto.

Article L514-4

When the operation of a facility not included in the nomenclature of classified facilities presents serious hazards or drawbacks for the interests mentioned in Article L. 511-1, the Préfet, after an opinion being given - except in case of emergency - by the Mayor and the competent advisory commission of the département, serves official notice to the operator to take the necessary measures to make the duly ascertained hazards or drawbacks disappear. Should the operator fail to comply with this injunction within the allotted time, the measures provided for in Article L. 514-1 may be applied.

Article L514-5

(Act no. 2006-11 of 5 January 2006 Article 96 Official Journal of 6 January 2006)

The people responsible for inspecting classified facilities or for making expert appraisements are sworn and bound by the obligations of professional secrecy subject to the conditions and sanctions provided for in Articles 226-13 and 226-14 of the Code pénal and, if applicable, Articles 411-1 and following of the same code.

They may visit the facilities under their supervision at any time.

Except in cases of unexpected inspections, the inspectors of classified facilities must inform the operator forty-eight hours before the visit.

The inspecting officer may only take away documents after a list has been drawn up and countersigned by the operator. The list specifies the nature of the documents, their number and whether they are copies or originals. Original documents must be returned to the operator within one month following the inspection.

The operator is informed by the inspector of the results of the inspection. The inspector of classified facilities sends his or her inspection report to the Préfet and simultaneously sends a copy to the operator. The operator may inform the Préfet of his or her observations.

The provisions of the previous three paragraphs only apply to the inspections carried out in application of the present section.

Article L514-6

(Act no. 2002-276 of 27 February 2002 Article 148 Official Journal of 28 February 2002)
(Act no. 2003-591 of 2 July 2003 Article 31 III 15° Official Journal of 3 July 2003)
(Act no. 2003-591 of 2 July 2003 Article 31 III 15° Official Journal of 3 July 2003)
(Act no. 2006-11 of 5 January 2006 Article 15 Official Journal of 6 January 2006)
(Order no. 2005-1527 of 8 December 2005 Article 34 III Official Journal of 9 December 2005, in force on 1st July 2007)
(Act no. 2006-11 of 5 January 2006 Article 15 Official Journal of 6 January 2006)

I. - Rulings made for the application of Articles L. 512-1, L. 512-3, L. 512-7, L. 512-8, L. 512-12, L. 512-13, L. 513-1 to L. 514-2, L. 514-4, L. 515-13 I and L. 516-1 are subject to appeal with unlimited jurisdiction. They may be deferred to the administrative jurisdiction:

1° By the applicants or operators within a period of two months beginning on the day on which they were informed of the said rulings;

2° By third parties, persons or legal entities, communes or groups of communes concerned by the drawbacks or hazards the operation of the facility presents for the interests referred to in Article L. 511-1, within a period of four years as of the publication or posting of the said rulings, this date limit being extended, if applicable, to the end of a period of two years following the start-up of the activity of the facility.

II. - The provisions of clause 2° of I are not applicable to decisions concerning authorisations to operate quarries for which the period of time during which an appeal may be lodged is six months as of the completion of the formalities of official publication of the declaration of the start-up of operation transmitted to the Préfet by the operator.

Nor are they applicable to decisions concerning authorisations to operate classified facilities for farming, related to farming or contributing to the performance of local public services or services in the general interest for which the appeal must be lodged within one year of completion of the formalities of official publication of the declaration of the start-up of operation transmitted to the Préfet by the operator.

III. - Third parties having acquired or leased buildings or built constructions in the vicinity of a classified facility only after the posting or publication of the ruling authorising the opening of the said facility or attenuating the original regulations, are not entitled to defer the said ruling to the administrative jurisdiction.

IV. - The building permit and conveyance document for the sale, to third parties, of landed property and real estate must, if applicable, make explicit mention of the related easements created by virtue of Article L. 111-1-5 of the Code de l'Urbanisme.

Article L514-7

If it should appear that a classified facility presents, for the interests mentioned in Article L. 511-1, hazards or drawbacks which were not known at the time of its authorisation or declaration, the Minister responsible for classified facilities may order the suspension of its operations for the period of time necessary to implement the measures required

to eliminate the said hazards or drawbacks. Except in case of emergency, the suspension is ordered after the competent advisory bodies have given their opinion and after the operator has been given the opportunity to present its own remarks.

A Conseil d'Etat decree, issued after the Higher Council for Classified Facilities has given its opinion, may order the closure or suppression of any facility, listed or not in the nomenclature, which presents, for the interests mentioned in Article L. 511-1, hazards or drawbacks such that the measures provided for in the present Title cannot eliminate them.

Article L514-8

The costs corresponding to the analyses, expert appraisals or inspections required for the application of the present Title are to be borne by the operator.

SECTION II
Criminal provisions — Articles L514-9 to L514-18

Article L514-9

(Order no. 2000-916 of 19 September 2000 Article 3 Official Journal of 22 September 2000 in force on 1st January 2002)

I. - The operation of a facility without the authorisation required is punishable by one year's imprisonment and a fine of 75 000 euros.

II. - In case of conviction, the court may forbid the use of the facility. This prohibition ceases to be effective if an authorisation is issued at a later date in the conditions laid down by the present Title. The provisional execution of the prohibition may be ordered.

III. - The court may also demand the rehabilitation of the premises and set a date limit for performance.

IV. - In the latter case, the court may:

1° Either adjourn the announcement of the sentence and make the injunction to rehabilitate the premises subject to a maximum duration and to payment of a daily penalty determined by the court in case of a delay in performance; the provisions of Article L. 514-10 concerning the adjournment of the announcement of the verdict are applicable in this case;

2° Or order that the work to rehabilitate the premises be carried out automatically at the expense of the condemned party.

Article L514-10

(Act no. 2004-204 of 9 March 2004 Article 198 Official Journal of 10 March 2004, in force on 1st January 2005)

I. - In case of condemnation to a police penalty for the infringement of the rulings of the Préfecture or Minister provided for in the present Title or of the regulations for its application, the court may decide to prohibit use of the facility until the provisions concerned by the infringement have been complied with.

II. - The court may adjourn the announcement of the verdict and demand that the accused comply with these provisions.-

It sets a deadline for the performance of the stipulations concerned by the injunction. It may make the injunction subject to the payment, in case of delay in performance, of penalties of which it sets the rate and maximum duration over which they are applicable.

There may only be one such adjournment; it may be ordered even if the accused does not appear in person. The provisional execution of the adjournment and injunction may be ordered.

III. - At the hearing to which the case is adjourned, when the stipulations concerned by the injunction have been performed within the asset time, the court may either dispense the accused of a sentence or pronounce the sentence provided for.

When there has been a delay in the performance of the stipulations, the court liquidates the penalty due, if such a measure has been ordered, and pronounces the sentence provided for.

When the stipulations have not been performed, the court determines the penalty due if such a measure has been ordered, pronounces the sentence and may also order the performance of the stipulations without any further ruling required and at the expense of the condemned party.

The ruling on the sentence is made within the time limit set by the court, taking into account the time allotted for the performance of the stipulations.

IV. - The rate of the penalty for delay in performance as set in the adjournment ruling cannot be changed.

To calculate the penalty for a delay in performance, the court appraises the failure to perform, or the delay in performance of the stipulations, taking into account, if applicable, the occurrence of any events which cannot be attributed to the accused.

The penalty is collected by the Treasury like a fine in criminal proceedings; it does not give rise to legal restraint.

Article L514-11

(Order no. 2000-916 of 19 September 2000 Article 3 Official Journal of 22 September 2000 in force on 1st January 2002)

(Act no. 2003-699 of 30 July 2003 Article 29, Article 30 Official Journal of 31 July 2003)

I. - The operation of a classified facility in infringement of a measure to close, suppress or suspend it for the application of Articles L. 514-1, L. 514-2 or L. 514-7 or of a prohibition measure pronounced by virtue of Articles L. 514-9 or L. 514-10, or the failure to comply with the summons issued for the application of Article L. 512-19 is punishable by

two years' imprisonment and a fine of 150 000 euros.

II. - The continued operation of a classified facility while failing to comply with the summons to meet, within a set time, the technical stipulations determined for the application of Articles L. 512-1, L. 512-3, L. 512-5, L. 512-7, L. 512-8, L. 512-9 or L. 512-12 is punishable by six months' imprisonment and a fine of 75,000 euros.

The continued operation of a facility while failing to comply with a summons issued for the application of Article L. 514-4 by the Préfet after opinions have been given by the Mayor and the competent advisory commission in the département is punishable by the same sentence.

III. - Failure to comply with a summons to take, within the set time, measures for the surveillance or rehabilitation of a facility or its site ordered for the application of Articles L. 512-3, L. 512-5, L. 512-7, L. 512-9, L. 512-12, L. 514-2, L. 514-4 or L. 514-7 when activity has ceased is punishable by six months' imprisonment and a fine of 75,000 euros.

IV. - Failure to comply with the provisions of the first paragraph of Article L. 516-2 is punishable by six months' imprisonment and a fine of 75 000 euros.

Article L514-12

(Order no. 2000-916 of 19 September 2000 Article 3 Official Journal of 22 September 2000 in force on 1st January 2002)

Obstructing the persons responsible for inspecting or making expert appraisements of classified facilities in the exercise of their functions is punishable by one year's imprisonment and a fine of 15 000 euros.

Article L514-13

Infringements are officially reported by officers of the judiciary police and classified facility inspectors. These reports are drawn up in duplicate, one copy being sent to the Préfet and the other to the Procureur de la République. They have probative force unless proven otherwise.

Article L514-14

The court may order the public display or distribution of all or a part of the decision pronounced in the conditions provided for by Article 131-35 of the Code pénal.

Article L514-15

For the duration of the prohibition to use the facility pronounced for the application of Article L. 514-10, the operator is required to provide for the payment to its personnel of the salaries, allowances and remuneration of all kinds to which they were entitled hitherto.

Article L514-16

When legal entities under public law intervene, materially or financially, to attenuate the damage resulting from an incident or an accident caused by a facility mentioned in Article L. 511-2 or to avoid the aggravation of that damage, they are entitled to the reimbursement, by the persons responsible for the incident or the accident, of the expenses they have incurred, without prejudice to compensation for the other damage suffered. In this respect, they may claim for damages in the criminal courts referred to consecutively to the incident or accident.

This action is without prejudice to the rights opened up by Article L. 142-2 to associations corresponding to the conditions of this Article.

Article L514-17

The penalties provided for in the present section are applicable to those under the jurisdiction of military tribunals of the armed forces in accordance with the Code de justice militaire, and notably its Articles 165 and 171.

Article L514-18

I. - Legal entities may be declared criminally responsible, in the conditions provided for in Article 121-2 of the Code pénal, for the infringements defined in Articles L. 514-9 and L. 514-11.

II. - The possible sentences for legal entities are:

1° Fines, in accordance with the terms of Article 131-38 of the Code pénal;

2° The sentences mentioned in clauses 2°, 3°, 4°, 5°, 6°, 8° and 9° of Article 131-39 of the same code.

III. - The prohibition mentioned in clause 2° of Article 131-39 of the Code pénal covers the activity in which or on the occasion of which the infringement was committed.

SECTION III

Protection of third parties — Articles L514-19 to L514-20

Article L514-19

Authorisations are granted subject to the rights of third parties.

Article L514-20

(Act no. 2003-699 of 30 July 2003 Article 35 Official Journal of 31 July 2003)

When a facility subject to authorisation has been operated on a piece of land, a person selling that piece of land is required to inform the purchaser of this in writing; he or she also informs them, to the best of his knowledge, of the major hazards or drawbacks resulting from the said operation.

If the seller is the operator of the facility, he or she also indicates to the purchaser in writing if the activity gave rise to the handling or storage of chemical or radioactive substances. The deed of sale stipulates that this formality has been

accomplished.

Failing this, the purchaser may choose between suing for the sale to be cancelled or receiving a refund of a part of the price; the purchaser may also demand the rehabilitation of the site at the expense of the seller, when the cost of the said rehabilitation does not seem disproportionate in relation to the sale price.

CHAPTER V
Provisions specific to certain facilities — Articles L515-1 to L515-26

SECTION I
Quarries — Articles L515-1 to L515-6

Article L515-1

(Act no. 2003-591 of 2 July 2003 Article 31 III 16° Official Journal of 3 July 2003)
(Act no. 2003-591 of 2 July 2003 Article 31 III 16° Official Journal of 3 July 2003)
(Act no. 2005-157 of 23 February 2005 Article 42 Official Journal of 24 February 2005)
(Order no. 2004-637 of 1 July 2004 Article 34-4 Official Journal of 2 July 2004, in force on 1st July 2006)
(Act no. 2004-1343 of 9 December 2004 Article 78 XXXII 4 Official Journal of 10 December 2004, in force on 1st July 2005)
(Act no. 2005-157 of 23 February 2005 Article 42 Official Journal of 24 February 2005)
(Order no. 2004-637 of 1 July 2004 Article 34-4 Official Journal of 2 July 2004, in force on 1st July 2006)
(Act no. 2005-1129 of 8 September 2005 Article 1 Official Journal of 9 September 2005)

Quarry operations are subject to the administrative authorisation provided for in Article L. 512-1, except for small, low-production, open-air marl, chalk, or granitic sand quarries or quarries for any material destined for marning soils, without commercial purposes, on the land of the operators or in the quarry of the commune, which are subject to the provisions applicable to facilities under the declaration system presented in section 2 of Chapter II of the present Title. This exception also applies to small-sized stone, sand and clay quarries destined for the restoration of historic monuments or buildings featuring in the safeguarding and enhancement plan of a protected area listed or registered as buildings the demolition, removal or alteration of which are prohibited, or the restoration of ancient buildings the patrimonial or architectural interest of which justifies this restoration with their original materials. The same exception applies to drilling operations carried out prior to the opening or extension of small-sized and low-yield marble stone quarries. These stone, sand and clay quarries and these drilling operations are subject to periodic inspections, the cost of which is borne by the operator, carried out by the accredited bodies described in article L. 512-11.

The administrative authorisation referred to in the previous paragraph may not exceed thirty years.

This authorisation may not exceed fifteen years for pieces of land on which clearing was authorised in application of Articles L. 311-1 or L. 312-1 of the Code forestier. However, when the use of this land is associated with a transformation industry requiring large-scale investments, the duration of the operation authorisation may be extended to thirty years after such an opinion is given by the département commission competent in matters of nature, landscapes and sites.

The authorisation may be renewed as provided for in Article L. 512-2.

Any authorisation to operate quarries is subject, in wine-growing areas classified as designation of origin or high-quality origin, and in Vin de Pays production areas, to the opinion of the National Institute of Designations of Origin and the National Professional Office for Wines.

The time necessary to carry out diagnoses and preventive archaeological dig operations interrupts the duration of the administrative quarry operation authorisation.

NB: Order 2005-1129 of 8 September 2005: The provisions of article 1 of Order 2005-1129 apply to Mayotte.

Article L515-2

(Order no. 2004-637 of 1 July 2004 Article 34-4 Official Journal of 2 July 2004, in force on 1st July 2006)
(Repealed by Act no. 2004-1343 of 9 December 2004 Article 78 XXXII 4 Official Journal of 10 December 2004, in force on 1st July 2005)

I. - The quarries commission of the département is presided over by the Préfet. It is composed, in equal proportions:

1° Of representatives of the relevant public administrations;

2° Of elected representatives of the local authorities;

3° Of representatives of the quarry operator's profession and of users of materials from quarries;

4° Of representatives of associations for the protection of the environment and of the agricultural professions.

II. - The President of the Conseil Général is automatically a member of the commission.

III. - The quarries commission of the département examines the applications for quarry operation authorisations provided for in Articles L. 512-1 and L. 512-2 and issues an opinion on the said applications stipulating its motives.

IV. - The Mayors of communes on the territory of which a quarry operation is projected are also automatically members of the commission when it examines the authorisation application for the said operation.

NB: Article 34-4 of Order no. 2004-637 of 1st July 2004 has been inserted by article 78 XXXII 4 of Law no. 2004-1343 of 9 December 2004.

Entry into force on 1st July 2005 is enacted by article 34-7 of the same Order, inserted by article 78 XXXII 4 of Law no. 2004-1343.

Article L515-3

(Order no. 2004-637 of 1 July 2004 Article 34-4 Official Journal of 2 July 2004, in force on 1st July 2006)
(Act no. 2004-1343 of 9 December 2004 Article 78 XXXII 4 Official Journal of 10 December 2004, in force on 1st July 2005)

The département quarries plan defines the general conditions governing the location of quarries in the département. It takes into account the national economic interest, the resources and needs for materials in the département and neighbouring départements, the protection of landscapes, sites and sensitive natural habitats and the need for balanced management of the territory, while encouraging sparing use of raw materials. It sets the targets to be achieved in terms of site rehabilitation and redevelopment.

The département quarries plan is drawn up after consultation of the farming and forestry land management document referred to in Article L. 112-1 of the Code rural.

It is approved, after the opinion of the Conseil Général has been given, by the Préfet. It is made public in the conditions set by decree.

Authorisations to operate quarries issued under the terms of the present Title must be compatible with this plan.

Article L515-4

Any quarry operator failing to comply with the obligations regarding the rehabilitation of a quarry authorised by virtue of Articles L. 512-1 and L. 512-2 may be refused a new operation authorisation.

Article L515-5

Quarry operations already in existence at the date of the decree including quarries in the nomenclature provided for in Article L. 511-2 must be rendered compliant with the obligations in terms of financial guarantees provided for in Article L. 516-1, within a period of five years as of 14 June 1994.

Article L515-6

I. - A Conseil d'Etat decree determines the particular terms of the application to quarry operations of the provisions of Articles L. 512-1 and L. 512-2.

II. - Notwithstanding the provisions of Article L. 513-1, quarries complying with the provisions of Articles 106 (old), 109 and 109-1 of the Code minier may continue to be operated in accordance with the stipulations that were applicable to them prior to the inclusion of quarries in the nomenclature of classified facilities.

The stipulations referred to in the previous paragraph are, as of the inclusion of quarries in the nomenclature of classified facilities, subject to the conditions and sanctions of the present Title and its enactments, and are governed by the provisions of Articles L. 512-3 and L. 512-7.

Authorisation and licence applications or declarations presented prior to the inclusion of quarries in the nomenclature of classified facilities are examined in accordance with the provisions applicable under the Code minier. The stipulations imposed at the end of these procedures are governed by the provisions of the present Title.

SECTION II

Underground storage of hazardous products — Article L515-7

Article L515-7

(Act no. 2004-105 of 3 February 2004 Article 20 Official Journal of 4 February 2004)

The underground storage in deep geological strata of hazardous products of whatever nature is subject to administrative authorisation. This authorisation may only be granted or extended for a limited duration and may therefore set down the storage reversibility conditions. The products must be removed on expiry of the authorisation.

At the end of an authorised period of operation of at least twenty five years, or if the depositing of waste has ceased for at least one year, the authorisation may be extended for an unlimited duration on the basis of an ecological assessment comprising an impact study and a presentation of the alternative solutions to maintaining the storage and their consequences. The renewal is accompanied by a new evaluation of the financial guarantees provided for in Article L. 541-26 or Article L. 552-1.

For underground storage of final waste, the Environment and Energy Management Agency may conclude with the operator, before the authorisation referred to in the first paragraph is granted, a contract determining the technical and financial conditions of the undertaking and of the continuation of operations, taking account of the possibility that the extension might be refused. This contract is submitted to the representative of the State for an opinion.

The provisions of the two previous paragraphs do not apply to the underground storage of radioactive waste.

SECTION III

Facilities likely to give rise to easements of public utility — Articles L515-8 to L515-12

Article L515-8

(Act no. 2003-699 of 30 July 2003 Article 3 Official Journal of 31 July 2003)

I. - When an authorisation application concerns a classified facility to be implanted on a new site and likely to create, by danger of explosion or emanation of harmful products, very serious risks for the health and safety of neighbouring populations and for the environment, easements of public interest may be established concerning use of the land and the performance of works subject to planning permission.

The above provisions are also applicable in case of additional risks created by a new facility on an existing site or by a modification of an existing facility, requiring that a new authorisation be issued.

II. - These easements include, as necessary:

1° The limitation or prohibition of the right to set up constructions or structures and to develop campsites or caravan parking areas;

2° The subordination of construction permits to compliance with technical stipulations to limit the danger of exposure to explosions or concerning the insulation of buildings against toxic emanations;

3° The limitation of the number of people employed in any industrial and commercial facilities that might be created at a later date.

III. - They take account of the nature and intensity of the risks incurred and may, within a given perimeter, apply in a modulated manner from one zone to another. They may not require the demolition or surrender of existing constructions edified in compliance with the legislative and regulatory provisions in force before the establishment of the said easements.

IV. - A Conseil d'Etat decree, issued after the Higher Council of Classified Facilities has given its opinion, sets the list of categories, and any applicable capacity thresholds, of the facilities in the vicinity of which these easements may be established.

Article L515-9

The establishment of easements of public interest is decided on inside a perimeter defined around the facility either at the request of the applicant for the authorisation or of the Mayor of the commune, or at the initiative of the Préfet.

A Conseil d'Etat decree determines the conditions for defining the perimeter, taking account notably of the facility's safety equipment and the characteristics of the site.

The project defining the easements and the perimeter is subject to a public enquiry, in accordance with the provisions of Articles L. 123-1 to L. 123-16, and to the opinions of the municipal councils of the communes within the perimeter.

The easements and their perimeter are fixed by the authority that is competent to issue the classified facility authorisation.

Article L515-10

The easements are attached to the Land Use Plan of the commune in the conditions provided for in Article L. 126-1 of the Code de l'urbanisme.

Article L515-11

When the establishment of the easements provided for in Article L. 515-8 causes a direct, material, certain prejudice, it opens a right to compensation in favour of the owners, the holders of the real rights or their assigns.

The claim for compensation must be sent to the operator of the facility within three months as of the notification of the decision establishing the easement. Failing an amicable agreement, the compensation is fixed by the compulsory purchase judge.

The prejudice is estimated at the date of the decision in the first instance. However, only the possible use of the property and property rights one year before the opening of the public enquiry provided for in Article L. 515-9 is taken into consideration. The qualification or not of the land as eligible for building is appraised in accordance with the provisions of Article L. 13-15 of the Code de l'expropriation pour cause d'utilité publique.

The judge limits or refuses the compensation if the acquisition of rights to a piece of land was, given the time when it occurred or any other circumstance, carried out with the purpose of obtaining compensation.

Payment of the compensation is at the expense of the operator of the facility.

Article L515-12

(Act no. 2002-276 of 27 February 2002 Article 149 Official Journal of 28 February 2002)

In order to protect the interests mentioned in Article L. 511-1, the easements provided for in Articles L. 515-8 to L. 515-11 may be established on land polluted by the operation of a facility, on the land in waste storage sites or in a strip of 200 metres around the operation zone, or on the land formerly occupied by quarries or around these sites, on surfaces whose integrity is a necessary condition for public health and safety. These easements may also include the limitation or prohibition of modifications of the state of the surface or sub-surface and allow the implementation of the stipulations relating to the surveillance of the site.

In the case of waste storage facilities, these easements may be established at any time. They cease to be effective if the waste is removed from the storage zone.

These easements give rise to compensation in the conditions provided for in Article L. 515-11.

SECTION IV

Facilities in which operations subject to approval are conducted Article L515-13

Article L515-13

(Order no. 2000-916 of 19 September 2000 Article 3 Official Journal of 22 September 2000 in force on 1st January 2002)

(Act no. 2003-591 of 2 July 2003 Article 31 III 17° Official Journal of 3 July 2003)

I. - The use, in certain categories of classified facility, of substances, products, organisms or manufacturing processes may, for the enforcement of Community directives relating to the protection of the environment, be subject to approval. A Conseil d'Etat decree fixes the terms of application of the present paragraph and notably the conditions in which the approval is issued and the time limits within which it is granted or on expiry of which it is deemed to have been granted.

II. - As stated in Article 90 II of the special amending acts for 1992 (no. 92-1476 of 31 December 1992), any application for the approval mentioned in I relating to the contained use of genetically modified organisms, is subject to a tax representing the application examination costs and allocated to the general budget of the State. It is due when the application file is submitted. Its amount is set at 1,525 euros per application file. It is reduced to 305 euros when the application for approval concerns a contained use other than the first one.

Collection of and disputes relating to the tax established in the previous paragraph are handled by the accountants of the Treasury in accordance with the terms set out in Articles 81 to 95 of decree no. 62-1587 of 29 December 1962 establishing the general regulations of public accounting, in the version in force at the date of 13 July 1992.

SECTION V

Waste disposal facilities — Article L515-14

Article L515-14

(Order no. 2005-1129 of 8 September 2005 Article 2 II Official Journal of 9 September 2005)

Decisions relating to waste disposal facilities for the application of the present Title must include the measures provided for in Article L. 516-1.

SECTION VI

Facilities subject to a technological risk prevention plan — Articles L515-15 to L515-26

Article L515-15

(Inserted by Act no. 2003-699 of 30 July 2003 Article 5 Official Journal of 31 July 2003)

The State draws up and implements technological risk prevention plans of which the objective is to limit the effects of accidents that could occur in the facilities in the list provided for in paragraph IV of Article L. 515-8 and could have effects on public health and safety either directly or by pollution of the habitat.

These plans define the perimeter of exposure to the risks, taking into account the nature and intensity of the technological risks described in the danger studies and the prevention measures implemented.

Article L515-16

(Inserted by Act no. 2003-699 of 30 July 2003 Article 5 Official Journal of 31 July 2003)

Within the perimeter of risk exposure, the technological risk prevention plans may, according to the type of risks, their seriousness, their probability and their kinetics:

I. - Define the zones in which any developments or structures or any new buildings or extensions of existing buildings are forbidden or are conditional on compliance with stipulations relating to their construction, use or operation.

In these zones, the communes or the inter-commune public cooperation bodies competent in such matters may establish an urban right of pre-emption in the conditions defined in Article L. 211-1 of the Code de l'urbanisme.

II. - Define, within the zones provided for in I, sectors where, due to the existence of high risks of an accident with rapid kinetics presenting a serious danger to human life, the communes or the inter-commune public cooperation bodies competent in such matters may establish a right to relinquish buildings or parts of buildings existing at the date of approval of the plan, which right is exercised in the conditions defined in Articles L. 230-1 and following of the Code de l'urbanisme. However, to determine the purchase price, the value of the good is assessed without taking account of any additional depreciation brought about by the establishment of the easement in accordance with I. The communes or the inter-commune public cooperation body may sign a contract with a public body and entrust to the latter the task of purchasing the property to be relinquished.

III. - Define, within the zones provided for in I, sectors where, due to the existence of high risks of an accident with rapid kinetics presenting a serious danger to human life, the State can declare that it is in the public interest for the communes or the inter-commune public cooperation bodies competent in such matters to carry out compulsory purchase in their favour, in the conditions provided for in the Code de l'expropriation pour cause d'utilité publique, of the property and real property rights, when the means required to safeguard and protect the population are impossible or more costly than compulsory purchase.

The procedure provided for in Articles L. 15-6 to L. 15-8 of the Code de l'expropriation pour cause d'utilité publique is applicable when the seriousness of the potential risks renders it necessary to take immediate possession.

To determine the purchase price or the amount of compensation, any additional depreciation of the property caused by the easement established in accordance with I is not taken into consideration.

IV. - Prescribe measures for the protection of the population from the risks incurred, relating to the development, use or operation of the constructions, structures, facilities and communication routes existing at the date when the plan was approved, which must be taken by the owners, operators and users within a date limit determined in the plan. These measures may notably include stipulations relating to the circulation and parking of vehicles transporting hazardous goods.

When protection work is stipulated for the application of the previous paragraph, it may concern only developments of which the cost does not exceed the limits set by the Conseil d'Etat decree mentioned in Article L. 515-25.

V. - Define recommendations to enhance the protection of the population in the face of the risks incurred and relating to the development, use or operation of the constructions, structures, communication routes and campsites or caravan parking areas, which can be implemented by the owners, operators and users.

Article L515-17

(Inserted by Act no. 2003-699 of 30 July 2003 Article 5 Official Journal of 31 July 2003)

The measures referred to in II and III of Article L. 515-16 may be taken only in case of risks created by facilities already in existence at the date of publication of Act no. 2003-699 of 30 July 2003 on the prevention of technological and natural risks and the repair of damage.

Article L515-18

(Inserted by Act no. 2003-699 of 30 July 2003 Article 5 Official Journal of 31 July 2003)

The measures provided for by the technological risk prevention plans, in particular in II and III of Article L. 515-16, are implemented progressively according notably to the probability, seriousness and kinetics of the potential accidents, as well as the cost of the measures being envisaged in relation to the expected gain in safety.

Article L515-19

(Inserted by Act no. 2003-699 of 30 July 2003 Article 5 Official Journal of 31 July 2003)

I. - The State, the operators of the facilities at the origin of the risk and the competent local authorities or competent groups of local authorities, on the condition that they collect the Taxe professionnelle on the perimeter covered by the plan, finance the measures taken in accordance with II and III of Article L. 515-16. To this effect, they conclude an agreement fixing their respective contributions. Prior to the conclusion of this agreement, the right to relinquish property mentioned in II of the same Article may not be established and the compulsory purchase mentioned in the first paragraph of III of the same Article may be declared in the public interest only if the seriousness of the potential risks renders it necessary to take immediate possession in accordance with the procedure mentioned in the second paragraph of III.

Without prejudice to the obligations placed on the operator by the Préfet according to Articles L. 512-1 to L. 512-5 and Article L. 512-7, these agreements may allow the State, the local authorities or groups of local authorities to contribute to the financing by the operator of additional risk prevention measures making it possible to reduce the sectors mentioned in II and III of Article L. 515-16 when this financial contribution is less than the costs they would incur in implementing the measures provided for in II and III.

II. - An agreement concluded between the competent local authorities or groups of local authorities and the operators of the facilities at the origin of the risk, within a period of one year as of the approval of the technological risk prevention plan, specifies the conditions of the development and management of the land situated in the zones mentioned in I and in the sectors mentioned in II and III of Article L. 515-16.

III. - An agreement concluded between the competent local authorities or groups of local authorities, the operators of the facilities at the origin of the risk and the social housing organisations mentioned in Article L. 411-2 of the Code de la construction et de l'habitation which lease buildings located in the sectors mentioned in III of Article L. 515-6 of the present Code defines, if applicable, a programme for the re-housing of the occupants of the buildings located within these sectors. This agreement may also involve the other lessors of buildings located within these same sectors.

Article L515-20

(Inserted by Act no. 2003-699 of 30 July 2003 Article 5 Official Journal of 31 July 2003)

The land located within the perimeter of the technological risk prevention plan which the communes or groups of communes and the public bodies mentioned in the last sentence of II in Article L. 515-16 have acquired by pre-emption, surrender or compulsory purchase may be sold at cost price to the operators of the facilities at the origin of the risk.

The use to which this land is put must not aggravate the exposure of people to the risks.

Article L515-21

(Inserted by Act no. 2003-699 of 30 July 2003 Article 5 Official Journal of 31 July 2003)

The technological risk prevention plan mentions the easements of public interest established for the application of Article L. 515-8 around the facilities located within the perimeter of the plan.

Article L515-22

(Inserted by Act no. 2003-699 of 30 July 2003 Article 5 Official Journal of 31 July 2003)

The Préfet defines the method for the consultation relating to the drawing up of the draft of the technological risk prevention plan in the conditions provided for in Article L. 300-2 of the Code de l'urbanisme.

The drawing up of the technological risk prevention plan involves, notably, the operators of the facilities at the origin of the risks, the communes on the territory of which the plan must be applied, the public inter-commune cooperation bodies competent in town planning matters and whose perimeter of intervention is covered wholly or partially by the plan, and the local committee for the supply and exchange of information created in accordance with Article L. 125-2.

The Préfet collects their opinion on the draft of the plan which is then subject to a public enquiry in the conditions mentioned in Articles L. 123-1 and following.

The technological risk prevention plan is approved by a ruling of the Préfecture.

It is reviewed in accordance with the same provisions.

Article L515-23

(Inserted by Act no. 2003-699 of 30 July 2003 Article 5 Official Journal of 31 July 2003)

The approved technological risk prevention plan constitutes a valid easement of public interest. It is brought to the knowledge of the Mayors of the communes located within the perimeter of the plan in accordance with Article L. 121-2 of the Code de l'urbanisme. It is attached to the local town planning plans in accordance with Article L. 126-1 of the same code.

Article L515-24

(Act no. 2003-699 of 30 July 2003 Article 5 Official Journal of 31 July 2003)

(Order no. 2005-1527 of 8 December 2005 Article 34 I Official Journal of 9 December 2005, in force on 1st July 2007)

I. - Infringements of the stipulations enacted for the application of I of Article L. 515-16 of the present code are punishable by the sentences provided for in Article L. 480-4 of the Code de l'Urbanisme.

II. - The provisions of Articles L. 461-1, L. 480-1, L. 480-2, L. 480-3 and L. 480-5 to L. 480-12 of the Code de l'Urbanisme are also applicable to the infringements referred to in I, subject only to the following conditions:

1° The infringements are also reported by the civil servants and agents who are commissioned and sworn for that purpose by the administrative authority that is competent in matters relating to facilities that are classified for the protection of the environment;

2° The visiting right provided for in Article L. 461-1 of the said code is also open to the representatives of the administrative authority that is competent in matters relating to facilities that are classified for the protection of the environment.

Article L515-25

(Inserted by Act no. 2003-699 of 30 July 2003 Article 5 Official Journal of 31 July 2003)

A Conseil d'Etat decree specifies the terms of application of Articles L. 515-15 to L. 515-24 and the time limits within which the technological risk prevention plans must be drawn up and implemented. For classified facilities under the responsibility of the Defence Ministry and for depots of old ammunition, this decree may, should the need arise, provide for the methods for informing and consulting with the public to be adapted to the requirements of national defence or to those specific to depots of old ammunitions.

Article L515-26

(Inserted by Act no. 2003-699 of 30 July 2003 Article 5 Official Journal of 31 July 2003)

All operators of establishments including at least one facility featuring in the list in IV of Article L. 515-8 of the present code or referred to in Article 3-1 of the Code minier, are required to have an estimation made of the probability of an accident occurring in the said facility and of the cost of the potential material damage that would be caused to third parties in case of such an accident, and to transmit the assessment report to the Préfet as well as to the President of the local committee for the supply and exchange of information relating to risks created in accordance with Article L. 125-2 of the present code.

This estimation is made for each of the major accidents identified in the danger study concerning the establishment carried out in accordance with the regulations on classified facilities. It is reviewed on the occasion of reviews of the aforementioned danger study.

This estimation cannot be used against the operator by third parties in case of disputes linked to an accident occurring in the facility.

A Conseil d'Etat decree specifies the terms of application of the present Article.

CHAPTER VI

Financial provisions — Articles L516-1 to L516-2

Article L516-1

The starting up of the activity, be it after the initial authorisation or after the authorisation of a change in operator, of facilities defined by a Conseil d'Etat decree presenting major risks of pollution or accident, of quarries and of waste storage facilities is subordinated to the provision of financial guarantees.

These guarantees are destined to cover, depending on the nature of the hazards or the drawbacks of each category of facility, the surveillance of the site and the safety of the facility, any interventions in case of an accident before or after closure and rehabilitation after closure. They do not cover compensation due by the operator to any third parties who might suffer a prejudice due to pollution or an accident caused by the facility.

A Conseil d'Etat decree determines the nature of the guarantees and the rules according to which its amount is fixed.

Without prejudice to the administrative fine procedure provided for in Article L. 541-26, any failure to comply with the obligations in terms of financial guarantees gives rise to the deposit procedure provided for in Article L. 514-1, aside from any criminal proceedings that might be initiated.

Article L516-2

(Inserted by Act no. 2003-699 of 30 July 2003 Article 31 Official Journal of 31 July 2003)

For facilities in the categories referred to in Article L. 516-1, the operator is required to inform the Préfet in case of a substantial modification of the technical or financial capacities referred to in Article L. 512-1.

If the Préfet notes that those technical and financial capacities are not likely to enable the obligations in Article L. 512-1 to be fulfilled, the Préfet may impose the provision or the review of the financial guarantees referred to in Article L. 516-1.

A Conseil d'Etat decree defines the terms of application of Article L. 516-1 and of the present Article, as well as the conditions in which they are applied to facilities started up or authorised in a regular manner before the publication of Act no. 2003-699 of 30 July 2003 on the prevention of technological and natural risks and the repair of damage.

CHAPTER VII

Miscellaneous provisions — Articles L517-1 to L517-2

Article L517-1

Concerning the facilities belonging to departments and organisations under the authority of the State which are included in a list drawn up by decree, the powers attributed to the Préfet by the present Title are exercised either by the Minister responsible for classified facilities or by the Minister for defence, for the facilities in the département.

The provisions of Articles L. 515-8 to L. 515-11 are not applicable to those of the said facilities which are under the authority of the Minister for Defence.

Article L517-2

The terms of application of the present Title are set by decrees approved by the Conseil d'Etat.

TITLE II

Chemical products and biocides — **Articles L521-3 to L522-1**

CHAPTER I

Control of chemical products — Articles L521-3 to L521-2

Article L521-1

(Order no. 2001-321 of 11 April 2001 Article 1 Official Journal of 14 April 2001)

I. - The aim of the provisions of the present Chapter is to protect people and the environment against the risks that can result from chemical substances and preparations.

II. - They apply to chemical substances, which is to say to the chemical elements and to their compounds in the natural state or as obtained by any production process, including any additive required to conserve the stability of the product and any impurity deriving from the process, excluding any solvent which can be separated without affecting the stability of the substance or modifying its composition, either alone or incorporated in preparations.

III. - The provisions of II of Article L. 521-6 also apply:

1° To manufactured products or equipment containing hazardous substances or preparations, defined by the European regulations or by decrees approved by the Conseil d'Etat;

2° To land, sea and air transport of hazardous substances and preparations.

IV. - For the purposes of the present Chapter, we mean by:

1° "Preparations": mixtures or solutions composed of two or more substances;

2° "Placing on the market": placing at the disposal of third parties, either free or for a charge.

Article L521-2

(Order no. 2001-321 of 11 April 2001 Article 1 Official Journal of 14 April 2001)

The present Chapter does not apply:

1° To the following substances and preparations at the finished stage, destined for the end user, to be used as:

- medicines for human and veterinary, mentioned in Article L. 5111-1 of the Code de la santé publique;
- cosmetic products in the sense of Article L. 5131-1 of the Code de la santé publique;
- foodstuffs;
- animal feed;

2° To other substances and preparations subject to requirements at least equivalent to those provided for in the present Chapter;

3° To radioactive substances containing one or several radionuclides which are subject to another set of regulations.

SECTION I

Declaration of new substances — Articles L521-3 to L521-5

Article L521-3

(Order no. 2001-321 of 11 April 2001 Article 1 Official Journal of 14 April 2001)

I. - Prior to the placing on the market of a substance that is not included in the European inventory (EINECS) of substances existing on the European market at 18 September 1981, published in the Official Journal of the European Community no. C 146 of 15 June 1990, any producer or importer of such a substance must send a declaration to the administrative authority. If the substance presents hazards for humans or the environment, it indicates the precautions to be taken to deal with them.

The declarations provided for in the first paragraph are accompanied, in the conditions defined by a Conseil d'Etat decree, by a technical file providing information for the appraisal of the foreseeable hazards and risks, immediate or deferred, which the substance might present for humans and for the environment.

II. - However, the preceding provisions do not apply:

1° To the importer of a substance from a member State of the European Community, if that substance has been placed on the market in that country in accordance with the national rules applied for the enforcement of the directives of

the Council of the European Community;

2° To the categories of substances subject to other procedures than those provided for in the present Chapter and which take account of the risks incurred by humans and the environment. These categories are defined by a Conseil d'Etat decree.

III. - Substances destined for research and development activities and substances presenting a very low risk are subject to a simplified declaration or are exempted from declaration. A Conseil d'Etat decree specifies the terms of application of the present paragraph.

IV. - The importation of a substance from a State that is not a member of the European Community is considered to be a placing on the market, except for a substance that is in transit.

V. - The provisions of the present Article also apply to chemical substances incorporated into preparations.

Article L521-4

(Order no. 2001-321 of 11 April 2001 Article 1 Official Journal of 14 April 2001)

The placing on the market of substance subject to declaration by virtue of Article L. 521-3 may only take place after expiry of a set period of time as of the declaration and accompanied by a file judged acceptable by the administrative authority. This period of time, defined by a Conseil d'Etat decree, depends notably on the quantity declared for the placing on the market.

Article L521-5

(Order no. 2001-321 of 11 April 2001 Article 1 Official Journal of 14 April 2001)

I. - Any producer or importer of one of the substances subject to declaration by virtue of Article L. 521-3 must stay informed at all times of changes in knowledge of the impact on humans and on the environment linked with the release of the said substances. They must keep the administrative authority informed:

1° Of modifications concerning the information supplied in the declaration file as defined in Article L. 521-3;

2° Of new data on the effects of the substance on humans and on the environment.

II. - The administrative authority may demand of the producers and importers that they supply the necessary technical files to re-examine the substances that can be subject to the measures provided for in Article L. 521-6.

SECTION II

Provisions common to substances and preparations — Articles L521-6 to L521-11

Article L521-6

(Order no. 2001-321 of 11 April 2001 Article 1 Official Journal of 14 April 2001)

I. - All producers, importers or industrial users implement the measures necessary to prevent the risks linked with the release into the environment of chemical substances and preparations. They keep at the disposal of the administrative authority:

1° The composition of the substances and preparations they have placed on the market;

2° Samples of the substances or preparations they have placed on the market; 3° Precise figures on the quantities of substances and preparations they have placed on the market or distributed, with a breakdown according to the different uses brought to their knowledge or of which they can reasonably be aware;

4° Any additional information on the effects on humans and on the environment;

II. - The following measures may be taken for substances and preparations presenting unacceptable hazards or risks for humans or the environment, as well as for manufactured products or equipment containing them in the conditions provided for in Article L. 521-1:

1° A measure of total, provisional or partial prohibition of their production, importation, exportation, transport, placing on the market or certain uses;

2° A stipulation restricting or regulating the production, importation, exportation, placing on the market, certain uses, retrieval, regeneration, recycling, elimination, storage, transport, composition, labelling, packaging, commercial name and advertising, as well as any other condition required to preserve public health or the environment.

III. - The producers, importers or exporters of chemical substances and preparations are required, for the enforcement of the European provisions, to supply the administrative authority at intervals with precise figures on the quantities of substances, either alone or incorporated into preparations, that they have produced, imported, exported, stored, retrieved, regenerated or destroyed.

IV. - A Conseil d'Etat decree sets the conditions in which the measures provided for by the present Article are taken.

Article L521-7

(Order no. 2001-321 of 11 April 2001 Article 1 Official Journal of 14 April 2001)

I. - The information for which industrial or trade secrecy may not be invoked may be communicated to third parties by the administrative authority.

II. - Concerning substances declared under the terms of Article L. 521-3, the following information may not be covered by industrial or trade secrecy:

1° The trade name of the substance;

2° The name of the producer or declarant;

3° The physical-chemical properties of the substance;

4° The possibility of rendering the substance harmless;

5° The summary of the toxicological and eco-toxicological tests;

6° The degree of purity of the substance and the identity of the impurities or additives classified as hazardous by the terms of Article L. 521-9 if these components are indispensable for the classification and labelling of the substance ;

7° The recommended methods and precautions relating to the handling, storage, transport, prevention of fires and the other hazards the product might present, and to the emergency measures to be taken in case of accidental spilling and in case of an accident involving a person;

8° The information contained in the safety data sheet;

9° In the case of hazardous substances classified and labelled by the terms of Article L. 521-9, the methods of analysis to be used to detect them in the environment and to determine the direct exposure of humans.

III. - Any person having transmitted to the administrative authority information in relation to which they claim industrial or trade secrecy, may indicate the information they consider as being commercially sensitive, whose diffusion could be prejudicial to them, and for which they request confidentiality in relation to all persons other than the administrative authority. In this case, justifications must be supplied to the administrative authority which will examine whether the request is well founded.

The person having transmitted the information is required to inform the administrative authority if the said person should decide to make public information in relation to which the administrative authority had recognised obligations of industrial and trade secrecy.

IV. - The administrative authority takes all useful steps to ensure that the information recognised by itself or by the competent authority of a member State of the European Community as being covered by obligations of industrial or trade secrecy is accessible only to the persons it has appointed. These persons are bound by professional secrecy in accordance with the terms set in Articles 126-13 and 226-14 of the Code pénal, except in relation to the judiciary authorities acting within the framework of criminal proceedings.

A decree sets the conditions for the protection of the secret of the full formula of preparations.

Article L521-8

(Order no. 2001-321 of 11 April 2001 Article 1 Official Journal of 14 April 2001)

Substances produced or placed on the market and featuring in the inventory mentioned in Article L. 521-3 are examined at the initiative of the administrative authority or in accordance with the terms of European Community decisions relating to the said inventory.

The producers or suppliers supply, at the request of the administrative authority, the technical files necessary to examine or re-examine the substances, which may be subject to the measures provided for in Article L. 521-6.

Sellers and industrial users hold at the disposal of the administrative authority the information relating to uses required to examine or re-examine the substances.

The producers and importers of the substances or of preparations containing them are required to inform the administrative authority of any new facts, resulting either from an improvement in technical and scientific knowledge or from the observation of the effects of the substances, showing new hazards or risks for humans or for the environment.

Article L521-9

(Order no. 2001-321 of 11 April 2001 Article 1 Official Journal of 14 April 2001)

The rules of classification, packaging and labelling of substances and preparations, and the rules for drawing up safety data sheets are defined in the conditions provided for by a Conseil d'Etat decree.

Article L521-10

(Order no. 2001-321 of 11 April 2001 Article 1 Official Journal of 14 April 2001)

All complementary information or verification tests required for the application of Articles L. 521-3, L. 521-4, L. 521-5 and L. 521-8 can be requested by the administrative authority of the producers or importers and at the expense of the latter.

Article L521-11

(Order no. 2001-321 of 11 April 2001 Article 1 Official Journal of 14 April 2001)

Expenses resulting from the conservation, examination, processing and appraisal of the information supplied in the technical files referred to in Articles L. 521-3, L. 521-5 and L. 521-8, as well as in Article L. 1342-1 of the Code de la santé publique may be charged to producers and importers.

SECTION III

Identification and investigation of offences — Articles L521-12 to L521-16

Article L521-12

(Order no. 2001-321 of 11 April 2001 Article 1 Official Journal of 14 April 2001)

In addition to the judicial police acting in accordance with the Code de procédure pénale, the following are authorised to proceed to the inspections required to verify compliance with the obligations of this Chapter and, in the performance of their roles, to detect and investigate infringements of this Chapter and of the enactments for its application:

1° Sworn agents commissioned under the conditions determined by a Conseil d'Etat decree, belonging to the State departments for the environment, agriculture and transport;

2° Inspectors of classified facilities;

3° Agents of the State department for competition, consumption and repression of fraud;

4° Works inspectors and assessors;

5° Customs officers;

6° The agents mentioned in Article L. 1421-1 of the Code de la santé publique;

7° Inspectors of the French Agency for the Safety of Health Products mentioned in L. 5313-1 of the Code de la santé publique;

8° Veterinary inspectors;

9° Engineers and technicians of the plant protection department;

10° The agents authorised to carry out technical inspections on board aircraft;

11° Administrators and inspectors of maritime affairs, officers of the technical and administrative body of maritime affairs, inspectors of maritime affairs and seafarers' unions, State ship commanders and first officers, and captains of State aircraft responsible for sea surveillance.

Article L521-13

(Order no. 2001-321 of 11 April 2001 Article 1 Official Journal of 14 April 2001)

The agents mentioned in Article L. 521-12 have access to the establishments and professional premises in which there are activities of production, manufacture, transformation, usage, packaging, storage, deposit, transport or sale of the substances or preparations or manufactured products or equipment containing them described in Article L. 521-1, except for dwellings and parts of premises used as dwellings.

They may enter these premises between 8 am and 8 pm and, outside these times, at any moment when the premises are open to the public or when one of the activities specified above is in progress.

They also have access to the professional vehicles, ships and aircraft used for the transport of the substances or preparations.

These agents may demand to see any useful document, take a copy of it, and, either by written request or on-site, collect any information and proof required to carry out their task.

Article L521-14

(Order no. 2001-321 of 11 April 2001 Article 1 Official Journal of 14 April 2001)

I. - For the application of the measures provided for by this Chapter, the agents described in Article L. 521-12 may take samples with a view to having them analysed or tested.

The samples are taken in the presence of the director of the establishment or his/her representative. A Conseil d'Etat decree sets the conditions to be respected when taking samples and carrying out analyses and tests.

II. - For the application of the measures provided for by this Chapter, the agents described in Article L. 521-12 may impound, with a view to carrying out inspections, the substances or preparations or manufactured products or equipment containing them presumed to be prohibited or non-compliant with the provisions of this Chapter and with those used to enforce them.

The impounding measure may not exceed fifteen days. This period may be extended by an order of the President of the Tribunal de grande instance in the jurisdiction of the site where the substances, preparations, manufactured products or equipment are held, or of a magistrate delegated for this purpose.

The agents mentioned in Article L. 521-12 refer the matter to the competent magistrate without procedure. The magistrate rules by means of an enforceable order as a provisional measure within twenty-four hours, based on all the informational items that may justify this measure.

The order to extend the impounding measure is notified by any possible means to the holder of the impounded substances, preparations, manufactured products or equipment.

The impounded substances, preparations, manufactured products or equipment are left under the care of their holder.

The President of the Tribunal de grande instance may order the withdrawal of the impounding measure at any moment. The impounding is lifted by the authorised agent as soon as the impounded substances or preparations, manufactured products or equipment have been established as compliant with the regulations governing them.

III. - In the event of a conviction, all the costs relating to the analyses, tests or impounding measures stipulated in this Article are to be borne by the holder of the substances or preparations, manufactured products or equipment containing them.

Article L521-15

(Order no. 2001-321 of 11 April 2001 Article 1 Official Journal of 14 April 2001)

The substances or preparations, or the manufactured products or equipment containing them that are manufactured, imported, placed on the market, exported, used or transported in a way likely to characterise a criminal infringement of this Chapter may be forfeited following an order of the President of the Tribunal de grande instance or of the magistrate delegated by him/her, who is referred to and who rules according to the methods of procedure stipulated in Article L. 521-14. They are left in the care of their holder unless otherwise stipulated in the order.

Article L521-16

(Order no. 2001-321 of 11 April 2001 Article 1 Official Journal of 14 April 2001)

The infringements of the provisions of this Chapter and of the enactments used to enforce it are established by official reports which have probative force until proven otherwise. The official reports are addressed, under pain of being declared void, within five days following their completion, to the Procureur de la République. A copy of this report is given to the person concerned within the same time limit.

The Procureur de la République is informed beforehand of the operations envisaged with a view to detecting

infringements. He or she may oppose these operations.

SECTION IV
Administrative sanctions — Articles L521-17 to L521-20

Article L521-17
(Order no. 2001-321 of 11 April 2001 Article 1 IV Official Journal of 14 April 2001)
(Act no. 2005-1319 of 26 October 2005 Article 3 Official Journal of 27 October 2005)

The agents proceeding to an inspection and noting a failure to comply with the obligations of this Chapter or with those of the regulations (EC) no. 304/2003, (EEC) no. 793/93 and (EC) no. 2037/2000, except for the prohibition measures or the prescriptions sanctioned in 2 of I of Article L. 521-21, write up a report which they send to the administrative authority.

Six months at the latest after a failure has been noted, the administrative authority, having first invited the person concerned to take cognisance of the file and to present his or her observations within three months, may issue a summons to the producer or importer of the substances or preparations to comply with the obligations of this law within a given period of time.

NB: At the end of the last paragraph, "this chapter" should be read instead of "this law".

Article L521-18
(Inserted by Order no. 2001-321 of 11 April 2001 Article 1 IV Official Journal of 14 April 2001)

In case of non-compliance with the instructions of the summons specified in Article L. 521-17, the administrative authority orders the payment of a fine at the most equal to 1500 Euros and a daily penalty payment of 150 Euros.

Article L521-19
(Inserted by Order no. 2001-321 of 11 April 2001 Article 1 IV Official Journal of 14 April 2001)

The fines and periodic penalty payments mentioned in Article L. 521-18 may not cover acts going back further than three years if, within this period of time, nothing has been done to identify, investigate or sanction them.

The fines and periodic penalty payments mentioned in this Article are paid to the Treasury. The sums are collected in the same way as that applied in matters of debts not relating to tax or real estate.

A Conseil d'Etat decree sets out the guarantees of procedure designed to ensure the rights of defence when the fine is inflicted, as well as the methods of settlement of the periodic penalty payments described in Article L. 521-18.

Article L521-20
(Inserted by Order no. 2001-321 of 11 April 2001 Article 1 IV Official Journal of 14 April 2001)

The decisions of the administrative authority are subject to appeal with unlimited jurisdiction.

SECTION V
Criminal sanctions — Articles L521-21 to L521-24

Article L521-21
(Order no. 2001-321 of 11 April 2001 Article 1 IV Official Journal of 14 April 2001)
(Act no. 2005-1319 of 26 October 2005 Article 3 Official Journal of 27 October 2005)

I. - The following acts are punishable by two years' imprisonment and a fine of 75,000 euros:

1° Knowingly supplying incorrect information likely to bring about, for the substance under consideration or the preparations containing it, or for the manufactured products or the equipment containing it, prescriptions that are less restrictive than those to which they should have been subject; or concealing known information;

2° Not respecting the measures of prohibition or the instructions decreed in accordance with Article L. 521-6 and by the regulations (EC) no. 304/2003, (EEC) no. 793/93, (EC) no. 2037/2000;

3° Not fulfilling within the specified time limit the obligations prescribed by the summons stipulated in Article L. 521-17.

II. - Persons are also liable to the following supplementary penalties:

1° Forfeiture in accordance with 10 of Article 131-6 of the Code pénal;

2° Prohibition to practise in accordance with 11 of Article 131-6 of the Code pénal and relating to the activity in the course of which the offence has been committed;

3° The temporary or definitive closure of the production facilities implicated;

4° The public posting or circulation of the decision pronounced under the conditions set out in Article 131-35 of the Code pénal.

III. - When the forfeiture is pronounced the court may order that the destruction of the substances or preparations be at the expense of the person convicted.

IV. - Legal entities may be declared responsible, under the conditions set out in Article 121-2 of the Code pénal, for the offences defined in the previous paragraphs.

V. - Legal entities are liable to:

1° A fine in accordance with the terms set out in Article 131-38 of the Code pénal;

2° Prohibition to practise in accordance with 2 of Article 131-39 of the same Code and relating to the activity in the course of which the offence has been committed;

3° The penalties defined in 3, 4, 5, 6, 8 and 9 of Article 131-39 of the same Code.

Article L521-22

(Inserted by Order no. 2001-321 of 11 April 2001 Article 1 IV Official Journal of 14 April 2001)

The act of making it impossible for the civil servants or agents mentioned in Article L. 521-12 to carry out their tasks or of obstructing them in these tasks, either by refusing to let them enter the premises or by any other means, is punishable by six months' imprisonment and a fine of 7500 Euros, without prejudice to the punishments in cases of resistance to the law defined by Articles 433-6 to 433-8 of the Code pénal.

The official reports drawn up by these civil servants or agents to establish the offences defined in the previous paragraph are sent without delay to the Procureur de la République. A copy is given to the person concerned.

Article L521-23

(Inserted by Order no. 2001-321 of 11 April 2001 Article 1 IV Official Journal of 14 April 2001)

Decrees approved by the Conseil d'Etat set the conditions of application of this Chapter.

Article L521-24

(Inserted by Order no. 2001-321 of 11 April 2001 Article 1 IV Official Journal of 14 April 2001)

When a regulation or a decision of the European Community contains provisions for the enforcement of regulations (EC) no. 2455/92, (EC) no. 793/93 and (EC) no. 2037/2000 which enter the scope of this Chapter, a Conseil d'Etat decree establishes that they constitute the measures of enforcement stipulated in this Chapter.

CHAPTER II

Control of the placing on the market of active biocidal substances and authorisation to place biocidal products on the market — Articles L522-2 to L522-1

Article L522-1

(Inserted by Order no. 2001-321 of 11 April 2001 Article 4 Official Journal of 14 April 2001)

I. - The provisions of this Chapter apply to biocidal products, which is to say to active substances and preparations containing one or more active substances presented in the form in which they are delivered to the user and designed to destroy, repel or neutralise pests, prevent their action or control them in any other way, via a chemical or biological action.

II. - The list of the types and descriptions of the products in question is set by a Conseil d'Etat decree.

III. - The provisions of this Chapter do not apply to:

1° The following substances and preparations in the finished state, destined for the end user and exclusively used as: medicines for human or veterinary use mentioned in Article L. 5111-1 of the Code de la santé publique; cosmetic products as defined in Article L. 5131-1 of the Code de la santé publique; foodstuffs; animal feed;

2° Active substances and biocidal products used exclusively as active substances in phytopharmaceutical products and as phytopharmaceutical products;

3° Active substances and biocidal products used exclusively as components in medical devices;

4° The categories of active substances and biocidal products which are subject to procedures other than those stipulated in this Chapter and which take account of the risks run by human beings and the environment. These categories are defined by a Conseil d'Etat decree;

5° Radioactive substances containing one or more radionuclides the activity of which or the concentration of which cannot be neglected for reasons of radioprotection.

IV. - In the sense of this Chapter, an active biocidal product is a chemical substance or a micro-organism, including a virus or a fungus, which exerts a general or specific action on or against pests.

V. - The following are considered as actions of placing on the market:

1° Any transfer for valuable consideration or free of charge of an active substance or a biocidal product;

2° The importation of an active substance or a biocidal product originating from a non-member State of the European Community, with the exception of a substance in transit;

3° The storage of an active substance or a biocidal product if this storage is not followed by a dispatch outside the customs territory of the European Community or by its disposal.

SECTION I

Control of active substances — Articles L522-2 to L522-3

Article L522-2

(Inserted by Order no. 2001-321 of 11 April 2001 Article 4 Official Journal of 14 April 2001)

I. - The placing on the market of an active biocidal product which the person responsible for placing on the market has destined for biocidal products, which is not a biocidal product per se and which does not feature on the European Community list of substances present on the European Community market at 14 May 2000, may be temporarily authorised in accordance with the procedures set by a Conseil d'Etat decree, following an examination by the French administrative authority or that of another Member State of a file accompanied by a declaration attesting that the substance will be incorporated into a biocidal product.

II. - The placing on the market of an active substance exclusively used for a biocidal product in order to conduct experiments or tests for research or development purposes is not subject to the provisions of the previous paragraph.

Article L522-3

(Inserted by Order no. 2001-321 of 11 April 2001 Article 4 Official Journal of 14 April 2001)

Without prejudice to I of Article L. 522-2, only the active substances appearing on the applicable European Community lists may be placed on the market and used in biocidal products, by virtue either of European Community regulations or of national enactments used to enforce European Community directives, under conditions set by a Conseil d'Etat decree.

The authorisation to place on the market or to use may be withdrawn or refused, after the holder or the applicant has received a summons to present his or her observations, in case of European Community-level application of the procedure of comparative evaluation or when the conditions for inclusion on the European Community lists are not fulfilled.

SECTION II

Control of the placing on the market of biocidal products — Articles L522-4 to L522-7

Article L522-4

(Inserted by Order no. 2001-321 of 11 April 2001 Article 4 Official Journal of 14 April 2001)

I. - A biocidal product is not placed on the market or used unless it has received an authorisation granted by the administrative authority. This authorisation is only granted if, among other things, the active substance(s) that it contains feature(s) on the lists mentioned in Article L. 522-3, if the conditions set for the substance(s) in these lists are fulfilled, and if the product, under normal conditions of use:

1° Is sufficiently efficacious;

2° Does not, either intrinsically or by its residues, have unacceptable effects on the health of human beings or animals or on the environment, either directly or indirectly;

3° Does not create unacceptable resistance in the targeted organisms or cause needless suffering in vertebrates or unacceptable effects on non-targeted organisms.

II. - In addition:

1° The nature and quantity of active substances in the product and, where applicable, of impurities, of other components and of residue, which are significant from a toxicological and eco-toxicological point of view, must be able to be determined;

2° The physical and chemical properties of the product must enable its use, storage and suitable transport.

III. - The application for authorisation is accompanied by a file. The authorisation may be subject to recommendations and requirements relating to the commercialisation and the use of the product in order to ensure respect of the abovementioned requirements.

Article L522-5

(Inserted by Order no. 2001-321 of 11 April 2001 Article 4 Official Journal of 14 April 2001)

I. - Authorisation is granted for a limited duration which may not exceed ten years. It may be renewed; it may be re-examined and modified at any moment. In this case, the administrative authority may ask the authorisation holder to provide further information required for this re-examination. The authorisation may be withdrawn in the following cases:

1° When the active substance no longer features on the lists mentioned in Article L. 522-3;

2° When the conditions for obtaining the authorisation are no longer fulfilled;

3° When false or fallacious items have been provided as data on which basis the authorisation has been granted;

4° On the request of the authorisation holder.

II. - After the authorisation has been withdrawn, the holder may be granted a period of time to dispose of, store, sell or use existing stocks.

III. - Any refusal, withdrawal or modification of an authorisation must be reasoned. Except for emergency cases, these measures may only be implemented if the applicant or authorisation holder has received a summons to present his or her observations.

IV. - In all cases, the rights of third parties are and remain reserved.

Article L522-6

(Inserted by Order no. 2001-321 of 11 April 2001 Article 4 Official Journal of 14 April 2001)

I. - The conditions of application of Articles L. 522-4 and L. 522-5 below are defined by a Conseil d'Etat decree.

II. - Simplified procedures may be provided for by a Conseil d'Etat decree for biocidal products that only present a low risk and for products already authorised in another Member State.

III. - For products already authorised in a Member State, the administrative authority may, when issuing the authorisation, request labelling modifications under conditions defined by a Conseil d'Etat decree. It may provisionally refuse or restrict the authorisation of these products. It may also refuse the mutual recognition of authorisations granted for certain types of products defined by a Conseil d'Etat decree, or revise or withdraw the authorisation of a product in accordance with a European Community decision.

Article L522-7

(Inserted by Order no. 2001-321 of 11 April 2001 Article 4 Official Journal of 14 April 2001)

I. - Notwithstanding Article L. 522-4, the administrative authority may provisionally authorise the placing on the market of a biocidal product:

1° Containing a substance not featuring on the lists defined in Article L. 522-3, for purposes other than those of

research and development;

2° Not meeting the requirements detailed in Article L. 522-4, with a view to limited and controlled usage if this measure seems necessary owing to a serious danger that cannot be controlled by other means.

II. - Notwithstanding Article L. 522-4, the placing on the market of a biocidal product or an active substance exclusively used in a biocidal product to conduct experiments or tests for research or development purposes is subject to particular conditions set out by a Conseil d'Etat decree.

SECTION III
Miscellaneous provisions — Articles L522-8 to L522-14

Article L522-8
(Inserted by Order no. 2001-321 of 11 April 2001 Article 4 Official Journal of 14 April 2001)

I. - The costs resulting from the storage, examination, processing and assessment of the information supplied in the declaration files described in Article L. 522-2 or during the applications for authorisation mentioned in Article L. 522-4 may be payable by the producers, importers, or those responsible for placing the product on the market.

II. - The administrative authority may demand samples of the biocidal product and its components from the producers, importers or those responsible for placing the product on the market.

III. - The administrative authority may request any further information or tests required to enforce the provisions set out in this Chapter from the person responsible for placing the product on the market, who may be obliged to bear the costs.

Article L522-9
(Inserted by Order no. 2001-321 of 11 April 2001 Article 4 Official Journal of 14 April 2001)

I. - The use of biocidal products is forbidden under conditions other than those stipulated in the authorisation decision and mentioned on the label stipulated in IV of Article L. 522-12.

II. - A Conseil d'Etat decree defines the conditions under which a biocidal product is not authorised, with a view either to its sale to the non-professional public or to its use by this public, owing to its toxicological properties.

III. - Measures to limit or to prohibit use or sale may be taken following a decision by the European Community authorities, if there are reasons to believe that a biocidal product authorised in a Member State presents an unacceptable risk to human or animal health or to the environment. For the same reasons, the administrative authority may limit or temporarily prohibit the use or sale of a biocidal product. A Conseil d'Etat decree sets the conditions under which these limitation or prohibition measures are taken by the administrative authority.

Article L522-10
(Inserted by Order no. 2001-321 of 11 April 2001 Article 4 Official Journal of 14 April 2001)

The holder of an authorisation is obliged to declare to the administrative authority the information concerning the active substances or the biocidal product of which he or she has knowledge or could reasonably have knowledge, and which may have consequences on the continuation of the authorisation.

Article L522-11
(Inserted by Order no. 2001-321 of 11 April 2001 Article 4 Official Journal of 14 April 2001)

A Conseil d'Etat decree defines the rules for the protection of data and the conditions under which the administrative authority may put to the use of other applicants the information contained in the files on substances and biocidal products.

Article L522-12
(Inserted by Order no. 2001-321 of 11 April 2001 Article 4 Official Journal of 14 April 2001)

I. - The provisions set out in I, III and IV of Article L. 521-7 of this Code apply to the transmission of confidential data concerning active substances and biocidal products.

II. - The following information does not fall within the domain of industrial and commercial secrecy:

a) The name and address of the applicant;

b) The name and address of the manufacturer of the biocidal product;

c) The name and address of the manufacturer of the active substance;

d) The denominations and the content level of the active substance(s) and the denomination of the biocidal product;

e) The name of the other substances classified as hazardous in accordance with Article L. 521-9; f) The physical and chemical data concerning the active substance and the biocidal product;

g) The means employed to make the active substance or the biocidal product harmless;

h) The summary of the test results required in accordance with Article L. 522-4, designed to establish the efficacy of the substance or the product and its effects on human beings, animals and the environment, as well as its ability to bring about resistance, where applicable;

i) The recommended methods and precautions for the reduction of risks in handling, warehousing and transport, as well as fire or other risks;

j) The safety data sheets;

k) The analysis methods described in Article L. 522-4-II of the Environmental Code;

l) The methods for disposing of the product and its packaging;

m) The procedures to be followed and the measures to be taken in case the product is spread or in case of a leak;

n) First aid instructions in case of injuries.

III. - The active substances which are micro-organisms and the biocidal products that contain them are subject to the measures prohibiting them from being placed on the market or used set out in II of Article L. 521-6 of this Code.

IV. - Provisions to complement those in Article L. 521-9 of this Code, relating to classification, packaging, labelling and safety data sheets, are defined by a Conseil d'Etat decree.

Article L522-13

(Inserted by Order no. 2001-321 of 11 April 2001 Article 4 Official Journal of 14 April 2001)

Notwithstanding the provisions set out in Article L. 1342-1 of the Code de la santé publique, the person responsible for placing a biocidal product on the market must, under the conditions defined by a Conseil d'Etat decree, provide an approved body with the information required about this product, making it possible to prevent effects on the health or to respond to any medical request for the treatment of disorders caused by this product or any request from the emergency services depending on the administrative authority.

Article L522-14

(Inserted by Order no. 2001-321 of 11 April 2001 Article 4 Official Journal of 14 April 2001)

Without prejudice to Article L. 121-1 of the Code de la consommation, a Conseil d'Etat decree specifies the compulsory information and that which may not appear in advertising for biocidal products.

SECTION IV

Inspections and sanctions — Articles L522-15 to L522-18

Article L522-15

(Inserted by Order no. 2001-321 of 11 April 2001 Article 4 Official Journal of 14 April 2001)

The provisions of Articles L. 521-12 to L. 521-20 and Article L. 521-22 of this Code apply to inspections, and to the detection and investigation of infringements of the provisions of this Chapter.

Article L522-16

(Inserted by Order no. 2001-321 of 11 April 2001 Article 4 Official Journal of 14 April 2001)

I. - The following acts are punishable by two years' imprisonment and a fine of 75,000 Euros:

1° Placing an active biocidal substance on the market without the provisional authorisation defined in Article L. 522-2;

2° Placing a biocidal product on the market without the authorisation defined in I of Article L. 522-4;

3° Placing an active substance or a biocidal product on the market in the cases defined in II of Article L. 522-7 without fulfilling the conditions stipulated or used for the application of this Article;

4° Knowingly providing the administrative authority with incorrect information likely to bring about, for the active substance under consideration or the biocidal products containing it, prescriptions that are less restrictive than those to which they should have been subject; or concealing information known to the company;

5° Knowingly selling a biocidal product to the non-professional public in ignorance of the provisions of II of Article L. 522-9;

6° Selling a biocidal product without respecting the limitation or prohibition measures specified in III of Article L. 522-9.

II. - The following acts are punishable by six months' imprisonment and a fine of 7,500 Euros:

1° Using a biocidal product that is unauthorised in accordance with I of Article L. 522-4;

2° Using a biocidal product without respecting the conditions stipulated in I of Article L. 522-9 or the limitation or prohibition measures stipulated in III of Article L. 522-9;

3° Not sending to an approved body the information described in Article L. 522-13;

4° Not featuring the labelling information stipulated in IV of Article L. 522-12.

III. - Persons are also liable to the further punishments defined in Article L. 521-21 of this Code.

IV. - Legal entities may be declared responsible, under the conditions set in Article 121-2 of the Code pénal, for the offences defined in the previous paragraphs. They are liable to the punishments applied to legal entities defined in Article L. 521-21 of this Code.

Article L522-17

(Inserted by Order no. 2001-321 of 11 April 2001 Article 4 Official Journal of 14 April 2001)

Decrees approved by the Conseil d'Etat set the conditions of application of this Chapter.

Article L522-18

(Inserted by Order no. 2001-321 of 11 April 2001 Article 4 Official Journal of 14 April 2001)

I. - The active substances not featuring on the European Community list of substances present on the European Community market at 14 May 2000 as active substances of a biocidal product for purposes other than research and development, and the biocidal products containing them, are subject to the provisions of this Chapter.

II. - The active substances appearing on the abovementioned list and the products containing them are not subject to the provisions of Articles L. 522-3 and L. 522-4 until a decision has been made to include these active substances and the biocidal products containing them on the lists mentioned in L. 522-3, under the conditions defined by the European Community regulations. The other provisions of this Chapter are applicable to these substances.

In the event of a decision not to include the active substances on the lists mentioned in Article L. 522-3, it is

prohibited to place the substances and products on the market, under conditions defined by a Conseil d'Etat decree.

For the biocidal products present on the market at 14 May 2000, Article L. 522-13 comes into force on 14 May 2003.

TITLE III
Genetically Modified Organisms **Articles L531-1 to L537-1**

CHAPTER I
General provisions Articles L531-1 to L531-5

Article L531-1
(Act no. 2003-591 of 2 July 2003 Article 31 III 18° Official Journal of 3 July 2003)

In the sense of this Title and of Article L. 125-3, the following meanings are given:

1° Organism: any cellular, non-cellular or multi-cellular biological entity capable of reproducing or of transferring genetic material; this definition encompasses micro-organisms, including viruses;

2° Genetically modified organism: organism whose genetic material has been modified other than by natural multiplication or recombination;

3° Use: any operation or set of operations in the course of which organisms are genetically modified or in the course of which genetically modified organisms are grown, used, stored, destroyed or disposed of.

Article L531-2
(Act no. 2003-591 of 2 July 2003 Article 31 III 18° Official Journal of 3 July 2003)

Not subject to the provisions of this Title and of Article L. 125-3 are the genetically modified organisms obtained by techniques which are not considered, owing to their natural character, as bringing about a genetic modification, or by techniques which have been traditionally used without any noted drawbacks with regard to public health or the environment.

The list of these techniques is set by decree after a decision by the genetic engineering commission.

Article L531-3

The genetic engineering commission is responsible for evaluating the risks presented by genetically modified organisms and the processes used to obtain them, as well as the potential hazards linked with the use of genetic engineering techniques.

It proposes the desirable containment measures to prevent risks linked with the use of these organisms, processes and techniques. It may delegate one or more of its members to visit the facilities in the framework of the examination of applications for approval.

The genetic engineering commission is composed of persons appointed by virtue of their scientific competence in the domains relating to genetic engineering and to public health and the environment, as well as a member of the Parliamentary office for the evaluation of scientific and technological choices. Scientists competent in matters of environmental protection and public health represent at least one third of the commission.

It calls upon other experts where needs be.

The commission writes up an annual report which is sent by the Government to the two assemblies. The members of the commission may attach a personal contribution to the annual report.

Article L531-4

The commission for the study of the release of products originating from bio-molecular engineering is responsible for evaluating the risks linked with the deliberate release of genetically modified organisms.

It also contributes to the evaluation of the risks linked with the placing on the market of products wholly or partially composed of genetically modified organisms, and to the definition of their conditions of use and their presentation.

At least half of its members are persons who are competent in scientific matters along with a member of the Parliamentary office for the evaluation of scientific and technological choices; it includes representatives of the environmental protection associations approved under Article L. 141-1, consumer associations, and the employee groups and industrial boards concerned.

The commission writes up an annual report which is sent by the Government to the two assemblies. The members of the commission may attach a personal contribution to the annual report.

Article L531-5

Decrees specify the composition, attributions and rules of operation of the commissions specified in Articles L. 531-3 and L. 531-4.

CHAPTER II
Contained use of genetically modified organisms Articles L532-1 to L532-6

Article L532-1

Genetically modified organisms, in particular micro-organisms, are classified into distinct groups according to the risks they present to public health and the environment, notably their pathogenicity. The criteria of this classification are set by decree after a decision by the genetic engineering commission.

Article L532-2

Subject to the provisions of Chapters III, V, VI and VII of this Title and of Articles L. 536-4 to L. 537-1, any use for the purposes of education, research or industrial production of genetically modified organisms presenting dangers or drawbacks for public health or the environment is to be contained.

The methods of this containment, which may use physical, chemical or biological barriers, are defined according to the classification of the genetically modified organisms used, after a decision by the genetic engineering commission, where applicable.

Article L532-3

Any use of genetically modified organisms for the purposes of research, development or education in a public or private facility, and without the resulting products being placed on the market except free of charge and for testing purposes, is subject to approval.

This approval, granted to the operator of the facility by the administrative authority, is subject to compliance with the technical prescriptions defining, among other things, the containment measures required for the protection of public health and the environment and the means of intervention in the event of an incident a new approval must be applied for in case of a notable modification of the conditions of use of genetically modified organisms that have been subject to approval.

A Conseil d'Etat decree determines the procedure by which the approval is granted and the methods by which the genetic engineering commission is consulted and by which the public is informed, as well as the time limits within which the approval is granted or on the expiry of which it is considered as granted.

Article L532-4

I. - When the approval covers the first use of genetically modified organisms in a facility, the operator puts an information file at the disposal of the public.

II. - This file, submitted to the town hall of the town where the facility is located, is stamped by the administrative authority. Excluding any information covered by industrial or commercial secrecy or protected by the law, or the disclosure of which could harm the interests of the operator, it contains:

1° General information about the activity of the facility and about the purpose of the research submitted for an approval application;

2° Any useful information about the classification of the genetically modified organisms that may be used at the facility, and about the containment measures, the intervention means in case of an incident, and the technical prescriptions upon which the approval is dependent in accordance with Article L. 532-3;

3° Where applicable, the summary of the decision given by the genetic engineering commission regarding the approval application;

4° The address of the genetic engineering commission, where the public may make any observations.

III. - A synthesis of the observations collected and information about any actions to be taken following these observations feature in the annual report mentioned in Article L. 531-3.

IV. - The provisions of this Article do not apply if the approval only covers the use of non-pathogenic genetically modified organisms presenting no serious risk to public health or the environment.

V. - A Conseil d'Etat decree sets the conditions of application of this Article.

Article L532-5

In all cases where a new evaluation of the dangers or drawbacks for public health or the environment of an approved use of genetically modified organisms so justifies, the administrative authority may, at the cost of the approval holder and after n assessment by the genetic engineering commission:

1° Impose the modification of the technical prescriptions;

2° Suspend the approval for the period of time required to implement measures to remove these dangers or drawbacks;

3° Withdraw the approval if these dangers or drawbacks are such that no measure can remove them.

Article L532-6

(Order no. 2000-916 of 19 September 2000 annexe Official Journal of 22 September 2000 in force on 1st January 2002)

Any application for approval or for use of genetically modified organisms for the purposes of research, education or development is accompanied by a tax representing the costs of examination and allocated to the general budget of the State. This tax is payable when the file is submitted.

It is set at 1,525 euros per file. This amount is reduced to 305 euros when the approval application concerns a contained use other than the first use.

The collection of and disputes relating to the tax instituted in this Article are supervised by the accountants of the Treasury in accordance with the terms set in Articles 81 to 95 of decree no. 62-1587 of 29 December 1962 establishing the general regulations of public accounting.

CHAPTER III

Deliberate release and placing on the market of genetically modified organisms — Articles L533-1 to L533-7

Article L533-1

The transport of genetically modified organisms, in all its forms, is not subject to the provisions of this Chapter and

Article L533-2

In the sense of this Chapter, by deliberate release is meant any intentional introduction into the environment, for the purposes of research or development or any purpose other than placing on the market, of a genetically modified organisms or a combination of genetically modified organisms.

Article L533-3

Any deliberate release or any coordinated programme of such releases is subject to prior authorisation.

This authorisation is granted by the administrative authority after examination of the risks to public health or the environment presented by release. It may be accompanied by prescriptions. It is only valid for the operation for which it has been solicited.

Article L533-4

In the sense of this Chapter, by placing on the market is meant the placing at the disposal of third parties, either for valuable consideration or free of charge, of products wholly or partially composed of genetically modified organisms.

Article L533-5

Placing on the market must be subject to prior authorisation.

This authorisation is granted by the administrative authority after examination of the risks to public health or the environment presented by placing on the market. It may be accompanied by prescriptions. It is only valid for the use it stipulates.

Article L533-6

The authorisations granted by the other Member States of the European Union under enactments used by these States or other States party to the agreement on European Economic Space in accordance with directive no. 90-220 (EEC) of 23 April 1990 are considered as representing authorisation under this Chapter.

However, when there are valid reasons to consider that a product authorised by another Member State or another party State presents risks to public health or the environment, the administrative authority may temporarily limit or prohibit the use or placing on the market of this product.

Article L533-7

The Conseil d'Etat decree specified in Article L. 537-1 sets the conditions under which, for the categories of products subject to specific authorisation or accreditation procedures prior to being placed on the market, a single authorisation is granted under these specific procedures and this Chapter.

CHAPTER IV

Biological monitoring of the territory — Article L534-1

Article L534-1

The provisions relating to the monitoring of plants, including seeds, antiparasitic products for agricultural use and similar products, fertilizers and growing mediums wholly or partially composed of genetically modified organisms released into the environment or placed on the market, are detailed in the Code rural (Book II, Title V, Chapter I).

CHAPTER V

Administrative inspections and sanctions — Articles L535-1 to L535-8

Article L535-1

Any person who has obtained an authorisation mentioned in Articles L. 533-3 and L. 533-5 is obliged to inform the administration of any new element likely to modify the assessment of the risk to public health and the environment.

Where applicable, he or she takes the measures required to protect public health or the environment.

Article L535-2

I. - In every case where a new evaluation of the risks caused by the presence of genetically modified organisms to public health or the environment so justifies, the administrative authority may, at the cost of the authorisation holder or the holders of the genetically modified organisms:

1° Suspend the authorisation pending further information and, if needs be, order the withdrawal from sale of the products or prohibit their use;

2° Impose modifications to the conditions of deliberate release;

3° Withdraw the authorisation;

4° Order the destruction of the genetically modified organisms and, in the event of a failure by the beneficiary or of the holder of the authorisation, proceed to this destruction ex officio.

II. - Except in emergency cases, these measures may only be implemented if the beneficiary has been given the opportunity to present his or her observations.

Article L535-3

I. - The applicant for an authorisation to release or place on the market may indicate to the administration the information supplied to back up his or her application, which, if disclosed, may harm his or her interests or which relate to secrets protected by the law. Information recognised by the administrative authority as confidential must not be

communicated to third parties.

II. - The following may not be considered as confidential:

1° The information supplied to back up an application for authorisation to release and pertaining to:

a) The name and address of the applicant;

b) The summary description of the genetically modified organism(s);

c) The purpose of the release and the place where it will be carried out;

d) The methods and plans for monitoring the operations and for intervention in case of emergency;

e) The evaluation of the effects and risks to human beings and the environment.

2° The information supplied to back up an application for authorisation to place on the market and pertaining to:

a) The name and address of the applicant;

b) The nature of the product and the summary description of the genetically modified organism(s) used in its composition;

c) The conditions and precautions of use;

d) The evaluation of the effects and risks to human beings and the environment.

III. - The administrative authority is authorised to send the European Commission all the necessary information, including the information recognised as confidential, in accordance with I of this Article; in this latter case, when this information is sent, the confidential nature of the information must be indicated.

IV. - The provisions of this Article do not apply to activities covered by national defence secrecy.

Article L535-4

(Order no. 2000-916 of 19 September 2000 annexe Official Journal of 22 September 2000 in force on 1st January 2002)

I. - Any application for authorisation to release or place on the market is accompanied by a tax representing the costs of examination and allocated to the general budget of the State. It is payable when the application is submitted.

II. - This tax is set at 1 525 euros per application file. This amount is reduced to 610 euros:

1° When authorisation is requested for a release that has already been authorised less than one year previously;

2° In any application to modify the use of a product wholly or partially composed of genetically modified organisms which has previously received authorisation to be placed on the market.

III. - The collection of and the disputes relating to the tax instituted in this Article are followed by the accountants of the Treasury in accordance with the terms set in Articles 81 to 95 of decree no. 62-1587 of 29 December 1962 establishing the general regulations of public accounting.

Article L535-5

I. - Independently of the criminal proceedings which may be brought and the measures set out in Article L. 535-2, when the prescriptions imposed by the authorisation are not respected, the competent authority issues a summons to the beneficiary of the authorisation to fulfil these obligations within a fixed period of time.

II. - If, when the set time limit has expired, the beneficiary of the authorisation has not complied with this order, the competent authority may:

1° Oblige the beneficiary of the authorisation to deposit with a public accountant a sum covering the amount of the works to be accomplished. This sum will be restored to the operator as and when the prescribed measures are implemented; this sum is collected in the same way as that applied in matters of debts not relating to tax or real estate;

2° Proceed ex officio, at the cost of the beneficiary of the authorisation, to the implementation of the prescribed measures;

3° Suspend the authorisation until the implementation of the conditions imposed and, where necessary, take the necessary provisional measures.

III. - The sums deposited in accordance with the provisions of 1° of II may be used to pay the expenses incurred due to the implementation ex officio of the measures set out in 2° and 3° of II of this Article.

Article L535-6

Independently of the criminal proceedings which may be brought, when an intentional release has taken place without the authorisation required by this Title, the administrative authority orders its suspension.

In the event of a serious threat to public health or the environment, it may set provisional measures to prevent the dangers of release or, where necessary, proceed ex officio and at the cost of the person responsible for the release, to the destruction of the genetically modified organisms.

Article L535-7

Independently of the criminal proceedings which may be brought, the administrative authority may order the impounding or the confiscation of the products placed on the market without authorisation.

In the event of a serious threat to public health or the environment, it may impose any provisional measure to ensure the protection of public health or the environment or, where necessary, proceed ex officio to the destruction of the products placed on the market. The cost of these measures is to be borne by the person responsible for placing them on the market.

Article L535-8

For the recovery of the deposits defined in 1° of II of Article L. 535-5 or the loans granted by the State for the implementation of the measures set out in 2° and 3° of II of Article L. 535-5 and Articles L. 535-6 and L. 535-7, the State benefits from a privilege of the same rank as that stipulated in Article 1920 of the Code général des impôts.

When the enforcement of an order by the administrative authority is subject to an objection lodged before the

administrative judge, the president of the administrative tribunal or the magistrate he or she delegates may, in a summary procedure, notwithstanding this opposition, on the request of the State representative or any interested party, decide that this action is not suspensive, when the motives put forward by the operator do not seem serious. The president of the tribunal makes his or her decision within fifteen days following referral.

CHAPTER VI
Criminal provisions — Articles L536-1 to L536-7

SECTION I
Investigation of offences — Articles L536-1 to L536-2

Article L536-1
(Act no. 2003-591 of 2 July 2003 Article 31 III 18° Official Journal of 3 July 2003)

In addition to the judicial police officers acting in accordance with the provisions of the Code de procédure pénale, civil servants of the technical corps of the State, officers holding a technical qualification or agents authorised for this purpose and sworn under the conditions set by a Conseil d'Etat decree may identify and make an official report on infringements of the provisions of Articles L. 125-3, L. 532-3, L. 532-4, L. 532-5, L. 532-6, L. 533-2 and L. 533-3 and the enactments for their application.

To fulfil their role, the agents mentioned in this Article have access to the facilities and places where the described operations are carried out, except for premises used as dwellings.

These agents may access these facilities and these places at any time when a release operation is in progress and, in other cases, between 8 am and 8 pm. The Procureur de la République is advised of this beforehand and gives them any necessary instructions where applicable.

The official reports are sent without delay to the Procureur de la République. A copy is sent to the interested party and to the authority competent to grant authorisation for deliberate release. These reports have probative force unless proven otherwise.

Article L536-2

The identification and investigation of infringements of the provisions of Articles L. 533-4 to L. 533-7 and the enactments for their application are, depending on the products under consideration, carried out by the competent agents in accordance with the laws applying to these products and under the conditions provided by these laws.

SECTION II
Sanctions — Articles L536-3 to L536-7

Article L536-3
(Order no. 2000-916 of 19 September 2000 Article 3 Official Journal of 22 September 2000 in force on 1st January 2002)

The act of operating a facility using genetically modified organisms for the purposes of research, development or education without the approval required in accordance with Article L. 532-3, or in breach of the technical prescriptions to which this approval is subject, is punishable by one year's imprisonment and a fine of 75 000 euros.

In case of conviction, the court may prohibit the facility from operating. The prohibition ceases its effect if an approval is granted at a later date under the conditions provided by this Title. The provisional implementation of the prohibition may be ordered.

The act of operating a facility using genetically modified organisms for the purposes of research or education in breach of the prescriptions imposed in pursuance to Article L. 532-5, or in breach of a measure for the suspension or withdrawal of an approval for the application of 2° and 3° of Article L. 532-5, is punishable by two years' imprisonment and a fine of 150 000 euros.

In case of conviction, the court may prohibit the facility from operating.

Article L536-4
(Order no. 2000-916 of 19 September 2000 Article 3 Official Journal of 22 September 2000 in force on 1st January 2002)

The following acts without the required authorisation are punishable by one year's imprisonment and a fine of 75 000 euros:

1° The deliberate release of genetically modified organisms or a combination of genetically modified organisms;

2° Placing on the market a product consisting in genetically modified organisms or containing such organisms.

Article L536-5
(Order no. 2000-916 of 19 September 2000 Article 3 Official Journal of 22 September 2000 in force on 1st January 2002)

The act of not complying with a measure for the suspension, withdrawal, prohibition or impounding in application of Articles L. 535-2, L. 535-5 or L. 535-6 is punishable by two years' imprisonment and a fine of 150 000 euros.

The act of continuing a deliberate release or placing on the market without complying with a summons for the

application of Article L. 535-5 is punishable by six months' imprisonment and a fine of 75 000 euros.

Article L536-6
(Order no. 2000-916 of 19 September 2000 Article 3 Official Journal of 22 September 2000 in force on 1st January 2002)

The act of obstructing the fulfilment of the role of the agents mentioned in Articles L. 536-1 and L. 536-2 is punishable by one year's imprisonment and a fine of 15 000 euros.

Article L536-7

In case of conviction for an infringement of the provisions of this Chapter, the court may order, at the expense of the convicted person, the publication in full or in extracts of his or her decision and, possibly, the circulation of a message, the terms of which he or she sets, informing the public of the reasons for and the content of his or her decision, in one or more journals designated by him or her, as well as its display under the conditions of and under the penalties provided by, depending on the case, Articles 131-35 and 434-39 of the Code pénal, without, however, the cost of this publicity exceeding the maximum amount of the fine.

CHAPTER VII
Miscellaneous provisions — Article L537-1

Article L537-1

The methods for the application of Chapters III, V and VI of this Title are set by a Conseil d'Etat decree.

TITLE IV
Waste — Articles L541-1 to L542-14

CHAPTER I
Disposal of waste and recovery of materials — Articles L541-1 to L541-50

SECTION I
General provisions — Articles L541-1 to L541-8

Article L541-1
(Act no. 2003-591 of 2 July 2003 Article 31 III 19° Official Journal of 3 July 2003)

I. -The purpose of the provisions of this Chapter and of Article L. 125-1 is:

1° To prevent or reduce the production and noxiousness of waste, in particular by acting on the manufacture and on the distribution of products;

2° To organise the transport of waste and to limit it in terms of distance and volume;

3° To recover waste by reuse, recycling or any other action aiming to obtain reusable materials or energy from waste;

4° To ensure that the public is informed of the effects on the environment and public health of operations to produce and dispose of waste, subject to the rules of confidentiality provided by the law, as well as the measures designed to prevent or compensate for the harmful effects of waste.

II. - For the purposes of this Chapter, waste is defined as any residue of a process of production, transformation or use, any substance, material, product or more generally any movable goods abandoned or destined to be abandoned by its holder.

III. - For the purposes of this Chapter, ultimate waste is defined as waste, either resulting or not from the treatment of waste, which is not likely to be treated under the technical and economic conditions of the moment, notably by the extraction of the reusable part or by the reduction of its pollutant or hazardous character.

Article L541-2

Any person who produces or possesses waste under conditions likely to produce harmful effects on soils, flora and fauna, to damage sites or landscapes, to pollute the air or water, to cause noise and odours and, in general, to harm human health or the environment, is obliged to dispose of it or have it disposed of in accordance with the provisions of this Chapter, under the conditions required to avoid the said effects.

The disposal of waste includes the operations of collection, transport, storage, sorting and treatment required for the recovery of reusable elements and materials or energy, as well as for the deposit or discharge into the natural environment of all other products under the conditions required to avoid the nuisances mentioned in the previous paragraph.

Article L541-3
(Act no. 2003-699 of 30 July 2003 Article 32 Official Journal of 31 July 2003)

In case of soil pollution or risk of soil pollution, or in cases where waste is abandoned, deposited or treated contrary to the prescriptions of this Chapter and of the rules for its application, the authority with policing powers may, after a summons has been issued, carry out the necessary works ex officio and at the cost of the person responsible. The implementation of the works thus ordered may be entrusted by the Minister for the environment to the Environment and

Energy Management Agency. The authority with policing powers may also oblige the person responsible to deposit with a public accountant a sum covering the amount of the works to be carried out, which sum will be restored as and when the works are carried out. The deposited sums may, where necessary, be used to pay the costs brought about by the execution ex officio of the works. When the Environment and Energy Management Agency intervenes in the works thus ordered, the deposited sums are set aside for it at its request.

Where applicable, these sums will be recovered in the same way as that applied for debts not relating to taxes or real estate. For this recovery, the State enjoys a privilege of the same rank as that provided for in Article 1920 of the Code général des impôts.

When the enforcement of an order by the administrative authority is subject to an objection lodged before the administrative judge, the president of the administrative tribunal or the magistrate he or she delegates may, in a summary procedure, notwithstanding this opposition, on the request of the authority with policing powers or any interested party, decide that this action is not suspensive, when the motives put forward by the operator do not seem serious. The President of the tribunal must give a decision within fifteen days being referred to him or her.

Abandonment is considered as any act, under cover of a transfer for valuable consideration or free of charge, aiming to protect its author from the stipulations of this Chapter and the regulations for its application.

When the operator of a waste disposal facility is subject to an order in application of this Article or Article L. 514-1, he or she may not obtain an authorisation to operate another waste disposal facility before paying the deposit.

When, owing to the disappearance or insolvency of the producer or holder of waste, the implementation of the provisions of the first paragraph has not led to the rehabilitation of the site polluted by this waste, the State may, with the possible financial assistance of the local authorities, entrust this rehabilitation to the Environment and Energy Management Agency.

The works mentioned in the paragraph above and, where appropriate, the acquisition of the real-estate assets, may be declared to be of public utility on the request of the State. The declaration of public utility is decided upon after consultation of the interested local authorities and a public enquiry conducted in the manner provided for by the Code de l'expropriation pour cause d'utilité publique. When one of the interested local authorities, the commissaire enquêteur or the enquiry commission has issued an unfavourable opinion, the declaration of public utility is decided upon by a Conseil d'Etat decree.

Article L541-4

The provisions of this Chapter apply without prejudice to the special provisions that concern, in particular, classified facilities for the protection of the environment, radioactive waste, wastewater, gas effluents, animal corpses, aircraft wrecks, shipwrecks, dumping, and discharges from ships. They do not prevent the liability that each person incurs owing to damage caused to other people, particularly by the disposal of waste that he or she has held or transported or which originates from products that he or she has manufactured.

Article L541-5

The costs corresponding to the implementation of the technical analyses, assessments or tests required for the application of this Chapter are to be borne, depending on the case, by the holder, carrier, producer, disposer, exporter or importer.

Article L541-6

When legal entities under public law act either materially or financially to attenuate the damage caused by an incident or accident linked with a waste-disposal operation or to prevent this damage from being aggravated, these entities are entitled to reimbursement from the persons responsible for this incident or accident of the costs incurred, without prejudice to compensation for other damage suffered. In this respect, they may claim for damages before the criminal courts referred to for proceedings following the incident or accident.

This action is without prejudice to the rights of environmental protection associations approved under Article L. 141-1.

Article L541-7

The companies which produce, import, export, dispose of or which transport, engage in brokerage or trading operations of waste belonging to the categories set by decree as being able, either as they are or when they are disposed of, to cause nuisances such as those mentioned in Article L. 541-2, are obliged to provide the administration with all information about the origin, nature, characteristics, quantities, destination and methods of disposal of the waste that they produce, hand over to third parties, or handle.

Article L541-8

The transport and the brokerage or trading of waste described in Article L. 541-7 are, under the conditions set by a Conseil d'Etat decree, regulated and subject either to authorisation from the administrative authority as soon as the waste presents serious risks or drawbacks for the interests protected by this section, or to declaration if they do not present such risks or drawbacks.

The transport and the brokerage or trading of waste subject to declaration or authorisation must respect the objectives described in Article L. 541-1.

SECTION II

Production and distribution of waste-generating products — Articles L541-9 to L541-10-2

Article L541-9

Producers, importers or exporters must prove that the waste generated at any stage by the products that they manufacture, import or export are of a nature to be disposed of under the conditions stipulated in Article L. 541-2. The administration is entitled to demand from them any useful information about the methods of disposal and about the consequences of their use.

Article L541-10

The manufacture, possession with a view to sale, putting on sale, sale and putting at the disposal of the user, in any form whatsoever, of waste-generating products may be regulated in order to facilitate the disposal of the said waste, or may, if necessary, be prohibited.

The producers, importers and distributors of these products or the elements and materials used for their manufacture may be obliged to pay for or contribute to the disposal of the waste generated by them.

These same producers, importer and distributors may be obliged to lend their assistance, in exchange for a fair remuneration, in the disposal the waste originating from identical or similar products put on sale or distributed prior to 18 July 1975.

The holders of the waste from the said products may be obliged to pass it to the establishments or departments designated by the administration, under the conditions that it sets.

Article L541-10-1

(Act no. 2003-1312 of 30 December 2003 Article 20 I finance acts rectification for 2003 Official Journal of 31 December 2003)

(Act no. 2004-1485 of 30 December 2004 Article 61 finance acts rectification for 2004 Official Journal of 31 December 2004)

(Act no. 2005-516 of 20 May 2005 Article 23 Official Journal of 21 May 2005)

As of 1st January 2005, any person or corporate entity who, free of charge and either by himself or herself or by means of another person, puts at the disposal of or distributes to individuals without first being requested to do so, printed materials (Provisions declared non-compliant with the Constitution by decision of the Conseil Constitutionnel no. 2003-488 DC of 29 December 2003) in letterboxes in the shared parts of collective housing, in commercial premises, in public spaces or on public highways, is obliged to contribute to the collection, reuse and disposal of the resultant waste. This contribution may take the form of allowances in kind. However, excluded from this contribution are the placing at the disposal of the public of information by a public service when it results exclusively from an obligation arising from a law or a regulation, or by a press publication, within the meaning assigned by article 1 of Law no.86-897 of 1st August 1986 for the reform of the legal regime of the press, and the distribution of correspondence within the meaning assigned by article L. 1 of the Code des Postes et des Télécommunications Electroniques.

In its financial form, the contribution is given to an organisation approved by the Ministers for the Environment, for the Local Authorities, for the Economy and for Industry, which pays it to the local authorities as a contribution to the costs of collection, reuse and disposal that they bear.

The contribution in kind is based on the principle of voluntary work of the public inter-commune cooperation establishments for the disposal of waste. It consists in the set-up of communication areas for those inter-commune cooperation establishments carrying out household waste disposal who so wish. These communication areas are used to promote the collection, reuse and disposal of waste.

The financial contributions and those in kind are set according to a scale fixed by decree.

The person or organisation that does not voluntarily discharge this contribution is subject to the tax provided for in 9 of I of article 266 sexies of the Code des Douanes.

The methods of application of the present article are set by decree.

Article L541-10-2

(Inserted by Law no. 2005-1720 of 30 December 2005 Article 87finance acts rectification for 2005 Official Journal of 31 December 2005)

As of 1st January 2006, any person who professionally manufactures, imports or introduces onto the national market electric or electronic household appliances concerned by the categories mentioned in annexe I A and annexe I B of Directive 2002/96/EC of the European Parliament and of the Council of 27 January 2003 relating to electric and electronic appliance waste, is obliged to provide for or contribute to the collection, removal and treatment of electric or electronic household appliance waste, irrespective of the date on which they were put on the market. In the event that the appliances are sold under the brand name of a reseller, this reseller is obliged to provide for or contribute to the collection, removal and treatment of electric or electronic household appliance waste in the place of the person who manufactures, imports or introduces these appliances onto the market.

The costs of selective collection of electric or electronic household appliance waste borne by the local authorities are compensated by an approved coordinating body which pays them the fraction equivalent to the financial contribution it receives from the people mentioned in the first paragraph.

During a transitory period running from 1st January 2006 to 13 February 2011, and to 13 February 2013 for some of these appliances appearing on a list fixed by decree of the Ministers for Ecology, for the Economy, for Industry and for Consumption, the people mentioned in the first paragraph and their buyers display, as well as the price excluding taxes, the unit costs borne for the disposal of this waste, at the bottom of the sales invoices of any new electric and electronic household appliance.

The disposal of this waste from selective collection is accomplished by systems to which these people financially

contribute in a proportional way and which are approved by joint rulings of the Ministers for the Economy, for Industry, for Ecology and for the Local Authorities.

These unit costs do not exceed the costs actually borne and may not be subject to reduction. The buyers transfer these unit costs identically to the end consumer and inform them by all means provided for in article L. 133-3 of the Code de la Consommation.

SECTION III
Waste disposal — Articles L541-11 to L541-39

Subsección 1
Waste disposal plans — Articles L541-11 to L541-15

Article L541-11

National disposal plans must be set up by the Minister for the environment for certain categories of waste, the list of which is set by a Conseil d'Etat decree, according to their degree of noxiousness or their specific treatment and storage features.

Representatives of the local authorities concerned, professional organisations contributing to the production and disposal of waste, and the environmental protection associations approved under Article L. 141-1 take part in the drawing up of these plans along with representatives of the State and the public bodies concerned, within a plan commission.

The plans thus drawn up are placed at the disposal of the public for two months.

They are then modified, if needs be, to take account of the observations expressed and published.

The purpose of these plans is to create coordinated assemblies of waste disposal facilities and to list the priorities to be chosen in order to achieve the objectives defined in Article L. 541-1.

Article L541-12

The region participates in waste disposal policy under the conditions set by the present Chapter.

In this capacity, it can facilitate all ultimate waste disposal operations and, in particular, under the conditions set out by the Code général des collectivités territoriales (first part, Book V, Title II), acquire shares in companies set up with a view to creating or managing ultimate waste storage facilities.

Article L541-13

(Act no. 2002-276 of 27 February 2002 Article 109 IV a Official Journal of 28 February 2002)
(Act no. 2004-809 of 13 August 2004 Article 47 Official Journal of 17 August 2004, in force on 1st January 2005)

I. - Each region is covered by a regional or interregional plan for the disposal of special industrial waste.

II. - To achieve the objectives described in Articles L. 541-1 and L. 541-24, the plan includes:

1° A prospective inventory, with a term of ten years, of the quantities of waste to be disposed of according to its origin, nature and composition;

2° A list of existing facilities for the disposal of this waste;

3° A reference to the facilities that it seems necessary to set up in order to achieve the objectives outlined above;

4° The priorities required to achieve these objectives, bearing in mind the foreseeable economic and technological evolutions.

III. - Among the priorities chosen the plan must provide for a storage centre for this waste.

IV. - The plan takes account of the needs and capacities of the neighbouring zones outside its scope of application.

V. - The draft plan is drawn up at the initiative and under the responsibility of the President of the Regional Council.

VI. - The draft plan is submitted for opinion to a commission composed of representatives of the local authorities, the State and the public bodies concerned, professional organisations contributing to the production and disposal of the waste, and the approved environmental protection associations. It is also submitted for opinion to the neighbouring Regional Councils. It may be modified to take account of these opinions. If, under the conditions provided for in article L. 541-15, the State draws up this plan, the opinion of the regional council is also sought.

VII. - The draft plan is then made available to the public for two months, then approved by decision of the Regional Council, and published.

NB: Law 2004-809 of 13 August 2004, article 48: transitory provisions concerning household waste disposal plans.

Article L541-14

(Act no. 2004-809 of 13 August 2004 Article 45 I Official Journal of 17 August 2004, in force on 1st January 2005)
(Order no. 2004-637 of 1 July 2004 Article 34-5 Official Journal of 2 July 2004, in force on 1st July 2006)
(Act no. 2004-1343 of 9 December 2004 Article 78 XXXII 4 Official Journal of 10 December 2004, in force on 1st July 2005)

I. - Each département is covered by a département or inter-département plan for the disposal of household and other waste mentioned in Article L. 2224-14 of the Code Général des Collectivités Territoriales. The Ile de France region is covered by a regional plan.

II. - In order to achieve the objectives described in Articles L. 541-1 and L. 541-24, the plan:

1° Included an inventory of the types, quantities and origins of the waste to be disposed of, including via its reuse, and of the appropriate existing facilities;

2° Lists the orientation documents and programmes of the legal entities under public law and their concessionaries in the waste sector;

3° Lists the priorities to be chosen, bearing in mind, in particular, foreseeable demographic and economic evolutions:

a) For the set-up of new facilities, and may indicate the geographical areas that seem best suited for this purpose;

b) For the collection, sorting and treatment of waste in order to guarantee a high level of environmental protection bearing in mind the economic and financial means required to implement them.

III. - The plan takes account of the needs and capacities of the neighbouring zones outside its scope of application and the inter-commune cooperation proposals.

IV. - Among the priorities chosen, it must provide for centres for the storage of ultimate waste originating from the treatment of household and similar waste.

V. - The draft plan is drawn up on the initiative and under the responsibility of the President of the Conseil Général, or, in the Ile de France region, the President of the regional council. The local authorities or their groupings with competence in waste disposal or treatment and, in the Ile de France region, the départements, are associated with drawing it up.

VI. - It is drawn up following consultation with a consultative committee composed of representatives of the communes and their groups, the Conseil Général, the State, interested public bodies, professionals concerned, approved environmental protection associations and, in the Ile de France region, the regional council and the Conseils Généraux and approved environmental protection associations.

VII. - The draft project is submitted for opinion to the State representative in the département, to the local commission competent in environmental matters and health risk and technological risk and to the Conseils Généraux of the neighbouring départements. In Ile de France, it is submitted for opinion to the State representative in the region, to the Conseils Généraux and to the local commissions competent in environmental matters and health risk and technological risk located on the territory of the region. It may be modified in order to take account of these opinions, which are considered as favourable if they have not been given within a period of three months from receipt of the draft. If the plan is drawn up by the State under the conditions set out in article L. 541-15, the opinion of the Conseil Général and, in Ile de France, of the regional council, is also sought.

VIII. - The draft plan is then submitted for a public enquiry, then approved by deliberation of the Conseil Général or, for the Ile de France region, by deliberation of the regional council.

Article L541-15

(Act no. 2002-276 of 27 February 2002 Article 109 IV b Official Journal of 28 February 2002)

(Act no. 2004-809 of 13 August 2004 Article 46 Official Journal of 17 August 2004, in force on 1st January 2005)

In the zones in which the plans described in Articles L. 541-11, L. 541-13 and L. 541-14 apply, the decisions made by the legal entities under public law and their concessionaries in the waste disposal sector and, in particular, the decisions made in application of Title I of this Book, must be compatible with these plans.

These plans are revised in accordance with a procedure that is identical to the one used when they are adopted.

The methods and procedures for the drawing up, publication and revision of the plans are set by a Conseil d'Etat decree. This decree sets, in particular, the terms of public consultation, the publicising measures to be taken when the plans are drawn up and after they are adopted, and the simplified procedure for revising the plans, applied when the projected modifications do not bring into question the general economy. This decree also sets the conditions under which the State representative may ask the President of the Conseil Général or the President of the regional council for a new deliberation on the draft plans described in articles L. 541-13 and L. 541-14 or the drawing-up or the revision of these plans, then draw up or revise them when the regional councils or the Conseils Généraux have not adopted them within eighteen months after it has been invited to do so.

NB: Law 2004-809 of 13 August 2004, article 48: transitory provisions concerning household waste disposal plans.

Subsection 2

Underground storage of waste — Articles L541-16 to L541-20

Article L541-16

Nuclear waste is excluded from the application of the provisions of the present sub-section.

Article L541-17

(Order no. 2005-1129 of 8 September 2005 Article 3 Official Journal of 9 September 2005)

I. - The works carried out to seek formations or geological cavities suitable for the underground storage of ultimate waste may only be undertaken:

1° Either by the owner of the land or with his or her consent, after a declaration to the Préfet;

2° Or, failing this consent, by authorisation of the administrative authority, after the owner has been invited to present his or her observations, under the conditions set by a Conseil d'Etat decree.

II. - This authorisation to search entitles its holder, within a perimeter set by the decision, to carry out the work to the exclusion of any other person, including the owner of the land.

III. - This authorisation is subject to prior consultation, allowing the population, councillors, and the environmental protection associations concerned to present their observations.

NB: Order 2005-1129 of 8 September 2005: the provisions of article 3 of Order 2005-1129 will apply to Mayotte as

Article L541-18

In the case of the underground storage of waste, the owner of the underground cavity may only be the operator or an entity under public law.

However, when the storage is to be placed in a mineral deposit covered by a concession of unlimited duration, the cavity remains the property of the concessionary. In this case, the holder of the mining concession and the holder of the authorisation to operate agree on the terms to make the cavity available.

The authorisation in application of Title I of this Book sets all prescriptions to ensure the safety and conservation of the subsoil.

It also sets the long-term supervision measures and the safety work imposed on the operator.

Article L541-19

In case of the concomitant operation of a mineral deposit and a waste storage facility, the holder of the authorisation to operate and the holder of the mining concessions agree on the conditions of use of any shared parts. This agreement is subject to the control of the competent administrative authority.

Article L541-20

Articles 71 to 76 of the Code minier apply to the works described in Article L. 541-17 and to the operation of underground facilities for the storage of ultimate waste.

Subsection 3
Collection of household and similar waste — Article L541-21

Article L541-21

The provisions relating to the disposal of household and similar waste by the local authorities are listed in the Code général des collectivités territoriales (second part, Book II, Title II, Chapter IV, Sections 1 and 3).

Subsección 4
Facilities for waste disposal — Articles L541-22 to L541-30-1

Article L541-22

For some of the categories of waste described in Article L. 541-7 and specified by decree, the administration sets, on all or part of the national territory, the conditions for practising the activity of disposal as defined in Article L. 541-2.

These same categories of waste can only be treated in the facilities for which the operator holds an approval certificate from the administration. They may not be treated with a view to disposing of them in existing facilities for which this approval has not been granted at the date of entry into force set by the decree described in the previous paragraph.

Article L541-23

Any person who transmits or has transmitted waste belonging to the categories described in Article L. 541-22 to anyone other than the operator of an approved disposal facility is jointly responsible with him or her for the damage caused by this waste.

Article L541-24

Special industrial waste, which appears on a list set by a Conseil d'Etat decree owing to its dangerous properties, may not be deposited in storage facilities that receive other categories of waste.

From 1st July 2002, the facilities for waste disposal by storage are only authorised to receive ultimate waste.

Article L541-25

Waste disposal facilities are subject, irrespective of the operator, to the provisions of Title I of this Book. The impact study on a waste storage facility, carried out in application of Title I of this Book, indicates the conditions for rehabilitating the storage site and the envisaged techniques destined to enable the return of the waste in the event that no other technique can be used. This study is submitted for opinion, before the authorisation to operate is granted, to the interested local commission for information and surveillance when it exists, and to the municipal council of the commune where the facility is implanted.

Article L541-26

(Order no. 2000-916 of 19 September 2000 Article 3 Official Journal of 22 September 2000 in force on 1st January 2002)

When it notes that the financial guarantees demanded in application of Article L. 516-1 are no longer supplied, the competent administrative authority issues a summons to the operator to restore them. Any failure to do so noted one month after the summons date may give rise to an administrative fine decided upon by the Minister for the environment. The amount of the fine is equal to three times the value of the difference between the amount of the guarantees demanded and that of the guarantees actually supplied, within the limit of 30 489 803 euros. The Minister may not issue a fine more than one year after the summons.

The recovery of the sums is allocated to the Public Treasury in the same way as that applied to debts not relating to taxes or real estate. The product of the fine is attributed to the Environment and Energy Management Agency for the improvement or supervision of centres for the storage of ultimate waste.

A Conseil d'Etat decree specifies the guarantees of procedure aiming to ensure the right to defence when the fine is issued.

Existing facilities must have been brought into conformity with the provisions of this Article at 14 June 1999.

The abovementioned decree sets the conditions under which a payment to the Environment and Energy Management Agency may act, in full or in part, as a guarantee, in particular for facilities that no longer operate and those that will cease to operate within the time limit provided for in the previous paragraph.

Article L541-27

The application for an authorisation for a waste storage facility is presented by the owner of the land or with his or her express agreement. This agreement must be produced in the application file and must relate to the elements of the impact study linked with the state of the ground surface and sub-surface. Both the owner and the applicant are recipients of the administrative decisions pertaining to the facility.

Article L541-28

In the event of conveyance for valuable consideration of a waste storage facility, the vendor or the assignor is obliged to inform the Préfet and the Mayor. Failure to do so will result in the vendor or the assignor being considered the possessor of the waste stored there under Article L. 541-2 and possessor of the facility under Article L. 511-1.

Article L541-29

In order to prevent the risks and nuisances mentioned in the first paragraph of Article L. 541-2, the commune in which the premises are located may exercise the right of pre-emption, under the conditions provided for in Chapters I and III of Title I of Book II of the Code de l'urbanisme, on the real-estate assets of storage facilities that have reached the end of their operation. The purchase price is set bearing in mind, where applicable, the cost of supervision and the works required to prevent the nuisances.

Any intentional conveyance of the real-estate assets of a waste storage facility at the end of operation is subject, on penalty of being declared void, to the prior declaration provided for in Article L. 213-2 of the Code de l'urbanisme.

Article L541-30

If a holder of waste does not succeed, on the national territory and owing to refusal from the operators of facilities authorised for this purpose, in having this waste disposed of in an authorised facility, the Minister for the environment may oblige one or more operators of authorised facilities to dispose of this waste, subject to compliance with the prescribed conditions of operation. The decision mentions the nature and quantity of waste to be treated and the duration of the service provision. The cost of disposal, calculated on the bases normally applied to analogue operations, is to be borne by the holder.

Article L541-30-1

(Inserted by Law no. 2005-1319 of 26 October 2005 Article 5 Official Journal of 27 October 2005)

I. The operation of an inert waste storage facility is subject to the administrative authorisation issued under the conditions provided for by a Conseil d'Etat decree.

II. The present article does not apply to:

1 Inert waste storage facilities which already fall under an operation authorisation system;

2 Facilities where the inert waste is stored for a period shorter than three years with the aim of preparing its transport with a view to reusing it in a different place, or stored for a period shorter than one year before its transport to a final storage place;

3 The use of inert waste for development, landfill or rehabilitation works or for construction purposes.

NB: Law no. 2005-1319 of 26 October 2005, article 5 II: "Inert waste storage facilities in service on the date upon which the present law comes into force are subject to the provisions of I under the conditions set by a Conseil d'Etat decree.

Subsection 5
Waste retrieval — Articles L541-31 to L541-39

Article L541-31

Decrees approved by the Conseil d'Etat can regulate the methods of use of certain materials, elements or energy forms in order to facilitate their retrieval or that of the materials and elements combined with them in certain manufactures.

The regulation may cover, in particular, the prohibition of certain treatments, mixtures or combinations with other materials, or the obligation to comply with certain manufacturing methods.

Article L541-32

Subject to the international conventions and the provisions relating to the repression of fraud, the Government may, in order to contribute to the safeguarding of the environment or to cope with a shortage, set the minimum proportion of retrieved materials or elements to be respected for the manufacture of a product or a category of products.

The producers and importers concerned may join together via an agreement with the purpose of ensuring global compliance with this proportion, calculated with regard to the total quantity of the said product or of the said category of products manufactured on the national territory or imported.

The use of a minimum proportion of retrieved materials or elements may be imposed by a Conseil d'Etat decree on

the manufacturers and, where applicable, the importers of the products described who are not a party to this agreement.

Article L541-33

Regarding the categories of products specified by a Conseil d'Etat decree, any stipulation creating discrimination owing to the presence of retrieved materials or elements in products that satisfy the regulations and standards in force, shall be deemed nonexistent.

Article L541-34

When the absence or low content of materials of this kind will not modify the substantial qualities of a product, any advertising based on this characteristic is prohibited. This advertising is investigated and repressed under the conditions provided for in Articles L. 121-2 to L. 121-7 of the Code de la consommation.

Article L541-35

For the categories of materials set by a Conseil d'Etat decree, the administration sets the conditions for the activity of retrieval, on all or part of the national territory.

These same categories of materials can no longer be retrieved under conditions other than those provided for in the previous paragraph one year after the publication of the decree for the application of the said paragraph.

Article L541-36

Plans authorised in a Conseil d'Etat decree after a public enquiry may define, within the territorial limits that they specify, the conditions under which it is necessary to proceed to the retrieval of materials, elements and, where possible, reusable energy forms. In the zones where such a plan is applicable, the conditions described in Article L. 541-35 are set, taking account of the provisions of this plan, and in particular the objectives that it sets with a view to ensuring optimal output at the public and private retrieval facilities.

Article L541-37

Industrial establishments producing waste heat in the natural environment must, if an economic report shows it to be useful, and in accordance with the methods set by a Conseil d'Etat decree, following a report by the Ministers concerned, allow the use of a fraction of their production of heat by third parties for collective domestic or industrial purposes with the aim of limiting the volume of the said waste.

Article L541-38

The only uses for mineral and synthetic oils which, after use, are no longer useable in their state for the purposes for which they were destined as new oils, and the disposal of which into the natural environment is prohibited under the provisions of decree no. 77-254 of 8 March 1977, are, when the quality of these waste oils allow, regeneration and industrial use as a combustible. This latter use may only be authorised in approved establishments and when the needs of the regeneration industries have been preferentially satisfied.

A decree sets the conditions of application of this Article.

Article L541-39

(Act no. 2005-781 of 13 July 2005 Article 32 Official Journal of 14 July 2005)

The companies financing energy savings, described in Article 30 of Act no. 80-531 of 15 July 1980 relating to energy savings and the use of heat, are authorised to finance, by means of property-leasing or movable asset leasing or rental, the structures and facilities destined for the retrieval, transport, treatment, recycling and reuse of all types of waste and effluents, irrespective of the user of these facilities. The provisions of paragraph II of the same Article 30 do not apply to operations financed under the conditions provided for in this Article.

SECTION IV

Specific provisions relating to the cross-border movement of waste — Articles L541-40 to L541-42

Article L541-40

To prevent the nuisances mentioned in the first paragraph of Article L. 541-2, the import, export and transit of certain categories of waste may be prohibited, regulated or subject to prior agreement from the interested States.

Prior to any operation to import, export or transit waste, the holder of the waste informs the competent authorities of the interested States.

The import, export and transit of waste are prohibited when the holder is unable to provide proof of an agreement binding him or her to the recipient of the waste or when the recipient does not possess the capacity and competencies to dispose of this waste under conditions that do not present any risk either to human health or to the environment.

Article L541-41

When waste has been introduced onto the national territory in ignorance of the rules set out in Article L. 541-40, the competent administrative authority may order its holder to return it to the country of origin; in case of failure to do so, the authority may take all necessary measures to have it returned; the corresponding expenses are to be borne by the persons who have contributed to introducing or depositing this waste, and are recovered under the conditions mentioned in the second paragraph of Article L. 541-3.

Article L541-42

When waste has been exported in ignorance of the rules set out in Article L. 541-40, the competent administrative authority may order the producer or the persons who have contributed to the export to have the waste returned to the

national territory. In case of failure to do so, the authority may take all necessary measures to have it returned. The corresponding expenses are to be borne by the producer or the persons who have contributed to the export of this waste, and are recovered under the condition mentioned in the second paragraph of Article L. 541-3.

SECTION V
Financial provisions — Article L541-43

Article L541-43

A public interest group may be set up under the conditions set out in Article 21 of Act no. 82-610 of 15 July 1982 for orientation and programming for technological research and development in France, in order to facilitate the installation and operation of any new collective centre for the treatment of special industrial waste, or any new facility for the storage of ultimate waste.

The public interest group may, in this capacity, conduct actions of assistance including, among other things, landscape improvements, of information and of training of the public, and manage facilities in the general public interest for the benefit of inhabitants living locally to the facilities, the communes in which they are implanted, and neighbouring communes.

The set-up of a public interest group as defined in this Article is compulsory in the case of the underground storage of ultimate waste in deep geological strata.

As well as the State and the holder of the authorisation granted in accordance with the provisions of Title I of this Book, the region and the département in which the new collective centre is located, the communes in which the facilities are implanted and the neighbouring communes, as well as any inter-commune cooperation body whose objective is to encourage the economic development of the zone concerned, are entitled to join this group.

SECTION VI
Criminal provision — Articles L541-44 to L541-48

Subsection 1
Investigation of offences — Articles L541-44 to L541-45

Article L541-44

I. -: In addition to the judicial police officers mentioned in Article 20 of the Code de procédure pénale, the following are qualified to proceed to the detection and investigation of infringements of the provisions of this Chapter and of the regulations for its application:

1° The judicial police officers described in Article 21 of the Code de procédure pénale;

2° The officers of the national police force and the officers of the municipal police, within the limits of the provisions relating to their jurisdiction;

3° The agents authorised for the repression of fraud;

4° The officers and agents of the road construction and maintenance department, the rural engineering department, the water and forestry departments, the National Forestry Commission, the transport department and the external services of the merchant navy, sworn and commissioned for this purpose;

5° The officers of the health department specially commissioned under the conditions set in Article L. 1312-1 of the Code de la santé publique;

6° The inspectors of classified facilities;

7° The sworn researchers, engineers and technicians of the French institute of research for the exploitation of the sea;

8° Customs officers.

II. - The official reports drawn up in application of this Article have probative force unless proven otherwise.

Article L541-45

The officials who conduct investigations have free access to the disposal or retrieval facilities, to the places of production, sale, dispatch or storage, to their annexe premises and to the depots of waste, materials or products of which they may take samples for identification purposes. This provision does not apply to dwellings.

The officials who conduct investigations also exercise their action in the transport of products, waste or materials. They may demand, for the fulfilment of their role, the opening of any packaging, or proceed to the inspection of any load, in the presence of the dispatcher, the consignee, the haulier or the carrier.

Subsection 2
Sanctions — Articles L541-46 to L541-48

Article L541-46

(Order no. 2000-916 of 19 September 2000 Article 3 Official Journal of 22 September 2000 in force on 1st January 2002)
(Order no. 2004-691 of 12 July 2004 Article 3 IV Official Journal of 14 July 2004)
(Order no. 2005-1129 of 8 September 2005 Article 2 IV Official Journal of 9 September 2005)

(Act no. 2005-1319 of 26 October 2005 Article 5 I Official Journal of 27 October 2005)

I. - The following acts are punishable by two years' imprisonment and a fine of 75 000 euros:

1° Refusing to provide the administration with the information described in Article L. 541-9 or providing false information;

2° Ignoring the stipulations of Article L. 541-10;

3° Refusing to provide the administration with the information described in Article L. 541-7 or providing false information, or deliberately putting oneself in a position where it is materially impossible to provide this information;

4° Abandoning, depositing or having deposited, under conditions contrary to the provisions of this Chapter, waste belonging to the categories described in Article L. 541-7 and listed in the enactment for its application;

5° Carrying out the transport of or brokerage or trading of waste belonging to the categories described in Article L. 541-7 without fulfilling the prescriptions for the application of Article L. 541-8 and its enactments;

6° Transmitting or having transmitted waste to anyone other than the operator of an approved facility, in ignorance of Article L. 541-22;

7° Disposing of waste or materials without holding the approval provided for in Article L. 541-22;

8° Disposing of or retrieving waste or materials without fulfilling the prescriptions concerning the characteristics, quantities, technical and financial conditions for handling the waste or materials, and the treatment processes used, set in application of Articles L. 541-11, L. 541-22, L. 541-24, L. 541-35 and L. 541-36;

9° Ignoring the prescriptions of Articles L. 541-30-1 and L. 541-31;

10° Obstructing the inspections or the exercise of the functions of the agents defined in Article L. 541-44;

11° Exporting or having exported, importing or having imported, and having transited the waste described in the first paragraph of Article L. 541-40 without fulfilling the prescriptions for the application of this Article or its enactments;

12 Ignoring the obligations regarding information provided for in article L. 325-3 of the Code des Ports Maritimes.

II. - In case of conviction for the offences described in 4°, 6° and 8° of I, the court may order the rehabilitation with a periodic penalty payment of the places damaged by the waste which have not been treated under the conditions provided by the law.

III. - In case of conviction for the offences described in 7° and 8° of I, the court may also order the temporary or definitive closure of the facility and prohibit its operator from exercising the activity of disposer or retriever.

IV. - In case of conviction for the offences described in 6°, 7°, 8° and 11° of I and committed with the aid of a vehicle, the court may also order the suspension of the driving licence for a period not exceeding five years.

V. - The court may order the display or the full or partial circulation of the decision, under the conditions provided for in Article 131-35 of the Code pénal.

Article L541-47

I. - Legal entities can be declared criminally responsible under the conditions set out in Article 121-2 of the Code pénal for the offences defined in Article L. 541-46.

II. - The penalties incurred by legal entities are:

1° Fines, in accordance with the terms set out by Article 131-38 of the Code pénal;

2° The penalties mentioned in 2°, 3°, 4°, 5°, 6°, 8° and 9° of Article 131-39 of the same Code.

III. - The prohibition mentioned in 2° of Article 131-39 of the Code pénal covers the activity during which or on the occasion of which the office was committed.

Article L541-48

Article L. 541-46 is applicable to all those who, in any way responsible for the running, management or administration of any company or establishment, have knowingly let any person under their authority or their control be ignorant of the provisions mentioned in the said Article.

SECTION VII
Miscellaneous provisions — Articles L541-49 to L541-50

Article L541-49

Each year, the Government presents to Parliament a report on the application of this Chapter.

The report covers, in particular, the administrative actions with regard to cross-border transfers of waste.

It is made public.

Article L541-50

The conditions of application of this Chapter are set by a Conseil d'Etat decree.

CHAPTER II
Specific provisions relating to radioactive waste — Articles L542-1 to L542-14

Article L542-1

High-activity radioactive waste with a long life must be managed in full respect of the protection of nature, the environment and health, taking into consideration the rights of future generations.

Article L542-2

The storage in France of imported radioactive waste, even if it has been re-treated on the national territory, is

prohibited once the technical time limits imposed by re-treatment have expired.

Article L542-3

I. - Each year, the Government sends Parliament a report on the progress in research on the management of high-activity radioactive waste with a long life, and the works being conducted simultaneously for:

1° The search for solutions for the separation and transmutation of the radioactive elements with a long life present in this waste;

2° The study of reversible and irreversible storage possibilities in deep geological formations, notably thanks to the construction of underground laboratories;

3° The study of long-term packaging and warehousing surface processes for this waste.

II. - This report also deals with the research and works achieved abroad.

III. - Before 30 December 2006, the Government will send Parliament a global report evaluating this research, accompanied by a draft law authorising, where applicable, the set-up of a centre for the storage of high-activity radioactive waste with a long life, and setting the system of easements and constraints relating to this centre.

IV. - Parliament refers these reports to the parliamentary office for the evaluation of scientific and technological choices.

V. - These reports are made public.

VI. - They are written up by a national evaluation commission, made up of:

1° Six qualified persons, including at least two international experts appointed equally by the National Assembly and by the Senate, on the proposal of the parliamentary office for the evaluation of scientific and technological choices;

2° Two qualified persons appointed by the Government on the proposal of the higher council for the security of nuclear information;

3° Four scientific experts, appointed by the Government on the proposal of the Academy of sciences.

Article L542-4

The conditions for the set-up and operation of the underground laboratories destined to study the deep geological formations in which high-activity radioactive waste with a long life are likely to be stored or held, are set by Articles L. 542-5 to L. 542-11.

Article L542-5

Any project for the installation of an underground laboratory gives rise, before any undertaking of preliminary research work, to a consultation with the councillors and populations of the sites concerned, under the conditions set by decree.

Article L542-6

The research work prior to the installation of the laboratories is conducted under the conditions set out by the law of 29 December 1892 on the damage caused to private property by the execution of public works.

Article L542-7

Without prejudice to the application of the provisions of Title I of this Book, the installation and operation of an underground laboratory are subject to an authorisation granted by decree authorised by the Conseil d'Etat, after an impact study, the opinion of the municipal councils, the Conseils Généraux and the regional councils concerned and after a public enquiry organised according to the terms provided for by Articles L. 123-1 to L. 123-16.

This authorisation is accompanied by specifications.

The applicant for this authorisation must possess the technical and financial capacities required to bring such operations to fruition.

Article L542-8

The authorisation gives its holder, within a perimeter defined by the constitutive decree, the exclusive right to proceed to surface and sub-surface works and to dispose of the materials extracted during these works.

The owners of land located inside this perimeter are indemnified, either by amicable agreement with the authorisation holder or in the manner applied in matters of expropriation.

There may be a procedure of expropriation for public utility of all or part of these lands, for the benefit of the authorisation holder.

Article L542-9

The authorisation decree also establishes, outside the perimeter mentioned in the previous Article, a perimeter of protection in which the administrative authority may prohibit or regulate the works or activities likely to compromise the installation or operation of the laboratory in technical terms.

Article L542-10

Radioactive sources may be temporarily used in these underground laboratories for the purposes of experimentation.

In these laboratories, the storage of radioactive waste is prohibited.

Article L542-11

A public interest group may be set up, under the conditions provided by Article 21 of Act no. 82-610 of 15 July 1982 for orientation and programming for technological research and development in France, with the aim of conducting assistance actions and managing facilities likely to favour and facilitate the installation and operation of each laboratory.

Aside from the State and the holder of the authorisation described in Article L. 542-7, the region and the département in which is located the principal access to the laboratory, the communes with part of their territory less than ten kilometres away from this access, and any inter-commune cooperation organisation whose objective is to encourage the economic development of the zone concerned, are entitled to join this group.

Article L542-12

The National radioactive waste management agency, a public industrial and commercial establishment, is responsible for the long-term management of radioactive waste, and in particular:

1° In cooperation, notably, with the Atomic Energy Commission, for participating in the definition and contributing in the research and development programmes relating to the long-term management of radioactive waste;

2° For managing the long-term storage centres, either directly or by means of third parties acting on its behalf;

3° For designing, installing and building new storage centres, bearing in mind the long-term prospects for the production and management of waste, and for conducting any studies required for this purpose, in particular the installation and operation of underground laboratories for the study of deep geological formations;

4° For defining, in compliance with the safety rules, packaging and storage specifications for radio active waste;

5° For inventorying the state and location of all radioactive waste on the national territory.

Article L542-13

On the site of each underground laboratory, a local information and monitoring committee is set up.

This committee includes State representatives, two members of parliament and two senators appointed by their respective Assembly, councillors from the local authorities consulted on the occasion of the public enquiry, members of environmental protection associations and agricultural unions, and representatives of professional organisations and of personnel of the site, along with the authorisation holder.

At least half of this committee is made up of councillors from the local authorities consulted on the occasion of the public enquiry. The committee is chaired by the Préfet of the département in which the laboratory is located.

The committee meets at least twice a year. It is informed of the objectives of the programme, the nature of the works, and the results obtained. It may refer to the national evaluation commission described in Article L. 542-3.

The committee is consulted about all questions relating to the operation of the laboratory with an effect on the environment and the neighbourhood. It may proceed to hearings or second expert opinions by approved laboratories.

The cost of setting up and running the local information and monitoring committee is borne by the group described in Article L. 542-11.

Article L542-14

A Conseil d'Etat decree sets, where necessary, the terms of application of this Chapter.

TITLE V

Specific provisions relating to certain structures or facilities — **Articles L551-1 to L553-4**

CHAPTER I

Risk studies — Articles L551-1 to L551-2

Article L551-1

(Act no. 2004-811 of 13 August 2004 Article 102 II Official Journal of 17 August 2004)

The projects to create a facility or structure for which it is necessary to draw up a special contingency plan in application of Article 15 of Act no. 2004-811 of 13 August 2004 relating to the modernisation of civil security, and which require authorisation or approval, must include a risk study.

A Conseil d'Etat decree sets, where necessary, the terms of application of this Article.

Article L551-2

(Inserted by Act no. 2003-699 of 30 July 2003 Article 6 Official Journal of 31 July 2003)

When, owing to the parking, loading or unloading of transport vehicles or machinery containing hazardous substances, the operation of a road, rail, port or inland navigation infrastructure or a multimodal facility may present serious risks to the safety of populations and to public salubrity and health, either directly or by pollution of the environment, the developer provides the competent administrative authority with a risk study. This study is updated every five years at least by the operator. When the structure or facility is subject to a safety report or a diagnostic under Articles L. 118-1 and following of the Code de la voirie routière, 13-1 and 13-2 of Act no. 82-1153 of 30 December 1982 for the orientation of inland transport, 30 of the Code du domaine public fluvial et de la navigation intérieure or L. 155-1 of the Code des ports maritimes, this risk study is integrated into this report or this diagnostic.

For the structures and facilities in service on the date of publication of Act no. 2003-699 of 30 July 2003 relating to the prevention of technological and natural risks and the repair of damages, this study is provided within three years at the latest following the entry into force of the said law.

The terms of application of this Article, in particular the categories of structures concerned, are set, for each means of transport, by a Conseil d'Etat decree.

CHAPTER II

Financial guarantees — Article L552-1

Article L552-1

For the structures or facilities presenting risks the possible financial consequences of which are clearly disproportionate to the value of the capital tied up, the authority responsible for granting the authorisation to operate may subject this granting to the provision of financial guarantees. Decrees approved by the Conseil d'Etat set the categories of structures concerned, the rules setting the amount of the guarantee - which must be adapted to the foreseeable consequences of the risk - and the methods for its implementation.

CHAPTER III
Wind-driven generators — Articles L553-1 to L553-4

Article L553-1

(Act no. 2003-590 of 2 July 2003 Article 98 I Official Journal of 3 July 2003)
(Repealed by Order no. 2005-1527 of 8 December 2005 Article 34 IV Official Journal of 9 December 2005, in force on 1st July 2007)

As specified in the first paragraph of Article L. 421-1-1 of the Code de l'Urbanisme reproduced hereafter:

Article L. 421-1-1 (first paragraph): The installation of a facility producing electricity from the mechanical energy of wind, of a height greater than 12 metres, is subject to the obtaining of a building permit.

Article L553-2

(Act no. 2003-590 of 2 July 2003 Article 98 I Official Journal of 3 July 2003)
(Order no. 2004-489 of 3 June 2004 Article 1 III Official Journal of 5 June 2004)
(Act no. 2005-781 of 13 July 2005 Article 37 IV Official Journal of 14 July 2005)

I. - The installation of one or more facilities producing electricity from the mechanical energy of wind, with a mast height greater than 50 metres, is subject to the prior conducting of:

a) The impact study defined in Section 1 of Chapter II of Title II of Book I of this Code;

b) A public enquiry subjected to the stipulations of Chapter III of Title II of Book I of this Code.

II. - The projects for installation which are not subject to a prior impact study must be subject to a notice of impact.

Article L553-3

(Act no. 2003-590 of 2 July 2003 Article 98 I Official Journal of 3 July 2003)
(Act no. 2005-781 of 13 July 2005 Article 40 Official Journal of 14 July 2005)

The operator of a facility producing electricity from the mechanical energy of wind is responsible for its dismantling and the rehabilitation of the site at the end of the operation. In the course of the operation, the operator provides the necessary financial guarantees. For facilities located in the public maritime domain, these financial guarantees are constituted at the beginning of construction. A Conseil d'Etat decree sets the conditions of constitution of the financial guarantees.

Article L553-4

(Act no. 2003-590 of 2 July 2003 Article 98 I Official Journal of 3 July 2003)
(Act no. 2005-781 of 13 July 2005 Article 43 Official Journal of 14 July 2005)

I. - In order to promote harmonious development of the wind-generated energy, the regions may set up a regional wind power scheme, after an opinion issued by the départements and the public establishments for inter-commune cooperation concerned. This scheme indicates the geographical areas that appear to be best suited to the installation of facilities producing electricity using the mechanical energy of wind. The scheme takes into account the evaluation, by geographical zone, of the wind-energy potential, drawn up in application of I of article 6 of Law no. 2000-108 of 10 February 2000 relating to the modernisation and development of the public electricity service.

II. - The State departments may assist in the drawing up of this scheme on the request of the Regional Council.

TITLE VI
Prevention of natural risks — **Articles L561-1 to L565-2**

CHAPTER I
Measures to safeguard the populations threatened by certain major natural risks — Articles L561-1 to L561-5

Article L561-1

(Act no. 2002-276 of 27 February 2002 Article 159 V Official Journal of 28 February 2002)
(Act no. 2003-699 of 30 July 2003 Article 60 Official Journal of 31 July 2003)

Without prejudice to the provisions set out in 5° of Article L. 2212-2 and in Article L. 2212-4 of the Code général des collectivités territoriales, when a foreseeable risk of land movement or of land subsidence owing to an underground cavity or a marl pit, of avalanches or of torrential floods seriously threatens human life, the State may declare to be of public utility the appropriation by the State, the communes or their groups, of the properties exposed to this risk, under the conditions set out by the Code de l'expropriation pour cause d'utilité publique and providing that the means to safeguard and protect the populations are most costly than the compensation for expropriation.

These provisions do not apply to underground cavities of natural or human origin resulting from the past or current

operation of a mine.

The procedure set out in Articles L. 15-6 to L. 15-8 of the Code de l'expropriation pour cause d'utilité publique is applicable when extreme urgency makes it necessary to implement the safeguarding measures immediately.

However, in the setting of the amount of the compensation to replace the expropriated properties, the existence of the risk is not taken into account. The compensation paid in application of the fourth paragraph of Article L. 125-2 of the Code des assurances is deducted from the compensation for expropriation, when the repair works relating to the disaster have not been carried out and the value of the property has been estimated without taking account of the damage suffered.

Article L561-2

Without prejudice to the provisions of Article L. 13-14 of the Code de l'expropriation pour cause d'utilité publique, acquisitions of real-estate properties may give rise to no compensation or reduced compensation if, owing to the period in which they took place, it appears that they were made with the aim of obtaining compensation greater than the purchase price.

Unless proven otherwise, acquisitions are presumed to have been made with this aim when they are made after the opening of the public enquiry prior to the approval of a plan for the prevention of foreseeable natural disasters making the zone concerned unsuitable for building or, in en the absence of such a plan, after the opening of the public enquiry prior to expropriation.

Article L561-3

(Act no. 2002-276 of 27 February 2002 Article 159 VI Official Journal of 28 February 2002)
(Act no. 2002-1576 of 30 December 2002 special amending act Article 75 I Official Journal of 31 December 2002)
(Act no. 2003-699 of 30 July 2003 Article 61 Official Journal of 31 July 2003)

I. The major natural disaster prevention fund is responsible for financing, within the limit of its resources, the compensation allocated in accordance with the provisions of Article L. 561-1, as well as the expenditure relating to limitation of access and to the possible demolition of the exposed properties in order to prevent any future occupation. It also finances, within the same limits, the cost of prevention relating to temporary evacuations and re-housing of the people exposed.

It may also, on the prior decision of the State and in accordance with the terms and conditions set by a Conseil d'Etat decree, contribute to the financing of prevention measures relating to the properties covered by an insurance policy mentioned in the fist paragraph of Article L. 125-1 of the Code des assurances. The prevention measures likely to be subject to this financing are:

1° The amicable purchase by a commune, a group of communes or the State of a property exposed to a foreseeable risk of land movement or land subsidence owing to an underground cavity or a marl pit, avalanches, torrential or flash floods posing a serious threat to human life, as well as the measures required to limit access to these properties and to prevent any occupation, providing that the amicable purchase price is less costly than the means required to safeguard and protect the populations;

2° The amicable purchase by a commune, group of communes or the State of properties used for dwellings or properties used for professional purposes by persons or legal entities employing fewer than twenty employees, in particular individual, commercial, farming or artisanal enterprises and their taxable land, as well as the measures required to limit access and to prevent any occupation, providing that the land purchased is made unsuitable for building within three years, when these properties have been damaged to the extent of more than half their value and indemnified in application of Article L. 125-2 of the Code des assurances;

3° The operations of reconnaissance of underground cavities and marl pits with noted risks to constructions and human life, as well as the treatment or filling in of underground cavities and marl pits which cause risks of land collapse posing a serious threat to human life, as long as this treatment is less costly than the expropriation provided for in Article L. 561-1;

4° The prevention studies and works provided for and made compulsory by a plan for the prevention of foreseeable natural disasters approved in application of 4° of II of Article L. 562-1 on properties used as dwellings or properties used in the framework of professional activities by persons and legal entities employing fewer than twenty employees, in particular industrial, commercial, farming or artisanal enterprises;

5° Information campaigns, in particular those conducted in application of the second paragraph of Article L. 125-2 of this Code, covering the guarantees described in Article L. 125-1 of the Code des assurances.

Financing by this fund of the amicable purchases mentioned in 1° and 2° is subject to the condition that the price set for these purchases does not exceed the amount of the compensation calculated in accordance with the fourth paragraph of Article L. 561-1. When a public authority other than the State has benefited from financing in application of 2° and the land purchased has not been made unsuitable for building within three years, it is obliged to reimburse the fund.

Financing by this fund of the reconnaissance operations and studies and works mentioned in 3° and 4° is made with a deduction of the amount of the compensation paid, where applicable in application of Article L. 125-2 of the Code des assurances for carrying out repair work likely to contribute to these reconnaissance operations or these prevention studies and works.

II. This fund is financed by an amount taken from the product of premiums or additional subscriptions relating to the guarantee against natural disasters provided for in Article L. 125-2 of the Code des assurances. It is paid by insurance companies or their fiscal representative described in Article 1004 bis of the Code général des impôts.

The rate of this amount is set by the administrative authority within a limit of 4%. The amount is collected following

the same rules, under the same guarantees and with the same sanctions as the tax on insurance agreements provided for in Articles 991 and following of the Code général des impôts.

In addition, the fund may receive advances from the State.

The accounting and financial management of the fund is carried out by the central reinsurance fund in an account distinct from those that retrace the other operations carried out by this establishment. The costs charged by the central reinsurance fund for this management are borne by the fund.

Article L561-4

From the publication of the ruling to open the public enquiry prior to the expropriation carried out application of Article L. 561-1, no building permit and no administrative authorisation likely to increase the value of the properties to be expropriated may be granted until the conclusion expropriation procedure, within a maximum period of five years, if the opinion of the Conseil d'Etat has not been given within this period.

The legal entity under public law on whose behalf a building permit or an administrative authorisation has been granted in ignorance of the provisions of the first paragraph above, or in contradiction with the plan for the prevention of foreseeable natural disasters made opposable, is obliged to reimburse the fund mentioned Article L. 561-3 for the cost of the expropriation of the properties that were subject to this permission or this authorisation.

Article L561-5

In the annexe to the finance law of the year, the Government presents to Parliament a report on the management of the major natural disaster prevention fund.

A Conseil d'Etat decree sets the terms of application of this Chapter.

CHAPTER II

Plans for the prevention of foreseeable natural disasters — Articles L562-1 to L562-9

Article L562-1

(Act no. 2003-699 of 30 July 2003 Article 66 Official Journal of 31 July 2003)

I. - The State draws up and enforces plans fro the prevention of foreseeable natural disasters such as floods, land movements, avalanches, forest fires, earthquakes, volcanic eruptions, storms or cyclones.

II. - The purpose of these plans, where necessary, is:

1° To delimit the zones exposed to the risks, known as "danger zones", taking into account the nature and intensity of the risk, to prohibit in these zones all types of construction, structure, facility or farming, forestry, artisanal, commercial or industrial operation or, in the event that constructions, structures, facilities or farming, forestry, artisanal, commercial or industrial operations may be authorised there, to stipulate the conditions under which they may be built, used or operated;

2° To delimit the zones, known as "precaution zones", which are not directly exposed to the risks but where constructions, structures, facilities or farming, forestry, artisanal, commercial or industrial operations could aggravate the risks or cause new ones, and to provide measures of prohibition or stipulations such as those provided in 1°;

3° To define the measures of prevention, protection and safeguarding which must be taken in the zones mentioned in 1° and 2° by the public authorities in the framework of their competencies, as well as those that may be incumbent on individuals;

4° To define, in the zones mentioned in 1° and 2°, the measures relating to the improvement, use or operation of constructions, structures, planted zones existing on the date of approval of the plan, which must be taken by the owners, operators or users.

III. - The implementation of the measures provided for in 3° and 4° of II may be made compulsory depending on the nature and intensity of the risk within a period of five years, which may be shortened in case of emergency. If conformity is not achieved within the stipulated period the Préfet may, after a summons has had no effect, order the implementation of these measures at the expense of the owner, the operator or the user.

IV. - The prevention measures provided in 3° and 4° of II, concerning wooded land, when they impose forest management rules or the conducting of prevention works concerning wooded areas under the responsibility of the public or private owners and operators, are taken in accordance with the provisions of Title II of Book III and Book IV of the Code forestier.

V. - The prevention works carried out in application of 4° of II to properties built or improved in accordance with the provisions of the Code de l'urbanisme before the approval of the plan and placed under the responsibility of the owners, operators or users, may only cover limited facilities.

Article L562-2

When a draft plan for the prevention of foreseeable natural disasters contains some of the provisions mentioned in 1° and 2° of II of Article L. 562-1 and if urgency justifies it, the Préfet may, after consultation with the Mayors concerned, make them binding on any public or private person by a decision which is made public.

These provisions cease to be binding if they do not feature in the approved plan or if the plan is not approved within three years.

Article L562-3

(Act no. 2003-699 of 30 July 2003 Article 62, Article 38, Article 39 Official Journal of 31 July 2003)

The Préfet defines the methods of consultation relating to the drawing up of the draft plan for the prevention of

foreseeable natural disasters.

The local authorities and the public establishments for inter-commune cooperation concerned are associated with the drawing up of this draft.

After a public enquiry conducted under the conditions set out in Articles L. 123-1 and following, and after the opinion of the municipal councils on the territory on which it is to apply, the plan for the prevention of foreseeable natural disasters is approved by a ruling of the Préfecture. In the course of this enquiry and after the opinion of their municipal council, the Mayors of the communes in which the plans are to apply are heard.

Article L562-4

The approved plan for the prevention of foreseeable natural disasters plan is considered as an easement of public utility. It is included in the annexes of the land use plan, in accordance with Article L. 126-1 of the Code de l'urbanisme.

The approved plan for the prevention of foreseeable natural disasters is displayed in Mairies and is publicised in the local press in order to inform the populations concerned.

Article L562-5

(Act no. 2003-699 of 30 July 2003 Article 63 Official Journal of 31 July 2003)
(Order no. 2005-1527 of 8 December 2005 Article 34 I Official Journal of 9 December 2005, in force on 1st July 2007)

I. - The act of building or improving land in a zone prohibited by an approved plan for the prevention of foreseeable natural disasters, or of not complying with the conditions of construction, use or operation stipulated by this plan, is punishable by the penalties set out in Article L. 480-4 of the Code de l'Urbanisme.

II. - The provisions of Articles L. 460-1, L. 480-1, L. 480-2, L. 480-3, L. 480-5 to L. 480-9, L. 480-12 and L. 480-14 of the Code de l'Urbanisme also apply to the offences described in I of this Article, subject only to the following conditions:

1° The offences are investigated by the sworn civil servants and officers commissioned for this purpose by the competent administrative authority;

2° For the application of Article L. 480-5 of the Code de l'Urbanisme, the court rules, in the light of written observations or after hearing the Mayor or competent civil servant, even in the absence of their opinions, either on the bringing of the places or structures into conformity with the provisions of the plan or on their restoration to their previous state;

3° The right of inspection provided in Article L. 461-1 of the Code de l'Urbanisme is given to the representatives of the competent administrative authority.

4° The Tribunal de grande instance may also be referred to, in application of Article L. 480-14 of the Code de l'Urbanisme, by the Préfet.

Article L562-6

The exposure plans of foreseeable natural disasters approved in application of I of Article 5 of Act no. 82-600 of 13 July 1982 relating to the compensation of victims of natural disasters are considered as plans for the prevention of foreseeable natural disasters. The same goes for plans of submersible surfaces drawn up in application of Articles 48 to 54 of the Code du domaine public fluvial et de la navigation intérieure, the risk perimeters established in application of Article R. 111-3 of the Code de l'urbanisme, and the forest fire-sensitive zones plans drawn up in application of Article 21 of Act no. 91-5 of 3 January 1991 modifying various provisions relating to agriculture and forestry. Their modification or revision is subject to the provisions of this Chapter.

The plans or perimeters described in the previous paragraph that were being drawn up at 2 February 1995 are considered as draft plans for the prevention of foreseeable natural disasters, without there being a need to proceed to the consultations or public enquiries already organised in application of the previous procedures specific to these documents.

Article L562-7

A Conseil d'Etat decree specifies the conditions of application of Articles L. 562-1 to L. 562-6. It defines, in particular, the elements making up and the elaboration and revision procedure for the plans for the prevention of foreseeable natural disasters, as well as the conditions under which are taken the measures provided for in 3° and 4° of II of Article L. 562-1.

Article L562-8

In the submersible parts of valleys and in other flood zones, the plans for the prevention of foreseeable natural disasters define, where necessary, the prohibitions and technical prescriptions to be respected in order to ensure the free drainage of the water and the conservation, restoration or extension of flood plains.

Article L562-9

In order to define the prevention measures to be implemented in forest fire-sensitive zones, the Préfet draws up, in consultation with the interested Conseils Régionaux and Conseils Généraux, a plan for the prevention of foreseeable natural disasters.

CHAPTER III
Other prevention measures — Articles L563-1 to L563-6

Article L563-1

(Act no. 2003-699 of 30 July 2003 Article 64 Official Journal of 31 July 2003)

In zones that are particularly exposed to a seismic or cyclonic risk, specific rules covering paraseismic or paracyclonic construction may be imposed on facilities, buildings and installations.

If a plan for the prevention of foreseeable natural disasters is approved in one of the zones mentioned in the first paragraph, it may set, in application of Article L. 562-1, more suitable rules.

A Conseil d'Etat decree sets the terms of application of this Article.

Article L563-2

(Act no. 2005-157 of 23 February 2005 Article 190 V Official Journal of 24 February 2005)

(Order no. 2005-1527 of 8 December 2005 Article 34 V Official Journal of 9 December 2005, in force on 1st July 2007)

In mountainous zones, in the absence of a plan for the prevention of foreseeable natural disasters, the town and country planning documents as well as the projects for works, constructions or installations subject to an application for authorisation or a consideration decisions must take account of the natural risks specific to these zones, whether they are known pre-existing risks or those which could result from envisaged modifications of the environment.

This consideration is assessed according to the information that the competent authority may have.

Without prejudice to the provisions of the two paragraphs above, the State representatives described in Article L. 145-11 of the Code de l'Urbanisme for new tourism units, and in Articles L. 472-1 to L. 472-5 of the same Code for mechanical ski-lifts take account of natural risks when granting the corresponding authorisations.

Article L563-3

(Inserted by Act no. 2003-699 of 30 July 2003 Article 42 Official Journal of 31 July 2003)

I. - In zones exposed to risks of flooding, the Mayor, with the assistance of the competent State departments, draws up an inventory of the existing flood marks on the territory of the commune and establishes the marks corresponding to historic floods, new exceptional floods or submersion by the sea. The commune or the competent group of local authorities marks out, maintains and protects these marks.

II. - The provisions of Act no. 43-374 of 6 July 1943 relating to the performance of geodetic and cadastral work and the conservation of signs, boundary marks and markings are applicable.

III. - A Conseil d'Etat decree sets the terms of application of the present Article (see NB).

NB: Decree no. 2005-233 of 14 March 2005, published in the JORF of 16 March 2005.

Article L563-4

(Inserted by Act no. 2003-699 of 30 July 2003 Article 47 Official Journal of 31 July 2003)

The provisions of Articles L. 54 to L. 56-1 of the Code des postes et télécommunications also apply to the hydrometeorological radar the list of which is set by a joint ruling of the minister responsible for transport and the minister responsible for the environment.

Article L563-5

(Inserted by Act no. 2003-699 of 30 July 2003 Article 78 Official Journal of 31 July 2003)

I. - At the request of the local authorities or groups of local authorities on the grounds of the safety of the people and property on the territory for which they are responsible, the State and its public bodies communicate, solely for this purpose and free of charge, the information at their disposal to the said local authorities or groups of local authorities. However, they may charge the costs of reproduction and transmission of the said data to those requesting it.

II. - A Conseil d'Etat decree sets the terms by which the present Article is implemented. This decree specifies notably the information produced by the State or by its public bodies which can be accessible free of charge to the local authorities.

Article L563-6

(Inserted by Act no. 2003-699 of 30 July 2003 Article 43 Official Journal of 31 July 2003)

I. - The communes or groups of communes competent in matters relating to town planning documents, draw up, as necessary, maps marking out the sites in which underground cavities or marl pits are located, which are liable to cause the ground to subside.

II. - Any person aware of the existence of an underground cavity or a marl pit of which the subsidence is liable to cause damage to people or property, or aware of evidence likely to reveal the existence of such, informs the Mayor who immediately informs the representative of the State in the département and the President of the Conseil Général of the information available on the said subject.

The diffusion of manifestly incorrect or dishonest information or of information resulting from an intentionally wrongful intent relating to the existence of an underground cavity or a marl pit is punishable by a fine of 30,000 euros.

III. - The representative of the State in the département publishes and updates, according to the terms set by a Conseil d'Etat decree, the list of communes for which he or she has been informed by the Mayor of the existence of an underground cavity or a marl pit and of those for which there is a real and serious presumption of the existence of such a cavity.

CHAPTER IV
Forecasting of floods

Articles L564-1 to L564-3

Article L564-1

(Inserted by Act no. 2003-699 of 30 July 2003 Article 41 Official Journal of 31 July 2003)

The organisation and surveillance of forecasting and information transmission relating to floods is ensured by the

State.

Article L564-2
(Inserted by Act no. 2003-699 of 30 July 2003 Article 41 Official Journal of 31 July 2003)

I. - A master plan for the forecasting of floods is established for each river basin by the basin coordination Préfet, in order to ensure the coherence of the systems that can be implemented, under their own responsibility and for the own needs, by the local authorities or groups of local authorities in order to monitor flooding of certain waterways or estuary zones, with the systems of the State and its public bodies.

II. - The local authorities or groups of local authorities may have free access, for the purposes of the operation of their surveillance systems, to the data collected and the forecasts prepared thanks to the surveillance systems set up by the State, its public bodies and the operators of hydraulic structures.

III. - The information collected and forecasts prepared thanks to the surveillance systems set up by the local authorities or groups of local authorities are transmitted to the authorities endowed with police powers. Those responsible for facilities or operations liable to be concerned by this information may have free access to it.

Article L564-3
(Inserted by Act no. 2003-699 of 30 July 2003 Article 41 Official Journal of 31 July 2003)

I. - The organisation of the surveillance, forecasting and transmission of information relating to flooding, by the State, its public bodies and, if applicable, local authorities or groups of local authorities, is subject to regulations established by the Préfet.

II. - A Conseil d'Etat decree sets the terms by which the present Chapter is implemented.

CHAPTER V
Département commissions and major natural disaster prevention plans — Article L565-2

Article L565-2
(Inserted by Act no. 2003-699 of 30 July 2003 Article 45 Official Journal of 31 July 2003)

I. - The Préfet may draw up natural risk prevention plans, taking into account the inter-département documents covering the existing risks. These plans specify the measures to be taken in the département in matters relating to:

- knowledge of the risk;
- surveillance and forecasting of phenomena;
- information and education about risks;
- taking the risks into account in land improvement;
- work enabling a reduction in the risks;
- feedback on experience.

The département commission on major natural risks gives its opinion on these plans.

II. - A Conseil d'Etat decree sets the terms by which the present Article is implemented.

TITLE VII
Prevention of acoustic and visual nuisances — **Articles L571-2 to L572-11**

CHAPTER I
Noise abatement — Articles L571-2 to L571-1

Article L571-1
(Order no. 2004-1199 of 12 November 2004 Article 1 Official Journal of 14 November 2004)

The purpose of the provisions of the present Chapter is, in fields where such is not provided for, to prevent, suppress or limit the emission or propagation, be it needless or for lack of precaution, of noises or vibrations of such a nature that they present a hazard, cause excessive disturbance to people, are harmful to their health or harm the environment.

SECTION I
Noise emissions of objects — Articles L571-2 to L571-5

Article L571-2
(Order no. 2004-1199 of 12 November 2004 Article 1 Official Journal of 14 November 2004)

Without prejudice to the other applicable legislative or regulatory provisions, decrees approved by the Conseil d'Etat, issued after an opinion has been given by the National Council for Noise, define, for objects liable to cause great noise disturbance and for all systems intended to reduce noise emissions:

1° The stipulations relating to acceptable noise levels, conditions of use, methods of noise measurement, marking of objects and systems and the terms by which the public is informed;

2° The rules applicable to manufacture, importation and placing on the market;

3° The procedures for approval and certification evidencing their compliance with the stipulations relating to acceptable noise levels;

4° The conditions of issue and withdrawal by the administrative authority of the approval of the organisations

charged with issuing approvals and certifications;

5° The conditions in which the administrative authority may check or have checked by organisations, at the expense of the holder, the compliance of the objects and systems with the stipulations mentioned in 1° of the present Article.

Article L571-3

(Order no. 2004-1199 of 12 November 2004 Article 1 Official Journal of 14 November 2004)

Any professional in the sale and rental of noise protection objects and systems regulated for the application of Article L. 571-2 is required to inform the purchaser or lessee of the acoustic properties of the said objects or systems.

Article L571-4

(Order no. 2004-1199 of 12 November 2004 Article 1 Official Journal of 14 November 2004)

Any contract intended to transfer the ownership or enjoyment of an object or system which does not benefit from the approval certification provided for in Article L. 571-2 or does not meet the stipulations established for the application of the said Article is automatically null and void.

Article L571-5

(Order no. 2004-1199 of 12 November 2004 Article 1 Official Journal of 14 November 2004)

The provisions of the present section are not applicable to objects and systems designed for the accomplishment of missions of national defence.

They may not be substituted for the more protective provisions contained in the Code de l'aviation civile, the Code de la route or the Code du travail.

SECTION II

Noisy activities — Articles L571-6 to L571-8

Article L571-6

(Order no. 2004-1199 of 12 November 2004 Article 1 Official Journal of 14 November 2004)

Without prejudice to the other applicable legislative or regulatory provisions, noisy activities exercised by public or private companies, establishments, centres of activity or facilities, be they temporary or permanent, which do not feature in the nomenclature of classified facilities for the protection of the environment, may be subject to general stipulations or, when they are liable, by the noise they cause, to present hazards or cause the disturbance mentioned in Article L. 571-1, to authorisation.

Noisy sports or open-air activities liable to cause noise nuisance are also subject to the same provisions.

The list of the activities subject to authorisation is defined in a nomenclature of noisy activities established by a Conseil d'Etat decree issued after hearing the opinion of the National Council for Noise.

The general stipulations referred to in the first paragraph and the stipulations imposed on activities subject to authorisation specify the prevention, development or sound insulation measures applicable to the said activities, the conditions governing their distance from dwellings and the conditions in which technical inspections are conducted.

A Conseil d'Etat decree specifies the terms of application of the present Article, notably the procedure for issuing authorisations, the documents to be supplied to support the application and the conditions in which the public is informed and consulted.

The issuing of the authorisation provided for in the first paragraph is subject to an impact study being conducted in the conditions set out Articles L. 122-1 to L. 122-3 and is subject to a consultation of the public in the conditions set by decree.

The time limits and conditions in which existing activities must be rendered compliant to the stipulations established for the application of the present Article are set by a Conseil d'Etat decree.

Article L571-7

(Order no. 2004-1199 of 12 November 2004 Article 1 Official Journal of 14 November 2004)

In order to limit the nuisances resulting from helicopter traffic in densely populated zones, it is prohibited to conduct training flights from or to airfields located in such zones, or to make round trips for tourism purposes above these same zones without a stopover of with a stopover of less than one hour. A Conseil d'Etat decree determines the restrictions the minister responsible for civil aviation can place on helicopter traffic from or to airfields located in these zones or above the said zones, in terms, notably, of the number of aircraft movements, times of day, distribution of flights over time, sound levels, types of aircraft or take-off and landing procedures.

When flying over built-up areas which are not located in densely populated zones, helicopters must comply with a minimum height above ground level.

These provisions are not applicable to transport for health-related purposes and to urgent civil protection missions.

A Conseil d'Etat decree sets the terms of application of this Article.

Article L571-8

(Order no. 2004-1199 of 12 November 2004 Article 1 Official Journal of 14 November 2004)

The provisions of Article L. 571-6 are not applicable to activities and facilities relating to national defence, public civil protection services and fire fighting, or to land-transport facilities or infrastructures subject to the provisions of Articles L. 571-9 and L. 571-10 of the present Code and L. 111-11, L. 111-11-1 and L. 111-11-2 of the Code de la Construction et de l'Habitation or to airfields created subject to a ministerial ruling.

However, the public is informed of the stipulations intended to limit noise nuisance imposed on these activities and

facilities by the administrative authority to which they answer.

SECTION III
Land transport facilities and infrastructures — Articles L571-9 to L571-10

Article L571-9
(Order no. 2004-1199 of 12 November 2004 Article 1 Official Journal of 14 November 2004)

I. - The design, study and construction of land transport facilities and infrastructures take into account the noise nuisance that the creation and use of these facilities and infrastructures cause in the areas around them.

II. - Decrees approved by the Conseil d'Etat specify the stipulations applicable:

1° To new infrastructures;

2° To modifications and significant transformations of existing infrastructures;

3° To guided transport and, in particular, to infrastructures intended to carry high-speed trains;

4° To worksites.

III. - The work authorisation application file relating to these facilities and infrastructures, subject to a public enquiry, includes the measures envisaged to suppress or reduce the harmful consequences of noise nuisance.

Article L571-10
(Order no. 2004-1199 of 12 November 2004 Article 1 Official Journal of 14 November 2004)

In each département, the Préfet lists and classifies the land transport infrastructures according to the noise characteristics of the traffic. On the basis of this classification, the Préfet determines, after consulting with the communes, the sectors located in the vicinity of these infrastructures which are affected by the noise, the noise levels to be taken into account for the construction of buildings there and the technical measures liable to reduce them.

The sectors determined in this way and the stipulations relating to the acoustic characteristics that apply in them are included in the land use plans of the communes in question.

A Conseil d'Etat decree specifies the terms of application of the present Article and, notably, the conditions in which builders are informed and the classification of the infrastructures according to the noise.

SECTION IV
Noise of air transport — Articles L571-11 to L571-16

Subsection 1
Noise exposure plan — Article L571-11

Article L571-11
(Order no. 2004-1199 of 12 November 2004 Article 1 Official Journal of 14 November 2004)

The provisions relating to the use of land exposed to nuisances caused by aircraft noise are listed in the Code de l'Urbanisme (Book I, Title IV, Chapter VII).

Subsection 2
Environment of airports — Article L571-12

Article L571-12
(Order no. 2004-1199 of 12 November 2004 Article 1 Official Journal of 14 November 2004)

The provisions relating to the Airport Nuisance Control Authority are listed in the Code de l'aviation civile (Book II, Title II, Chapter VII).

Subsection 3
Environmental consultative commission — Article L571-13

Article L571-13
(Act no. 2003-1312 of 30 December 2003 Article 19 III 2 a finance acts rectification for 2003 Official Journal of 31 December 2003)
(Order no. 2004-1199 of 12 November 2004 Article 1 Official Journal of 14 November 2004)
(Order no. 2004-637 of 1 July 2004 Article 31 I, II Official Journal of 2 July 2004, in force on 1st July 2005)
(Order no. 2004-637 of 1 July 2004 Article 31 I, II Official Journal of 2 July 2004, in force on 1st July 2005)
(Order no. 2004-1199 of 12 November 2004 Article 1 Official Journal of 14 November 2004)
(Act no. 2004-1343 of 9 December 2004 Article 78 XXXII 3 Official Journal of 10 December 2004, in force on 1st July 2005)

I. - The administrative authority may create, for all airports referred to in Article L. 147-2 of the Code de l'Urbanisme, an environmental consultative commission. This commission is created automatically when the request is made by a commune of which part of the territory is covered by the noise exposure plan of the airport. This creation is also automatic for the airports described in article 1609 quatervicies A of the Code Général des Impôts.

II. - The commission is consulted for all questions of importance relating to the development or operation of the airport which could have an incidence on the environment. It may also, at its own initiative, issue recommendations on these questions. When one of the airports referred to in 1 of Article 1609 quatervicies A of the Code Général des Impôts

is concerned, the recommendations relating to noise are transmitted to the Airport Noise Nuisance Control Authority. The environmental consultative commission coordinates, when applicable, the preparation of written documents formalising the undertakings of the various parties concerned by the operation of the airport in order to ensure control over the nuisances linked with those operations.

III. - For environmental quality charters, notably, it handles monitoring and implementation. In matters of noise due to air transport, it may refer to the Airport Noise Nuisance Control Authority any question relating to compliance with these charters and any requests for studies or expert appraisement.

IV., V. - Paragraphs repealed.

VI. - The operating means of the commission are placed at its disposal by the airport operator.

VII., VIII., IX., X. - Paragraphs repealed

XI. - This commission comprises:

1° For one third of its members, representatives of the aeronautics professions;

2° For one third, representatives of the local authorities concerned;

3° For one third, representatives of the associations of local inhabitants and of the associations for the protection of the environment and the living environment concerned by the airport environment.

XII. - It is presided over by the representative of the State.

XIII. - A Conseil d'Etat decree determines the terms of application of the present Article.

NB: Article 31 of Order no. 2004-637 of 1st July 2004 has been modified by article 78 XXXII 3 of Law no. 2004-1343 of 9 December 2004.

Entry into force on 1st July 2005 is enacted by article 34-7 of the same Order, inserted by article 78 XXXII 4 of Law no. 2004-1343.

Subsection 4
Aid to local inhabitants — Articles L571-14 to L571-16

Article L571-14

(Act no. 2003-1312 of 30 December 2003 Article 19 III 2 b finance acts rectification for 2003 Official Journal of 31 December 2003)

(Order no. 2004-1199 of 12 November 2004 Article 1 Official Journal of 14 November 2004)

The operators of the airports mentioned in I of Article 1609 quatervicies A of the Code Général des Impôts contribute towards the expenses incurred by local inhabitants living around these airports to install the necessary systems to reduce noise nuisance, under the conditions set by a Conseil d'Etat decree. For the airports mentioned in IV of Article 1609 quatervicies A of the same Code, this contribution is financed by the resources derived by each airport from the tax laid down by this same article.

Article L571-15

(Act no. 2003-1312 of 30 December 2003 Article 19 III 2 c finance acts rectification for 2003 Official Journal of 31 December 2003)

(Order no. 2004-1199 of 12 November 2004 Article 1 Official Journal of 14 November 2004)

To define which inhabitants are entitled to claim this aid, for each airport mentioned in 1 of Article Article 1609 quatervicies A of the Code Général des Impôts, a noise annoyance plan is drawn up, noting the actual annoyance suffered around the said airports. The terms by which this plan is drawn up and reviewed are defined by decree.

Article L571-16

(Act no. 2003-1312 of 30 December 2003 Article 19 III 2 d finance acts rectification for 2003 Official Journal of 31 December 2003)

(Order no. 2004-1199 of 12 November 2004 Article 1 Official Journal of 14 November 2004)

For each airport concerned, a commission is set up and is consulted on the content of the noise annoyance plan and on the use of the aid allocated to attenuate the nuisances suffered by local inhabitants.

It is composed of the representatives of the State, of the local authorities concerned, of the operators of aircraft, of local inhabitants' associations and of the management of the airport.

The composition and the rules of procedure of this commission are defined by a Conseil d'Etat decree.

SECTION V
Administrative inspections and sanctions — Article L571-17

Article L571-17

(Order no. 2004-1199 of 12 November 2004 Article 1 Official Journal of 14 November 2004)

I. - Independently of any criminal proceedings, the competent administrative authority may, after a summons and full argument, take all or any measures destined to stop any disturbances resulting from the emission or propagation of noise originating from any object or system which has not been approved or certified as provided for by Article L. 571-2, or which does not comply with the stipulations established for the application of this Article, and may decide, provisionally, to stop its operation, impound it, prohibit placing it on the market, seize it wherever it might be or apply to the judge to have the object or system rendered unusable or destroyed.

II. - Independently of the criminal proceedings, when the administrative authority has ascertained the failure to comply with the provisions set out in Article L. 571-6 or the individual regulations and decisions issued for its application,

it issues a summons to the operator or the person responsible for the activity to comply with the above within a set period of time. If, on expiry of the period of time set for performance, this order has not been complied with, the competent administrative authority may, after giving the party concerned the opportunity to present its defence:

1° Oblige the operator or the person responsible for the activity to deposit with the Treasury a sum corresponding to the amount of the work to be carried out, which will be refunded gradually as the required measures are performed; the said sum is collected in the same way as that applied in matters of debts not relating to tax or to real estate;

2° Have the required measures enforced ex officio and at the expense of the operator or the person responsible for the activity;

3° Suspend the activity until the required measures have been performed.

III. - The sums deposited in application of 1° of II may be used to settle any expenses caused by the implementation ex officio of the measures provided for in 2° of II.

SECTION VI
Criminal provisions — Articles L571-18 to L571-26

Subsection 1
Investigation of offences — Articles L571-18 to L571-21

Article L571-18
(Order no. 2004-1199 of 12 November 2004 Article 1 Official Journal of 14 November 2004)

I. - As well as the officers and agents of the judiciary police acting within the framework of the provisions of the Code de procédure pénale, the following are responsible for identifying and investigating infringements of the provisions of the present Chapter, as well as of the enactments or decisions for their application:

1° Officials commissioned for that purpose and sworn under the conditions determined by a Conseil d'Etat decree, belonging to the services of the State in charge of the environment, agriculture, industry, infrastructure, transport, the sea, health, youth and sports;

2° Those persons in charge of inspecting classified facilities or conducting expert appraisements, mentioned in Article L. 514-5;

3° Customs officials;

4° Officials accredited in matters relating to the repression of fraud.

II. - As well as the above, the civil servants and officials of the local authorities mentioned in Article L. 1312-1 of the Code de la santé publique and sworn for that purpose under the conditions defined by a Conseil d'Etat decree are responsible for identifying and investigating infringements of the rules relating to neighbourhood noise as defined by a Conseil d'Etat decree.

Article L571-19
(Order no. 2004-1199 of 12 November 2004 Article 1 Official Journal of 14 November 2004)

In order to identify and investigate infringements, the officials mentioned in Article L. 571-18 have access to the premises, facilities and places where the operations at the origin of the infringements are conducted, except for homes or parts of premises serving as a home; they may request the communication of any professional document and take a copy of it, and may collect, either on site or by summons for an interview, the information and evidence specific to the accomplishment of their mission. Owners and operators are required to allow them access.

They may enter premises only between 8 am and 8 pm or outside these times if the establishment is open to the public or if an activity is underway.

The Procureur de la République is informed in advance of operations being envisaged in order to identify infringements and may object to the said operations.

Article L571-20
(Order no. 2004-1199 of 12 November 2004 Article 1 Official Journal of 14 November 2004)

Infringements of the provisions of the present Chapter and their enactments are ascertained in reports which have probative force unless proven otherwise.

The reports must be sent to the Procureur de la République within five days of their closure, under penalty of being declared void.

A copy of the report is also sent to the party concerned within the same period of time.

Article L571-21
(Order no. 2004-1199 of 12 November 2004 Article 1 Official Journal of 14 November 2004)

I. - Within the framework of the operations provided for in Article L. 571-18, the officials mentioned in the said Article, except for the civil servants and officials of the local authorities, may:

1° Take samples with a view to carrying out analyses or tests; the terms of application of the present paragraph are provided for by a Conseil d'Etat decree;

2° Impound, pending the necessary controls, the objects or systems suspected of being non-compliant with the provisions of the present Chapter and its enactments.

II. - This impounding may only be conducted with the authorisation of the President of the Tribunal de grande instance within the jurisdiction of which is located the place where the objects or systems subject to dispute are held, or

of the magistrate delegated for that purpose.

III. - The case is referred to the said magistrate on the application of the officials mentioned in the present Article. The magistrate must issue a ruling within twenty-four hours.

IV. - The President of the Tribunal de grande instance checks that the application made to impound the object or system is justified. This application includes all the information liable to justify this measure.

V. - The impounding measure may not exceed fifteen days. In case of particular difficulties linked to the examination of the objects in question, the President of the Tribunal de grande instance may renew the measure for the same duration by an order stipulating the grounds for the decision.

VI. - The impounded objects are left under the care of their holder.

VII. - The President of the Tribunal de grande instance may order the lifting of the impounding measure at any time. The measure is lifted automatically in all cases in which the accredited officials have ascertained the compliance of the impounded objects or the fact that they have been rendered compliant.

VIII. - In case of non-compliance, any costs are at the expense of the offender under the conditions set by a Conseil d'Etat decree.

Subsection 2
Sanctions — Articles L571-22 to L571-26

Article L571-22

(Order no. 2000-916 of 19 September 2000 Article 3 Official Journal of 22 September 2000 in force on 1st January 2002)

(Order no. 2004-1199 of 12 November 2004 Article 1 Official Journal of 14 November 2004)

Obstructing the accomplishment of the inspections by the officials mentioned in Article L. 571-18 is punishable by six months' imprisonment and a fine of 7,500 euros.

Article L571-23

(Order no. 2000-916 of 19 September 2000 Article 3 Official Journal of 22 September 2000 in force on 1st January 2002)

(Order no. 2004-1199 of 12 November 2004 Article 1 Official Journal of 14 November 2004)

The following are punishable by two years' imprisonment and a fine of 30,000 euros:

1° Manufacturing, importing or placing on the market objects or systems without the accreditation of certification demanded by the terms of Article L. 571-2;

2° Exercising an activity without the authorisation provided for in Article L. 571-6, or continuing to exercise an activity without complying with the summons provided for in II of Article L. 571-17.

Article L571-24

(Order no. 2004-1199 of 12 November 2004 Article 1 Official Journal of 14 November 2004)

In case of conviction, the court may order the removal, the seizure or the destruction of the objects or systems concerned by the infringement at the expense of the guilty party.

Likewise, in case of conviction for failure to comply with the provisions of Article L. 571-6, the court may pronounce a temporary prohibition of the activity in question until the provisions concerned by the infringement have been complied with.

Article L571-25

(Act no. 2004-204 of 9 March 2004 Article 198 Official Journal of 10 March 2004, in force on 1st January 2005)

(Order no. 2004-1199 of 12 November 2004 Article 1 Official Journal of 14 November 2004)

In case of prosecution for infringement of the provisions of the present Chapter, or of the individual regulations or decisions made for its application, the court may, after declaring the accused guilty, decide to adjourn the pronouncement of the verdict and order the guilty party to comply, within a set period of time, with the stipulations it shall determine and the purpose of which is to put an end to the illegal acts and repair their consequences.

The court may make the injunction subject to the payment, in case of delay in performance, of penalties of which it sets the rate and the date from which they will commence.

There may only be one such adjournment; it may be ordered even if the accused does not appear in person. In all cases, the provisional execution of the decision may be ordered.

At the hearing to which the case is adjourned, which must take place within a period of one year as of the adjournment decision, the court pronounces the sentence and calculates the late performance penalty due, if applicable. It may, if it should so choose, suppress the late performance penalty or reduce its amount. The penalty is collected by the Treasury like a fine in criminal proceedings and does not give rise to legal restraint.

Article L571-26

(Order no. 2004-1199 of 12 November 2004 Article 1 Official Journal of 14 November 2004)

In case of conviction for infringement of the provisions of the present Chapter, the court may order, at the expense of the guilty party, that all or extracts of its decision be published and, should it so decide, that a message be diffused, the explicit terms of which it sets, informing the public of the grounds and content of its decision, in one or several newspapers designated by the court, and that it be posted under the conditions and subject to the penalties provided for, depending on the case, in Articles 131-35 and 434-39 of the Code pénal, without, however, the cost of that publicity

exceeding the amount of the fine incurred.

CHAPTER II

Evaluation, prevention and reduction of noise in the environment — Articles L572-1 to L572-11

Article L572-1

(Order no. 2004-1199 of 12 November 2004 Article 1 2 Official Journal of 14 November 2004)
(Order no. 2004-1199 of 12 November 2004 Article 1 3, 4 Official Journal of 14 November 2004)
(Act no. 2005-1319 of 26 October 2005 Article 4 II Official Journal of 27 October 2005)

The noise emitted into the environment in the areas surrounding the main transport infrastructures and the large conurbations is evaluated and is subject to actions aiming to prevent or reduce it, under the conditions provided for by the present chapter.

Article L572-2

(Order no. 2004-1199 of 12 November 2004 Article 1 3, 4 Official Journal of 14 November 2004)
(Act no. 2005-1319 of 26 October 2005 Article 4 II Official Journal of 27 October 2005)

A noise map and an environmental noise prevention plan are drawn up:

1 For each of the road, airport and rail infrastructures the characteristics of which are set by a Conseil d'Etat decree;

2 For conurbations of more than 100,000 inhabitants, the list of which is set by a Conseil d'Etat decree.

Article L572-3

(Order no. 2004-1199 of 12 November 2004 Article 1 3, 4 Official Journal of 14 November 2004)
(Act no. 2005-1319 of 26 October 2005 Article 4 II Official Journal of 27 October 2005)

The purpose of noise maps is to enable a global evaluation of exposure to noise in the environment and to draw up general forecasts of its evolution.

They comprise a set of graphic representations and numerical data. They are drawn up according to indicators evaluating the sound level. These indicators are fixed under the conditions defined by a Conseil d'Etat decree.

Maps relating to conurbations take into account the noise emitted by road, rail and air traffic and by industrial activity and, where applicable, other sources of noise.

Article L572-4

(Order no. 2004-1199 of 12 November 2004 Article 1 3, 4 Official Journal of 14 November 2004)
(Act no. 2005-1319 of 26 October 2005 Article 4 II Official Journal of 27 October 2005)

I. - Noise maps are drawn up:

1 By the State representative when they relate to the transport infrastructures described in 1 of article L. 572-2;

2 By the communes located within the perimeter of conurbations of more than 100,000 inhabitants or, if they exist, by the public inter-commune cooperation establishments competent in matters of sound nuisance control.

II. - Where applicable, the authorities or bodies managing the infrastructures mentioned in 1 of article L. 572-2 send to the authorities mentioned in I of the present article the elements required for the drawing-up of noise maps, within a period compatible with the deadlines set by articles L. 572-5 and L. 572-9.

Article L572-5

(Inserted by Order no. 2004-1199 of 12 November 2004 Article 1 3, 4 Official Journal of 14 November 2004)

Noise maps are re-examined and, where applicable, revised, every five years at least.

The maps are made public, where applicable by electronic means.

Article L572-6

(Inserted by Order no. 2004-1199 of 12 November 2004 Article 1 3, 4 Official Journal of 14 November 2004)

The aim of the environmental noise prevention plans is to prevent the effects of noise, to reduce, where necessary, noise levels, and to protect quiet areas. Quiet areas are exterior zones which are remarkable for their low exposure to noise, in which the authority which draws up the plan wishes to control the evolution of this exposure, bearing in mind the human activities carried out or planned.

They comprise an evaluation of the number of people exposed to an excessive noise level and identify the sources of noise the level of which should be reduced.

They list the measures provided for by the competent authorities to deal with the situations identified by the noise maps, notably when the limit values set under the conditions defined by a Conseil d'Etat decree are exceeded or could be exceeded.

Article L572-7

(Order no. 2004-1199 of 12 November 2004 Article 1 3, 4 Official Journal of 14 November 2004)
(Act no. 2005-1319 of 26 October 2005 Article 4 II Official Journal of 27 October 2005)

I. - The environmental noise prevention plans relating to the motorways and roads of national or European interest which are part of the public national highway domain, and relating to rail infrastructures, are drawn up by the State representative.

II. - The environmental noise prevention plans relating to road infrastructures other than those mentioned in I above are drawn up by the local authorities to which these infrastructures pertain.

III. - The environmental noise prevention plans relating to conurbations of more than 100,000 inhabitants are drawn

up by the communes located within the perimeter of these conurbations or, if they exist, by the public inter-commune cooperation establishments competent in matters of sound nuisance control.

IV. - The authority which draws up the plan first obtains the agreement of the competent authorities or bodies to decide upon and implement the measures that it has listed.

Article L572-8

(Inserted by Order no. 2004-1199 of 12 November 2004 Article 1 3, 4 Official Journal of 14 November 2004)

Draft environmental noise prevention plans are subject to public consultation, under the conditions set by a Conseil d'Etat decree.

The environmental noise prevention plans are published.

They are re-examined and, where applicable, revised in the event of a significant evolution in the noise levels identified, and, at all events, every five years.

Article L572-9

(Order no. 2004-1199 of 12 November 2004 Article 1 3, 4 Official Journal of 14 November 2004)
(Act no. 2005-1319 of 26 October 2005 Article 4 II Official Journal of 27 October 2005)

I. - The noise maps relating to conurbations of more than 250,000 inhabitants, to road infrastructures with annual traffic of more than 6 million vehicles, and to rail infrastructures with annual traffic of more than 60,000 passages of trains are published on 30 June 2007 at the latest. The corresponding environmental noise prevention plans are published on 18 July 2008 at the latest.

II. - The other noise maps are published on 30 June 2012 at the latest, and the corresponding plans on 18 July 2013 at the latest.

Article L572-10

(Inserted by Order no. 2004-1199 of 12 November 2004 Article 1 3, 4 Official Journal of 14 November 2004)

The noise maps and environmental noise prevention plans the drawing-up of which is the responsibility of authorities other than the State are sent to the State representative.

When this representative ascertains that an authority has not drawn up, re-examined or published a map or a plan within the deadlines provided for by articles L. 572-5 and L. 572-9, he or she performs this task with the related costs borne by this authority, after formal notification has been given.

Article L572-11

(Order no. 2004-1199 of 12 November 2004 Article 1 3, 4 Official Journal of 14 November 2004)
(Act no. 2005-1319 of 26 October 2005 Article 4 II Official Journal of 27 October 2005)

A Conseil d'Etat decree stipulates the conditions of application of the present chapter.

TITLE VIII

Protection of the living environment	**Articles L581-1 to L582-1**
CHAPTER I Advertising, signs and signposting	Articles L581-1 to L581-45
SECTION I General principles	Articles L581-1 to L581-3

Article L581-1

(Order no. 2004-1199 of 12 November 2004 Article 1 1 Official Journal of 14 November 2004)

Each individual has the right to express and diffuse information and ideas, whatever their nature, by means of advertising, of signs and of signposting, in accordance with the laws and subject to the provisions of the present Chapter.

Article L581-2

(Order no. 2004-1199 of 12 November 2004 Article 1 1 Official Journal of 14 November 2004)

In order to ensure the protection of the living environment, the present Chapter sets the rules applicable to advertising, signs and signposting visible from all public thoroughfares as defined by a Conseil d'Etat decree. These provisions do not apply to advertising, signs and signposting located inside premises, except if their use is principally that of an advertising material.

Article L581-3

(Order no. 2004-1199 of 12 November 2004 Article 1 1 Official Journal of 14 November 2004)

For the purposes of the present Chapter:

1° Advertising, not including signs and signposting, is any inscription, shape or image destined to inform the public or attract its attention, all devices whose main purpose is to bear the said inscriptions, shapes or images being assimilated with advertising;

2° A sign is any inscription, form or image affixed on a building and relating to an activity conducted there;

3° Signposting is any inscription, shape or image indicating the proximity of a building where a given activity is conducted.

SECTION II
Advertising — Articles L581-4 to L581-17

Subsection 1
General provisions — Articles L581-4 to L581-6

Article L581-4
(Order no. 2004-1199 of 12 November 2004 Article 1 1 Official Journal of 14 November 2004)

I. - All advertising is forbidden:

1° On buildings listed as historic monuments or listed on the additional inventory;

2° On natural monuments or in listed sites;

3° In national parks and nature reserves;

4° On trees.

II. - The Mayor or, failing that, the Préfet, at the request or after receiving the opinion of the Conseil Municipal and after the opinion of the département commission competent in matters relating to sites, may also issue a ruling prohibiting all advertising on buildings of an aesthetic, historical or picturesque nature.

III. - The opinion of the département commission competent in matters relating to sites is deemed to be favourable if it does not reply within a period of two months as of the case being referred to it by the Préfet or of the request for the opinion of the commission sent by the Mayor to the Préfet.

Article L581-5
(Order no. 2004-1199 of 12 November 2004 Article 1 1 Official Journal of 14 November 2004)

All advertising must mention, as applicable, the name and address or the name or company name of the person or legal entity which affixed it or had it affixed.

Article L581-6
(Order no. 2004-1199 of 12 November 2004 Article 1 1 Official Journal of 14 November 2004)

The installation, replacement or modification of the systems or equipment which bear publicity are subject to prior declaration to the Mayor and the Préfet under the conditions set by a Conseil d'Etat decree.

Subsection 2
Advertising outside built-up areas — Article L581-7

Article L581-7
(Order no. 2004-1199 of 12 November 2004 Article 1 1 Official Journal of 14 November 2004)

Outside those places qualified as "built-up areas" by the regulations relating to road traffic, all advertising is forbidden except in those zones designated as "authorised advertising zones".

These zones may be instituted, subject to the provisions of Article L. 581-4 in the immediate vicinity of commercial and industrial establishments, or of artisanal centres or in groups of dwellings.

They are defined under the conditions provided for in Article L. 581-14 and advertising in these zones is subject to the stipulations fixed by the rulings establishing the said zones.

Subsection 3
Advertising inside built-up areas — Articles L581-8 to L581-13

Article L581-8
(Order no. 2004-1199 of 12 November 2004 Article 1 1 Official Journal of 14 November 2004)

I. - In built up areas, advertising is forbidden:

1° In the protection areas defined around listed sites or around listed historic monuments;

2° In protected sectors;

3° In regional parks.

Exemption from this prohibition may only be granted by the establishment of restricted advertising zones.

II. - Advertising in these areas is also prohibited:

1° In sites listed in the inventory and in the protected zones defined around them;

2° At a distance of less than 100 metres from, and within the field of visibility of buildings listed as historic monuments or listed in the additional inventory or referred to in II of Article L. 581-4;

3° In zones for the protection of architectural, urban or landscape heritage.

Exemption may be granted from this prohibition by the establishment of restricted advertising zones or of sectors subject to the general system set out in application of Article L. 581-9.

An exemption may be granted exceptionally, under the conditions set by a Conseil d'Etat decree, by the establishment of an extended advertising zone when that advertising is a decisive factor in the activity of the places in question.

The sectors subject to the general system are established in accordance with the procedure defined in Article L. 581-14.

III. - In cases where no exemption is granted to the prohibitions provided for in I and II of the present Article, the Mayor may authorise posting of opinions and advertising relating to the activities of associations, mentioned in Article L. 581-13, on worksite protection barriers under the conditions determined by a Conseil d'Etat decree.

IV. - Advertising may not cover all or part of an opening in a building. However, this prohibition is lifted when it is the front of an establishment temporarily closed for renovation or further to insolvency or liquidation proceedings or when several special regulation zones established in accordance with the procedure defined in L. 581-14 have provided for it.

Article L581-9

(Order no. 2004-1199 of 12 November 2004 Article 1 1 Official Journal of 14 November 2004)

In built-up areas, and subject to the provisions of Articles L. 581-4, L. 581-8 and L. 581-10, advertising is admitted. However, it must comply, notably in terms of its position, surface, height and maintenance, with stipulations set by a Conseil d'Etat decree, according to the processes and systems used, the characteristics of the media and the size of the built-up areas in question. This decree also specifies the conditions of use of street furnishing installed in public places as advertising media.

The installation of luminescent advertising systems other than billboards lit by projectors or by backlighting, is subject to the authorisation of the Mayor.

Article L581-10

(Order no. 2004-1199 of 12 November 2004 Article 1 1 Official Journal of 14 November 2004)

In all or part of a built-up area, restricted or extended advertising zones can be established in accordance with the procedure defined in Article L. 581-14. In these zones, advertising is subject to special stipulations set down by the ruling establishing the said zones.

Article L581-11

(Order no. 2004-1199 of 12 November 2004 Article 1 1 Official Journal of 14 November 2004)

I. - The ruling establishing a restricted advertising zone subjects advertising in that zone to more restrictive stipulations than those of the system enforced by Article L. 581-9.

II. - It may also:

1° Determine in which conditions and in which places advertising is only admitted;

2° Prohibit advertising or categories of advertising defined according to the processes and systems used.

III. - However, advertising on worksite protection barriers may not be prohibited, except when the said barriers are installed in the places referred to in 1° and 2° of I of Article L. 581-8.

IV. - All restricted advertising zones must contain one or several of the posting spaces referred to in Article L. 581-13, according to the terms set by the decree referred to in the said Article.

Article L581-12

(Order no. 2004-1199 of 12 November 2004 Article 1 1 Official Journal of 14 November 2004)

The ruling establishing an extended advertising zone subjects advertising in the said zone to stipulations that are less restrictive than those of the system enforced by Article L. 581-9.

Article L581-13

(Order no. 2004-1199 of 12 November 2004 Article 1 1 Official Journal of 14 November 2004)

Subject to the provisions of the present Chapter, the Mayor determines by a ruling and has installed on public property or above it or on private property of the commune, one or several spaces for the posting of opinion and for advertising relating to the activities of non-profit associations. No fee or tax is collected for such posting or advertising.

In order to ensure freedom of opinion and to respond to the needs of associations, the terms of application of the present Article are set by a Conseil d'Etat decree according to the number of inhabitants and the surface area of the commune. This decree sets a minimum surface area that each category of communes must reserve for the posting defined in the preceding paragraph.

If, within a period of six months as of the effective date of that decree, the Mayor has not issued the ruling provided for in the first paragraph, the Préfet, after issuing a summons remaining without effect after a period of three months, determines the space or spaces necessary. The ruling of the Préfecture ceases to apply if a ruling of the Mayor comes into force determining one or several other spaces.

Subsection 4

Procedure establishing authorised advertising, restricted advertising or extended advertising zones — Article L581-14

Article L581-14

(Order no. 2004-1199 of 12 November 2004 Article 1 1 Official Journal of 14 November 2004)

I. - The definition of authorised advertising zones, restricted advertising zones or extended advertising zones, as well as the stipulations applying to them, are established at the request of the Conseil Municipal.

The draft special regulations are prepared by a working group the composition of which is set by a ruling of the Préfecture. It is presided over by the Mayor who, in this capacity, has the deciding vote. It comprises, in equal numbers, members of the Conseil Municipal and, if applicable, a representative of the deliberative assembly of the inter-commune body competent in town planning matters, on the one hand and, on the other, representatives of the State departments.

The Chambers of Commerce and Industry, the Professional Chambers, the Chambers of Agriculture, the local associations of users referred to in Article L. 121-8 of the Code de l'Urbanisme, and the representatives of the professions directly concerned, appointed under the conditions set by a Conseil d'Etat decree are, if they so request, associated with this working group in an advisory role.

The draft drawn up in this way is transmitted for an opinion to the commission of the département competent in matters relating to sites. This opinion is considered as being in favour if no response has been given within a period of two months.

The draft drawn up by the working group and having received the approval of the commission of the département competent in matters relating to sites, is validated by a ruling of the Mayor issued after a debate in the Conseil Municipal.

In case of a negative opinion from this commission or of the opposition of the Conseil Municipal, the working group deliberates again on a new project presented by the Préfet.

If, after this new deliberation, the Conseil Municipal opposes the project, modified as the case may be, presented by the Préfet or expresses reservations, the definition of the zones and the stipulations applied there are set by a ruling of the Préfecture or, at the request of the Mayor, by a ministerial ruling.

The definition of the zones and the stipulations applied there may be modified in accordance with the same procedures as those applied to their establishment.

In the absence of a proposal from the Conseil Municipal, the Préfet may, after consulting with the Mayor, constitute ex officio the working group provided for in the present Article.

II. - With a view to presenting a common project, neighbouring communes, even from different départements, may constitute a single working group presided over by the Mayor of one of the communes concerned who, in this capacity, has a deciding vote.

The composition and rules of procedure of the working group mentioned in the previous paragraph, as well as the procedure for defining authorised advertising zones, restricted advertising zones and extended advertising zones and establishing the stipulations applied there, are governed by the provisions of paragraph I of the present Article, subject to any necessary adaptations set by a Conseil d'Etat decree.

Subsection 5

Particular provisions applicable to certain forms of advertising — Articles L581-15 to L581-17

Article L581-15

(Order no. 2004-1199 of 12 November 2004 Article 1 1 Official Journal of 14 November 2004)

Advertising on vehicles for use on land, on sea or in the air may be regulated, subordinated to authorisation or prohibited, under the conditions set by a Conseil d'Etat decree.

However, the provisions of the preceding paragraph are not applicable to advertising relating to the activity conducted by the owner or user of the vehicle, on condition that the vehicle is not used or equipped essentially for advertising purposes.

Article L581-16

(Order no. 2004-1199 of 12 November 2004 Article 1 1 Official Journal of 14 November 2004)

The communes have the right not to make use for their own benefit as a medium for commercial advertising or free posting defined in Article L. 581-13 of worksite protection barriers when their installation gave rise to a highways authorisation.

Article L581-17

(Order no. 2004-1199 of 12 November 2004 Article 1 1 Official Journal of 14 November 2004)

A Conseil d'Etat decree determines the conditions under which advertising can be exempted from the provisions of the present section when it is conducted for the application of a legislative or regulatory provision or a legal decision, or when it is intended to inform the public of the dangers it incurs or the obligations incumbent on it in the places in question.

SECTION III

Signs and signposting — Articles L581-18 to L581-20

Article L581-18

(Order no. 2004-1199 of 12 November 2004 Article 1 1 Official Journal of 14 November 2004)

A Conseil d'Etat decree sets the general stipulations relating to the installation and maintenance of signs according to the processes used, the nature of the activities, the characteristics of the buildings in which these activities are conducted and the character of the places where these buildings are located.

The rulings establishing authorised advertising zones, restricted advertising zones and extended advertising zones can include stipulations relating to signs.

The decree referred to in the first paragraph of the present Article sets the conditions in which these stipulations may be adapted to local circumstances when the provisions of the second paragraph have not been enforced.

On the buildings and in the places referred to in Articles L. 581-4 and L. 581-8, as well as in restricted advertising zones, the installation of a sign is subject to authorisation.

Signs with laser beams are subject to the authorisation of the Préfet.

Article L581-19

(Order no. 2004-1199 of 12 November 2004 Article 1 1 Official Journal of 14 November 2004)

Signposting is subject to the provisions governing advertising.

The provisions relating to the declaration provided for in Article L. 581-6 are applicable to signposting subject to conditions, notably of dimensions, specified by a Conseil d'Etat decree.

A Conseil d'Etat decree determines the cases and the conditions in which the installation of signposting can be exempted from the provisions referred to in the first paragraph of the present Article when the purpose is to indicate activities that are either particularly useful for people travelling or are linked to public or emergency services, or are conducted at a distance from the public thoroughfare, or relate to the manufacture or sale of local produce by local companies.

Article L581-20

(Order no. 2004-1199 of 12 November 2004 Article 1 1 Official Journal of 14 November 2004)

I. - The decree provided for in Article L. 581-18 determines the conditions in which signs can be affixed temporarily on buildings to announce:

1° Exceptional operations concerning the said buildings or relating to the activities conducted in them;

2° Exceptional events of a cultural or tourist nature which are being, or are to be held there.

II. - The decree provided for in Article L. 581-19 determines the conditions in which signposting can be affixed temporarily indicating the proximity of the buildings mentioned in paragraph I.

III. - The decree provided for in Article L. 581-19 determines the conditions in which signposting can be affixed indicating the proximity of monuments, historic or listed buildings which are open to visitors.

SECTION IV

Common provisions — Articles L581-21 to L581-24

Article L581-21

(Order no. 2004-1199 of 12 November 2004 Article 1 1 Official Journal of 14 November 2004)

The authorisations provided for in sections 2 and 3 of the present Chapter are granted on behalf of the State. When these authorisations are refused, the grounds for the decision must be given.

A Conseil d'Etat decree sets the period of time on expiry of which failure to give notice of the decision by the competent authority is deemed to mean that the authorisation has been granted. This period of time may not exceed two months from reception of the application.

The said period of time may be extended to four months for authorisations relating to the installation of signs on buildings listed as historic monuments or listed on the additional inventory, as well as in listed sites or protected sectors.

Article L581-22

(Order no. 2004-1199 of 12 November 2004 Article 1 1 Official Journal of 14 November 2004)

When it is consulted in application of the present Chapter, the commission of the département competent in matters relating to sites also includes representatives of the commune and the professions concerned, under the conditions set by a Conseil d'Etat decree.

Article L581-23

(Order no. 2004-1199 of 12 November 2004 Article 1 1 Official Journal of 14 November 2004)

The texts and documents relating to the stipulations governing advertising in the commune are held at the disposal of the public at the Mairie.

Article L581-24

(Order no. 2004-1199 of 12 November 2004 Article 1 1 Official Journal of 14 November 2004)

Nobody may affix advertising or install signposting on a building without the written authorisation of the owner.

SECTION V

Advertising space rental contracts — Article L581-25

Article L581-25

(Order no. 2004-1199 of 12 November 2004 Article 1 1 Official Journal of 14 November 2004)

The contract to rent a private space for the purposes of affixing advertising or installing signposting is made in writing. It is concluded for a period which may not exceed six years as of its signature. It may be renewed by tacit agreement by periods of no more than one year unless terminated by one of the parties at least three months before the expiry date.

The lessee must keep the space rented in a good state of repair. Failing this, and after issue of a summons, the lessor may obtain, after a period of one month has expired, on application to the summary proceedings judge, either the performance of the necessary work or the termination of the contract and the rehabilitation of the place in question at the expense of the lessee, the choice being made by the lessor.

Failing payment of the rent, the contract is automatically terminated to the benefit of the lessor, after a summons to pay remaining without effect for a period of one month.

The lessee must return the space rented to the condition it was in prior to the contract within three months following

expiry of the contract.

The contract must include the reproduction of the preceding four paragraphs.

The provisions of the present Article are matters of public order.

SECTION VI
Sanctions — Articles L581-26 to L581-45

Subsection 1
Administrative procedure — Articles L581-26 to L581-33

Article L581-26

(Order no. 2000-914 of 18 September 2000 Article 12 3° Official Journal of 21 September 2000 in force on 1st January 2001)

(Order no. 2000-916 of 19 September 2000 Article 3 Official Journal of 22 September 2000 in force on 1st January 2002)

(Order no. 2004-1199 of 12 November 2004 Article 1 1 Official Journal of 14 November 2004)

Without prejudice to the provisions of Articles L. 581-30 and L. 581-34, any person affixing or having others affix a system or material referred to in Article L. 581-6 without a prior declaration or not in compliance with the declaration made, is punishable by a fine of 750 euros. The infringement is ascertained by a report drawn up by a civil servant or an official mentioned in Article L. 581-40. A copy of the report is sent to the person concerned. The infringement reported in this way gives rise to a fine pronounced by the Préfet. The fine is collected under the conditions provided for by the provisions relating to the income of the commune and to the benefit of the commune on the territory of which the said infringement was reported. The person concerned has access to the file and is given the opportunity to submit written remarks, within a period of one month, on the sanction planned by the administration. The decision of the Préfet must explain the grounds on which it is based and is subject to appeal with unlimited jurisdiction.

The provisions of the present Article are applicable in case of infringement of the provisions of Articles L. 581-4, L. 581-5 and L. 581-24.

Article L581-27

(Order no. 2004-1199 of 12 November 2004 Article 1 1 Official Journal of 14 November 2004)

As soon as irregular advertising, a sign or signposting in relation to the provisions of the present Chapter or its enactments is reported, and notwithstanding the prescription or amnesty of the infringement, the Mayor or the Préfet issues a ruling ordering, within a period of fifteen days, either that the advertising, signs or signposting in question be removed or that they be rendered compliant with the said provisions, as well as the rehabilitation of the place in question, if the need should arise.

Notice of this ruling is served to the person who affixed, had others affix or kept in place after receipt of a summons, the irregular advertising, signs or signposting.

If the said person is not known, notice of the ruling is served to the person on behalf of whom the advertising, signs or signposting were made.

Article L581-28

(Order no. 2004-1199 of 12 November 2004 Article 1 1 Official Journal of 14 November 2004)

In cases where the declaration mentioned in Article L. 581-6 shows that the system declared does not comply with the legislative and regulatory provisions, the Mayor or the Préfet issues a ruling ordering the declarant either to remove the system or question or to render it compliant within a period of fifteen days as of the date of receipt of the said ruling. If this has not been done at the end of this period of time, the declarant must pay late performance penalties under the conditions provided for in Article L. 581-30.

Article L581-29

(Order no. 2004-1199 of 12 November 2004 Article 1 1 Official Journal of 14 November 2004)

As soon as irregular advertising in relation to the provisions of Articles L. 581-4, L. 581-5 or L. 581-24 is reported, the Mayor or the Préfet may have the said advertising removed immediately ex officio. However, if the advertising has been affixed in or on private property, the enforcement is subject to the request of the owner or to the owner being informed in advance by the administrative authority. The cost of performance is borne by the person having affixed or had others affix the said advertising. If the identity of that person is not known, the costs are at the expense of the person for whom the advertising was made.

Article L581-30

(Order no. 2000-914 of 18 September 2000 Article 12 4° Official Journal of 21 September 2000 in force on 1st January 2001)

(Order no. 2000-916 of 19 September 2000 Article 3 Official Journal of 22 September 2000 en force on 1st January 2002)

(Order no. 2004-1199 of 12 November 2004 Article 1 1 Official Journal of 14 November 2004)

On expiry of the period of fifteen days starting on the day notice of the ruling was served, the person served notice owes late performance penalties of an amount of 84.61 (1) euros peer day and per advertisement, sign or signpost kept

in place. This amount is reassessed each year on the basis of the cost of living, under the conditions set by a Conseil d'Etat decree.

The late performance penalties are not applicable to posting of opinion or advertising relating to the activities of associations, mentioned in Article L. 581-13, except when the said advertising or posting has been affixed in an advertising space prohibited by the application of a contract signed between the operator of the said space and the person on behalf of whom the advertising or posting was made.

The late performance penalty is collected, under the conditions provided for by the provisions relating to the income of the communes, for the benefit of the commune on the territory of which the facts were ascertained. If the Mayor should fail to calculate the product of the penalty, to make out the statements necessary for its collection and to have it sent to the Préfet within one month of being invited by the latter to do so, the debt is calculated and collected for the benefit of the State.

The Mayor of the Préfet, after receiving the opinion of the Mayor, may consent to a reduction or a partial refund of the product of the late performance penalty when the work required by the ruling has been performed and the person concerned proves that he or she could not meet the date limit set for full performance of his or her obligations for reasons beyond his or her control.

NB: (1) For the year 2004, the amount of the late performance penalty is increased to 85.80 euros by application of the INSEE index published in the Official Journal of the French Republic of 28 February 2004.

For the year 2005, the amount of the late performance penalty is increased to 87.15euros by application of the INSEE index published in the Official Journal of the French Republic of 26 February 2005.

Article L581-31

(Act no. 2003-591 of 2 July 2003 Article 31 III 20° Official Journal of 3 July 2003)

(Order no. 2004-1199 of 12 November 2004 Article 1 1 Official Journal of 14 November 2004)

Without prejudice to the application of the provisions of Article L. 581-30, the Mayor or the Préfet has the work stipulated by the ruling referred to in Article L. 581-27 carried out ex officio, in whatever place it might be, if the said work was not performed within the period of time set by this ruling.

The cost of this performance of the work is met by the person who was served notice of the ruling, except if the application of the provisions of this ruling relating to the late performance penalties has been suspended by the Administrative Judge ruling in a summary proceeding.

The administration is required to inform the person who is the owner or occupant of the premises of the date when work will commence at least eight days in advance.

Article L581-32

(Order no. 2004-1199 of 12 November 2004 Article 1 1 Official Journal of 14 November 2004)

When advertising or signposting violates the provisions of the present Chapter or of its enactments, the Mayor or the Préfet is required to make use of the powers granted to them by Article L. 581-27, if the associations mentioned in Article L. 141-1 or the owner of the building on which the advertising or signposting have been affixed without their approval request it.

Article L581-33

(Order no. 2004-1199 of 12 November 2004 Article 1 1 Official Journal of 14 November 2004)

The Mayor or the Préfet, as the case may be, sends the Procureur de la République a copy of the summons provided for in Article L. 581-27 and informs him immediately of the response reserved to it.

Subsection 2

Criminal sanctions — Articles L581-34 to L581-45

Article L581-34

(Order no. 2000-916 of 19 September 2000 Article 3 Official Journal of 22 September 2000 in force on 1st January 2002)

(Act no. 2003-591 of 2 July 2003 Article 31 III 22° Official Journal of 3 July 2003)

(Order no. 2004-1199 of 12 November 2004 Article 1 1 Official Journal of 14 November 2004)

I. - A fine of 3 750 euros punishes the fact of affixing, having others affix or keeping in place after a summons has been served, advertising, signs or signposting:

1° In the places or spaces or according to processes prohibited by virtue of Articles L. 581-4, L. 581-7, L. 581-8, L. 581-15, L. 581-18 and L. 581-19;

2° Without having obtained the prior authorisations provided for in sections 2 and 3 of the present Chapter or without having complied with the conditions applied by these authorisations or without having made the prior declaration provided for in Article L. 581-6 or having made a false declaration;

3° Without having complied, in restricted advertising zones, with the particular provisions regulating advertising there.

II. - The same sentences apply to the fact of leaving in place advertising, signs or signposting beyond the time limits imposed for rendering it compliant by Article L. 581-43, as well as the fact of opposing the performance of the work provided for by Article L. 581-31 or the fact of obstructing the accomplishing of the inspections or the exercise of the functions of the officials referred to in Article L. 581-40.

III. - The fine is applied as many times as there are non-compliant advertisements, signs or signposts.

Article L581-35

(Order no. 2004-1199 of 12 November 2004 Article 1 1 Official Journal of 14 November 2004)

The same sentences apply to the person committing the infringement, the person on whose behalf the advertising was made, when the advertising or advertising system does not include the information referred to in Article L. 581-5 or when that information is incorrect or incomplete.

In the case of advertising of an electoral nature, the competent administrative authority issues a summons to the person on whose behalf the advertising was made to remove it and to return the place to its initial condition within two clear days. If the summons produced the required effect, the provisions of the preceding paragraph are not applicable.

Article L581-36

(Order no. 2000-916 of 19 September 2000 Article 3 Official Journal of 22 September 2000 in force on 1st January 2002)

(Order no. 2004-1199 of 12 November 2004 Article 1 1 Official Journal of 14 November 2004)

In case of conviction, the court orders either the removal, within a period which may not exceed one month and subject to a late performance penalty of 7.5 to 75 euros per day of delay, of the advertising, signs or signposting constituting the infringement, or that they be rendered compliant, within the same period of time and in the same conditions, with the stipulations which they violate; it orders, if applicable, the restoring of the premises to their normal state. It may declare the decision to be provisionally enforceable.

Article L581-37

(Act no. 2003-591 of 2 July 2003 Article 31 III 21° Official Journal of 3 July 2003)

(Order no. 2004-1199 of 12 November 2004 Article 1 1 Official Journal of 14 November 2004)

The late performance penalty may only be reviewed by the court if the person concerned proves that he or she could not meet the time limit set for the full performance of their obligations for reasons beyond his or her control. The penalty is collected under the conditions provided for in the third paragraph of Article L. 581-30.

Article L581-38

(Order no. 2004-1199 of 12 November 2004 Article 1 1 Official Journal of 14 November 2004)

The prescription of public action commences only from the day on which the advertising, signs or signposting infringing the provisions of the present Chapter and of the regulations issued for its application is removed or rendered compliant with the provisions it violated.

Article L581-39

(Order no. 2004-1199 of 12 November 2004 Article 1 1 Official Journal of 14 November 2004)

The provisions of Articles L. 581-35, L. 581-36, L. 581-37 and L. 581-38 and the rules relating to complicity are applicable to violations of the regulatory provisions made for the application of the present Chapter.

Article L581-40

(Order no. 2004-1199 of 12 November 2004 Article 1 1 Official Journal of 14 November 2004)

I. - For the application of Articles L. 581-27, L. 581-34 and L. 581-39, the following are accredited to carry out all necessary investigations, as well as the judiciary police:

1° The officials of the judiciary police mentioned in Articles 20 and 21 of the Code de procédure pénale;

2° The civil servants and officials accredited to report infringements of the laws of 31 December 1913 on historic monuments and under Title IV of Book III of the present code;

3° The civil servants and officials accredited to ascertain infringements of the provisions of the Code de la voirie routière;

4° The civil servants and public officials accredited to ascertain infringements of the Code de l'Urbanisme;

5° Engineers of the road construction and maintenance department, the public works engineers of the State and the officials of the maritime ports appointed for this purpose;

6° The officials accredited by the local authorities to ascertain infringements of the Code de la route in terms of stopping and parking of motor vehicles by virtue of Article L. 24 of the said code.

II. - The above officials and civil servants accredited to ascertain infringements transmit their reports to the Procureur de la République, the Mayor and the Préfet.

Article L581-41

(Order no. 2004-1199 of 12 November 2004 Article 1 1 Official Journal of 14 November 2004)

The amount of the fines pronounced for the application of Articles L. 581-34 and L. 581-35 is subject to a surcharge of 50%, collected for the benefit of the local authorities. The sums thus collected constitute one of the sources of income of the local finance committee created by Article L. 1211-1 of the Code Général des Collectivités Territoriales.

Article L581-42

(Order no. 2004-1199 of 12 November 2004 Article 1 1 Official Journal of 14 November 2004)

The provisions of the present section apply neither to the posting of opinions not to advertising relating to the activities of associations, mentioned in Article L. 581-13, if the Mayor or the Préfet has not determined and fitted out the space or spaces provided for in the same Article.

Article L581-43

(Order no. 2004-1199 of 12 November 2004 Article 1 1 Official Journal of 14 November 2004)

The advertising, signs and signposting installed before the effective date of the enactments of Articles L. 581-4,

penultimate paragraph, L. 581-7, L. 581-8, L. 581-10 and L. 581-18, second and third paragraphs, and which do not comply with their stipulations, as well as those installed in places entering within the scope of application of Articles L. 581-4, L. 581-8 and L. 581-44 by virtue of rulings dated after their installation, may, subject to their not violating the previous regulations, be kept in place for a period of two years as of the effective date of the aforementioned rulings.

The advertising, signs and signposting which are subject to authorisation by virtue of the present Chapter and which were installed before the effective date of the regulations referred to in the previous paragraph, may, subject to their not violating the previous regulations, be kept in place for a period of two years as of the decision of the competent administrative authority ordering their removal or modification.

Article L581-44

(Order no. 2004-1199 of 12 November 2004 Article 1 1 Official Journal of 14 November 2004)

The decrees approved by the Conseil d'Etat mentioned in Articles L. 581-9 and L. 581-18 and, if applicable, the enactments of Articles L. 581-7 and L. 581-10, determine those of the stipulations enacted for the application of the Code de l'Urbanisme in terms of the position, height and appearance of constructions, and the method of enclosure of real-estate property which are, by virtue of the present law, applicable to the installation of the systems mentioned in the second paragraph of Article L. 581-3, of signs and of signposting.

They also determine the terms of application of the provisions relating to advertising, signs and signposting included in the regulation attached in the appendices to a conservation and improvement plan that has been made public or approved.

In order to ensure compliance with the stipulations and provisions referred to in the previous two paragraphs, a Conseil d'Etat decree defines the cases and conditions in which the fixation onto the ground or direct installation on the ground of advertising, of the systems mentioned in the second paragraph of Article L. 581-3, of signs and signposting are subject to prior authorisation.

Article L581-45

(Order no. 2004-1199 of 12 November 2004 Article 1 1 Official Journal of 14 November 2004)

The terms of application of the present Chapter are defined by a Conseil d'Etat decree.

CHAPTER II
Prevention of visual nuisances — Article L582-1

Article L582-1

(Inserted by Order no. 2004-1199 of 12 November 2004 Article 1 2 Official Journal of 14 November 2004)

The installation of new overhead electric power lines with voltage of less than 63,000 volts is prohibited as of 1st January 2000 in densely inhabited zones defined by a Conseil d'Etat decree.

When absolute technical necessities or topographical constraints render the burying of the lines impossible, or when the impact of the said burying is judged greater than that of the installation of an overhead line, an exemption may be granted to this prohibition, exceptionally, by a joint ruling of the Minister for Energy and the Minister for the Environment.

The terms of application of the present Chapter are defined by a Conseil d'Etat decree.

BOOK VI

Provisions applicable in New Caledonia, French Polynesia, the Wallis and Futuna Islands, French Southern and Antarctic Territories and Mayotte — Articles L611-1 to L656-1

TITLE I
Provisions applicable in New Caledonia — Articles L611-1 to L614-1

CHAPTER I
Approval and right of legal action for environmental protection associations — Articles L611-1 to L611-4

Article L611-1

Once they have been engaged in activity for at least three years, properly certified associations, which conduct their statutory activities in the fields of nature protection, environmental improvement, water, air, ground, site and landscape protection, and town planning, or whose purpose is to fight pollution and nuisance, and which in general mainly work for the protection of the environment, may be subject to approval given by the administrative authority.

These associations are called "approved environmental protection associations".

This approval is granted under the conditions provided for by a Conseil d'Etat decree. It may be withdrawn, should the association no longer comply with the conditions that led to it being issued.

The decisions made in application of the present Article are subject to full jurisdiction proceedings.

Article L611-2

Any association working for the protection of nature and the environment may engage in proceedings before administrative jurisdictions for any grievance that may concern them.

Any environmental protection association, certified in accordance with Article L. 611-1, is entitled to take action against any administrative decision that is directly related to its purpose and statutory activities, and produces damaging effects on the environment over all or part of the territory for which it has received approval.

Article L611-3

The certified associations mentioned in Article L. 611-1 may exercise the rights granted to the civil party with regard to events which adversely affect, either directly or indirectly, the collective interest that it is their purpose to defend, and which constitute an infringement of provisions concerning environmental and nature protection, environmental improvement, water, air, ground, site and landscape protection, and town planning, or those concerning the fight against pollution and nuisance.

Article L611-4

When several identified individuals have been subjected to individual prejudices, which have been caused by the action of the same person and which have a common origin, in the fields mentioned in Article L. 611-3, any association certified in accordance with Article L. 611-1 may, if it has been so authorised by at least two of the individuals concerned, act on behalf of them before any jurisdiction to obtain compensation.

Authorisation may not be solicited. It must be given in writing by each individual concerned.

Any individual who has given his or her consent for bringing an action before a criminal court is considered, in this case, to be exercising the rights granted to the civil party in application of the Code de procédure pénale. All forms of notification shall however be sent to the association.

An association which brings an action before a court in application of the provisions in the previous paragraphs may claim damages before the Juge d'Instruction or the tribunal entertaining jurisdiction for the head office of the company in question or the scene of the first infringement.

CHAPTER II

Marine waters and waterways open to maritime shipping — Articles L612-1 to L612-2

Article L612-1

(Order no. 2005-805 of 18 July 2005 Article 18 II Official Journal of 19 July 2005)

Articles L. 218-1 to L. 218-72, with the exception of II of article L. 218-44, apply to New Caledonia, subject to the competence devolved upon New Caledonia and the provinces within territorial waters.

Article L612-2

(Order no. 2005-805 of 18 July 2005 Article 18 III Official Journal of 19 July 2005)

In the event of there being no administrators of maritime affairs, dockmasters or assistant dockmasters, the powers that are devolved upon them by the provisions mentioned in section I of Article L. 612-1 are exercised by the State representative or by one of his or her representatives.

CHAPTER III

Antarctic — Article L613-1

Article L613-1

(Inserted by Act no. 2003-347 of 15 April 2003 Article 2 Official Journal of 16 April 2003)

Articles L. 711-1 to L. 713-9 shall apply to New Caledonia.

CHAPTER IV

Other provisions — Article L614-1

Article L614-1

(Inserted by Act no. 2003-591 of 02 July 2003 Article 31 III 23° Official Journal of 03 July 2003)

Articles L. 229-1 to L. 229-4 shall apply to New Caledonia.

TITLE II

Provisions applicable in French Polynesia — Articles L621-1 to L624-1

CHAPTER I

Approval and right of legal action for environmental protection associations — Articles L621-1 to L621-4

Article L621-1

Once they have been engaged in activity for at least three years, properly certified associations, which conduct their statutory activities in the fields of nature protection, environmental improvement, water, air, ground, site and landscape protection, and town planning, or whose purpose is to fight pollution and nuisance, and which in general mainly work for the protection of the environment, may be subject to approval given by the administrative authority.

These associations are called "approved environmental protection associations".

This approval is granted under the conditions provided for by a Conseil d'Etat decree. It may be withdrawn, should the association no longer comply with the conditions that led to it being issued.

The decisions made in application of the present Article are subject to full jurisdiction proceedings.

Article L621-2

Any association working for the protection of nature and the environment may engage in proceedings before

administrative jurisdictions for any grievance that may concern them.

Any environmental protection association, certified in accordance with Article L. 621-1, is entitled to take action against any administrative decision that is directly related to its purpose and statutory activities, and produces damaging effects on the environment over all or part of the territory for which it has received approval.

Article L621-3

The certified associations mentioned in Article L. 621-1 may exercise the rights granted to the civil party with regard to events which adversely affect, either directly or indirectly, the collective interest that it is their purpose to defend, and which constitute an infringement of provisions concerning environmental and nature protection, environmental improvement, water, air, ground, site and landscape protection, and town planning, or those concerning the fight against pollution and nuisance.

Article L621-4

When several identified individuals have been subjected to individual prejudices, which have been caused by the action of the same person and which have a common origin, in the fields mentioned in Article L. 621-3, any association certified in accordance with Article L. 621-1 may, if it has been so authorised by at least two of the individuals concerned, act on behalf of them before any jurisdiction to obtain compensation.

Authorisation may not be solicited. It must be given in writing by each individual concerned.

Any individual who has given his or her consent for bringing an action before a criminal court is considered, in this case, to be exercising the rights granted to the civil party in application of the Code de procédure pénale. All forms of notification shall however be sent to the association.

An association which brings an action before a court in application of the provisions in the previous paragraphs may claim damages before the Juge d'Instruction or the tribunal entertaining jurisdiction for the head office of the company in question or, failing which, the scene of the first infringement.

CHAPTER II

Marine waters and waterways open to maritime shipping — Articles L622-1 to L622-2

Article L622-1

(Order no. 2005-805 of 18 July 2005 Article 19 II Official Journal of 19 July 2005)

Articles L. 218-1 to L. 218-72, with the exception of II of article L. 218-44, apply to French Polynesia, subject to the competence devolved upon the territory within territorial waters.

Article L622-2

(Order no. 2005-805 of 18 July 2005 Article 19 III Official Journal of 19 July 2005)

In the event of there being no administrators of maritime affairs, dockmasters or assistant dockmasters, the powers that are devolved upon them by the provisions mentioned in section I of Article L. 622-1 are exercised by the State representative or by one of his or her representatives.

CHAPTER III

Antarctic — Article L623-1

Article L623-1

(Inserted by Act no. 2003-347 of 15 April 2003 Article 2 Official Journal of 16 April 2003)

Articles L. 711-1 to L. 713-9 apply to French Polynesia.

CHAPTER IV

Other provisions — Article L624-1

Article L624-1

(Inserted by Act no. 2003-591 of 02 July 2003 Article 31 III 24° Official Journal of 03 July 2003)

Articles L. 229-1 to L. 229-4 shall apply to French Polynesia.

TITLE III

Provisions applicable in Wallis and Futuna — Articles L631-1 to L635-1

CHAPTER I

Approval and right of legal action for environmental protection associations — Articles L631-1 to L631-4

Article L631-1

Once they have been engaged in activity for at least three years, properly certified associations, which conduct their statutory activities in the fields of nature protection, environmental improvement, water, air, ground, site and landscape protection, and town planning, or whose purpose is to fight pollution and nuisance, and which in general mainly work for the protection of the environment, may be subject to approval given by the administrative authority.

These associations are called "approved environmental protection associations".

This approval is granted under the conditions provided for by a Conseil d'Etat decree. It may be withdrawn, should

the association no longer comply with the conditions that led to it being issued.

The decisions made in application of the present Article are subject to full jurisdiction proceedings.

Article L631-2

Any association working for the protection of nature and the environment may engage in proceedings before administrative jurisdictions for any grievance that may concern them.

Any environmental protection association, certified in accordance with Article L. 631-1, is entitled to take action against any administrative decision that is directly related to its purpose and statutory activities, and produces damaging effects on the environment over all or part of the territory for which it has received approval.

Article L631-3

The certified associations mentioned in Article L. 631-1 may exercise the rights granted to the civil party with regards to events which adversely affect, either directly or indirectly, the collective interest that it is their purpose to defend, and which constitute an infringement of provisions concerning environmental and nature protection, environmental improvement, water, air, ground, site and landscape protection, and town planning, or those concerning the fight against pollution and nuisance.

Article L631-4

When several identified individuals have been subjected to individual prejudices, which have been caused by the actions of the same person and which have a common origin, in the fields mentioned in Article L. 631-3, any association certified in accordance with Article L. 631-1 may, if it has been so authorised by at least two of the individuals concerned, act on behalf of them before any jurisdiction to obtain compensation.

Authorisation may not be solicited. It must be given in writing by each individual concerned.

Any individual who has given his or her consent for bringing an action before a criminal court is considered, in this case, to be exercising the rights granted to the civil party in application of the Code de procédure pénale. All forms of notification shall however be sent to the association.

An association which brings an action before a court in application of the provisions in the previous paragraphs may claim damages before the Juge d'Instruction or the tribunal entertaining jurisdiction for the head office of the company in question or, failing which, the scene of the first infringement.

CHAPTER II

Marine waters and waterways open to maritime shipping — Articles L632-1 to L632-2

Article L632-1

(Order no. 2005-805 of 18 July 2005 Article 20 II Official Journal of 19 July 2005)

Articles L. 218-1 to L. 218-72, with the exception of II of article L. 218-44, apply to the Wallis and Futuna Islands.

Article L632-2

(Order no. 2005-805 of 18 July 2005 Article 20 III Official Journal of 19 July 2005)

In the event of there being no administrators of maritime affairs, dockmasters or assistant dockmasters, the powers that are devolved upon them by the provisions mentioned in section I of Article L. 632-1 are exercised by the State representative or by one of his or her representatives.

CHAPTER III

Water intended for human consumption, wastewater and products, and the fight against neighbourhood noise and atmospheric pollution — Article L633-1

Article L633-1

Specific provisions concerning the quality of water intended for human consumption, the drainage, treatment, disposal and use of waste water and products, and the fight against neighbourhood noise and atmospheric pollution of domestic origin are set forth in Article L. 1523-2 of the Code de la santé publique.

CHAPTER IV

Antarctic — Article L634-1

Article L634-1

(Inserted by Act no. 2003-347 of 15 April 2003 Article 2 Official Journal of 16 April 2003)

Articles L. 711-1 to L. 713-9 apply to the Wallis and Futuna Islands.

CHAPTER V

Other provisions — Article L635-1

Article L635-1

(Inserted by Act no. 2003-591 of 02 July 2003 Article 31 III 25° Official Journal of 03 July 2003)

Articles L. 229-1 to L. 229-4 apply to the Wallis and Futuna Islands.

TITLE IV

Provisions applicable in the French Southern and Antarctic Territories **Articles L640-1 to L640-3**

Article L640-1

(Act no. 2003-591 of 02 July 2003 Article 31 III 26° Official Journal of 03 July 2003)
(Order no. 2005-805 of 18 July 2005 Article 21 II Official Journal of 19 July 2005)

I. - Articles L. 122-1 to L. 122-3, L. 141-1 to L. 142-3, L. 218-1 to L. 218-72, L. 229-1 to L. 229-4, L. 332-1 to L. 332-14, L. 332-16 to L. 332-27, L. 411-1 to L. 411-4 and L. 412-1 to L. 415-5 apply to the French Southern and Antarctic Territories. II. - The powers devolved upon the Préfet by the provisions mentioned in section I are exercised by the State representative.

III. - Provisions concerning the protection of natural monuments and sites are set forth in Act no. 56-1106 of 03 November 1956, which aims to protect sites and monuments of a historical, scientific, artistic or picturesque nature, classify historical, scientific or ethnographical objects and regulate excavation work in the territories which come under the authority of the French Ministry for Overseas Départements and Territories.

Article L640-2

In the event of there being no administrators of maritime affairs, dockmasters or assistant dockmasters, the powers that are devolved upon them by the provisions mentioned in section I of Article L. 640-1 are exercised by the government of the French Republic's representative or by one of his or her representatives.

Article L640-3

(Inserted by Act no. 2003-347 of 15 April 2003 Article 2 Official Journal of 16 April 2003)

Articles L. 711-1 to L. 713-9 apply to the French Southern and Antarctic Territories.

TITLE V

Provisions applicable in Mayotte **Articles L651-1 to L656-1**

CHAPTER I

Common provisions Articles L651-1 to L651-7

Article L651-1

(Act no. 2001-616 of 11 July 2001 Article 51 I Official Journal of 13 July 2001)
(Order no. 2005-869 of 28 July 2005 Article 2 Official Journal of 29 July 2005, in force on 1st January 2006)

The present Code applies to Mayotte, subject to the adaptations provided for by the present Title.

For application of the provisions of the present code to Mayotte:

1 Reference to the département, the overseas département or the region is replaced by reference to the département authority of Mayotte;

2 Reference to the general councils or regional council is replaced by reference to the general council of Mayotte;

3 The words "President of the regional council" are replaced by the words "President of the general council";

4 The words "State representative in the département", "Préfet", "regional Préfet" or "Préfet coordinating the basin" are replaced by the words "State representative in Mayotte";

5 Reference to the département directorate for agriculture and forestry is replaced by reference to the directorate for agriculture and forestry;

6 The words "administrator of maritime affairs" are replaced by the words "head of the maritime affairs department";

7 the words "tribunal d'instance" and "tribunal de grande instance" are replaced by the words "tribunal de première instance";

8 The words "cour d'appel" are replaced by the words "tribunal supérieur d'appel".

Article L651-2

The rulings and decisions which must be made by a Minister in accordance with the provisions of the present code applicable to Mayotte are made jointly by the aforementioned minister and the Minister for Overseas Départements and Territories.

Article L651-3

(Order no. 2005-869 of 28 July 2005 Article 3 Official Journal of 29 July 2005, in force on 1st January 2006)

For application of the provisions of the enacted parts of the present code, which provide for a public enquiry, to Mayotte, this formality is replaced by public access to the dossier. A ruling of the State representative specifies, notably, the content of the dossier placed at the disposal of the public, and the duration and conditions of this access to the public.

However, the State representative in Mayotte may decide to submit for public enquiry categories of developments, structures or works which, by their nature, size or location, are likely to be harmful to the environment.

Article L651-4

(Act no. 2001-616 of 11 July 2001 Article 51 II Official Journal of 13 July 2001)
(Act no. 2003-591 of 02 July 2003 Article 31 III 19° Official Journal of 03 July 2003)
(Order no. 2005-869 of 28 July 2005 Article 4 Official Journal of 29 July 2005, in force on 1st January 2006)

I - Articles L. 122-11, L. 151-1 and L. 151-2 do not apply to Mayotte.

II - For application of Article L. 132-2 to Mayotte, the words "and the Regional Forest Ownership Committees" are deleted.

Article L651-5

(Order no. 2005-869 of 28 July 2005 Article 5 I Official Journal of 29 July 2005, in force on 1st January 2006)

I. - Notwithstanding the provisions of I of article L. 122-3, the methods of application of the first section of Chapter II of Title II of Book I are set by a ruling of the State representative in Mayotte, under the conditions provided for in II of the same article.

II. - Notwithstanding the provisions of the first paragraph of article L. 122-4, the list of plans, schemes, programmes and other planning documents which are subject to an environmental evaluation under the conditions provided for by Section II of Chapter II of Title II of Book I is drawn up by a ruling of the State representative in Mayotte.

III. - The conditions of application of Section II of Chapter II of Title II of Book I are specified, as needs be, for each category of plans or documents, by a ruling of the State representative in Mayotte.

Article L651-6

(Order no. 2005-869 of 28 July 2005 Article 5 I Official Journal of 29 July 2005, in force on 1st January 2006)

Notwithstanding the provisions of II of article L. 125-1, the methods for exercising the right to information as stipulated in the said article, notably the modes by which this information is brought to the awareness of the public, are set by a ruling of the State representative in Mayotte.

Article L651-7

(Order no. 2005-869 of 28 July 2005 Article 5 I Official Journal of 29 July 2005, in force on 1st January 2006)

Notwithstanding the provisions of the fifth paragraph of article L. 126-1, the declaration of a project is published under the conditions set by a ruling of the State representative in Mayotte.

CHAPTER II

Physical environments — Articles L652-1 to L652-8

Article L652-1

(Act no. 2001-616 of 11 July 2001 Article 51 III Official Journal of 13 July 2001)
(Act no. 2003-591 of 02 July 2003 Article 31 III 27° Official Journal of 03 July 2003)
(Act no. 2004-338 of 21 April 2004 Article 9 II Official Journal of 22 April 2004)
(Order no. 2005-869 of 28 July 2005 Article 6 I Official Journal of 29 July 2005, in force on 1st January 2006)

I. - Articles L. 213-5 to L. 213-7 do not apply to Mayotte.

II. - In the event of there being no administrators of maritime affairs, dockmasters or assistant dockmasters, the powers that are devolved upon them by the provisions mentioned in section I are exercised by the State representative or by one of his or her representatives.

III. - The provisions of the Code de la santé publique mentioned in Articles L. 211-11 and L. 214-14 of the present code, under the conditions stipulated in Article L. 1515-1 of the Code de la santé publique also apply.

Article L652-2

(Order no. 2005-869 of 28 July 2005 Article 6 II Official Journal of 29 July 2005, in force on 1st January 2006)

The State representative ensures the conservation, management and policing of superficial and underground waters within the territory of Mayotte.

It sets out appropriate provisions for maintaining the free flow and distribution of waters in addition to preserving safety and public health.

It exercises the attributions granted to State administrative authorities for the application of the provisions of Chapters I to VII of Title I in Book II.

It may complete applicable regulations concerning the conservation, management and protection of waters with a view to protecting the lagoon, coastal and coral reef waters from pollution.

Article L652-3

(Order no. 2005-869 of 28 July 2005 Article 6 III Official Journal of 29 July 2005, in force on 1st January 2006)
(Order no. 2005-869 of 28 July 2005 Article 6 IV Official Journal of 29 July 2005, in force on 1st January 2006)

For application of the provisions of Title I of Book II, Mayotte constitutes a catchment area. The Water Basin Committee of Mayotte exercises the competences provided for in articles L. 213-2 and L. 213-4. A Water Office is set up in Mayotte, governed by the provisions of articles L. 213-13 to L. 213-20.

Article L652-4

(Inserted by Order no. 2005-869 of 28 July 2005 Article 6 IV Official Journal of 29 July 2005, in force on 1st January 2006)

For application of article L. 213-13, reference to article L. 3241-1 of the Code Général des Collectivités Territoriales is replaced by reference to article L. 3554-1 of the same Code.

Article L652-5

(Inserted by Order no. 2005-869 of 28 July 2005 Article 6 IV Official Journal of 29 July 2005, in force on 1st January 2006)

Notwithstanding the provisions of the first paragraph of article L. 221-2, a measure for the monitoring of air quality and its effects on health and the environment must be put in place in Mayotte before 1st January 2010.

Article L652-6

(Inserted by Order no. 2005-869 of 28 July 2005 Article 6 IV Official Journal of 29 July 2005, in force on 1st January 2006)

For application of articles L. 222-2 and L. 222-4, reference to the département commissions competent in matters of the environment and health and technological risks is replaced by reference to the Hygiene Council of Mayotte.

Notwithstanding the provisions of the second paragraph of article L. 222-2, the air quality plan in Mayotte is subject to a ruling of the State representative.

Article L652-7

(Inserted by Order no. 2005-869 of 28 July 2005 Article 6 IV Official Journal of 29 July 2005, in force on 1st January 2006)

Articles L. 229-5 to L. 229-19 only apply to Mayotte as of 1st January 2012.

Article L652-8

(Inserted by Order no. 2005-869 of 28 July 2005 Article 6 III Official Journal of 29 July 2005, in force on 1st January 2006)

Sworn agents commissioned by the government representative are authorised to investigate infringements of the provisions of Book II of the present code when they apply to Mayotte.

CHAPTER III

Natural spaces — Articles L653-1 to L653-3

Article L653-1

(Act no. 2001-616 of 11 July 2001 Article 51 IV Official Journal of 13 July 2001)
(Order no. 2004-178 of 20 February 2004 Article 6 IV Official Journal of 24 February 2004)
(Order no. 2005-869 of 28 July 2005 Article 7 Official Journal of 29 July 2005, in force on 1st January 2006)

I. - Articles L. 321-11, L. 321-12 and L. 333-4 do not apply to Mayotte.

II. - For application of Article L. 321-2 to Mayotte, the words "metropolitan" and "overseas départements" are replaced by "of Mayotte".

III. - For application of Article L. 341-20 to Mayotte, after the words "322-2 of the Code pénal", the words "modified by article 724-1 of the same Code for its application to Mayotte" are inserted.

IV. - For application of Article L. 341-22 to Mayotte, the words "legally classified before 2 May 1930 in accordance with the provisions of the law of 21 April 1906 organising the protection of sites and natural monuments of an artistic nature" are replaced by "legally protected before the promulgation of Law no. 2001-616 of 11 July 2001 relating to Mayotte, in accordance with the provisions of Law no.56-1106 of 3 November 1956 the purpose of which, in the territories covered by the Ministry for French Overseas Territories, is the protection of natural monuments, sites and monuments of a historic, scientific, artistic or picturesque nature, the classification of historic, scientific or ethnographic objects and the regulation of archaeological digs".

Article L653-2

(Order no. 2005-869 of 28 July 2005 Article 8 I Official Journal of 29 July 2005, in force on 1st January 2006)

In addition to the agents mentioned in these provisions, agents from the territorial water and forestry services commissioned by the government representative are authorised to investigate infringements of the provisions of Book III of the present code committed within the territorial authority.

Official reports have probative force unless proven otherwise. They are passed on within the period of time provided for in Book III.

Article L653-3

(Order no. 2005-869 of 28 July 2005 Article 8 II Official Journal of 29 July 2005, in force on 1st January 2006)

The provisions of II and III of article L. 332-2 do not apply to Mayotte.

The references to a decision of the President of the regional council in article L. 332-6, to a special authorisation of the regional council in article L. 332-9, or to a deliberation of the regional council in article L. 332-10 are not applicable to Mayotte.

CHAPTER IV

Flora and fauna — Articles L654-1 to L654-9

Article L654-1

(Act no. 2001-616 of 11 July 2001 Article 51 V Official Journal of 13 July 2001)
(Order no. 2005-869 of 28 July 2005 Article 9 I Official Journal of 29 July 2005, in force on 1st January 2006)

Articles L. 414-1 to L. 414-7 and L. 436-1 to L. 436-3 do not apply to Mayotte.

Article L654-2

(Act no. 2001-616 of 11 July 2001 Article 51 VI Official Journal of 13 July 2001)

Given the distinctive characteristics of the local situation with regard to the interests mentioned in Article L. 110-1, the State representative may complete the list provided for in Article L. 412-1.

Article L654-3

(Act no. 2001-616 of 11 July 2001 Article 51 VI Official Journal of 13 July 2001)
(Order no. 2005-869 of 28 July 2005 Article 9 II Official Journal of 29 July 2005, in force on 1st January 2006)

The State representative makes the rulings provided for in Articles L. 424-1 and L. 424-4.

Article L654-4

The date of 30 June 1984, which appears in Article L. 431-7, is replaced by the date 01 January 1994.

Article L654-5

(Act no. 2001-616 of 11 July 2001 Article 51 VI Official Journal of 13 July 2001)

The lists provided by Articles L. 432-6 and L. 432-10 are set by a ruling by the State representative.

Article L654-6

(Act no. 2001-616 of 11 July 2001 Article 51 VII Official Journal of 13 July 2001)
(Order no. 2005-869 of 28 July 2005 Article 9 III Official Journal of 29 July 2005, in force on 1st January 2006)

Any person who partakes in a fishing activity must prove that he or she is a member either of an approved fishing and fish-farming association or of an approved amateur association for fishing with equipment and nets in the public waters, or of an approved professional fishing association.

Article L654-7

(Act no. 2001-616 of 11 July 2001 Article 51 VI Official Journal of 13 July 2001)

For application of Articles L. 436-5, L. 436-11 and L. 436-12, the conditions for exercising the right to fish are set by a ruling by the State representative.

Article L654-8

(Act no. 2001-616 of 11 July 2001 Article 51 VI Official Journal of 13 July 2001)

For application of Article L. 437-11, income from the sale of confiscated fish belongs to the département authority of Mayotte.

Article L654-9

(Act no. 2001-616 of 11 July 2001 Article 51 VI, VII Official Journal of 13 July 2001)
(Order no. 2005-869 of 28 July 2005 Article 9 IV Official Journal of 29 July 2005, in force on 1st January 2006)

In addition to the agents mentioned in these provisions, agents from the agriculture and forestry services commissioned by the State representative are authorised to investigate infringements of the provisions of Book IV of the present code committed within the territorial authority of Mayotte.

Official reports have probative force unless proven otherwise. They are passed on within the period of time provided for in Book IV.

CHAPTER V
Prevention of pollution, risks and nuisances

Articles L655-1 to L655-8

Article L655-1

(Act no. 2001-616 of 11 July 2001 Article 51 VIII Official Journal of 13 July 2001)
(Act no. 2003-591 of 02 July 2003 Article 31 III 28° Official Journal of 3 July 2003)
(Order no. 2005-869 of 28 July 2005 Article 10 I Official Journal of 29 July 2005, in force on 1st January 2006)

Articles L. 541-32, L. 541-36, L. 565-1 and L. 562-6 do not apply to Mayotte.

Article L655-2

For application to Mayotte, the third paragraph of Article L. 515-9 reads as follows:

"The project defining the easements and boundary is made available to the public and submitted for the opinion of the municipal councils of the communes within the boundary."

Article L655-3

(Order no. 2005-869 of 28 July 2005 Article 10 II Official Journal of 29 July 2005, in force on 1st January 2006)
(Order no. 2005-869 of 28 July 2005 Article 10 III Official Journal of 29 July 2005, in force on 1st January 2006)

For application to Mayotte, the third paragraph of Article L. 515-11 reads as follows:

"The prejudice is estimated at the date of the decision in first instance. However, only the possible use of the property and the property rights one year before public release, as provided by Article L. 515-9, will be taken into consideration."

Articles L. 515-15 to L. 515-26 only apply to Mayotte as of 1st January 2010.

Article L655-4

(Order no. 2005-869 of 28 July 2005 Article 10 III Official Journal of 29 July 2005, in force on 1st January 2006)
(Order no. 2005-869 of 28 July 2005 Article 11 I Official Journal of 29 July 2005, in force on 1st January 2006)

For application to Mayotte of Article L. 541-10-1, the words "1st January 2005" are replaced by the words "1st January 2010".

Article L655-5

(Order no. 2005-869 of 28 July 2005 Article 10 II Official Journal of 29 July 2005, in force on 1st January 2006)
(Order no. 2005-869 of 28 July 2005 Article 11 I Official Journal of 29 July 2005, in force on 1st January 2006)

For application to Mayotte of Article L. 541-13, paragraphs V, VI and VII are replaced by the following paragraphs:

V. - The draft plan is drawn up at the initiative and under the responsibility of the State. However, this competence may be transferred to the Conseil Général at its request.

VI. - The draft plan is submitted for opinion to the Conseil Général and to a commission composed of representatives of the local authorities, the State and the public bodies concerned, professional organisations contributing to the production and disposal of the waste, and the approved environmental protection associations.

VII. - The draft plan, where necessary modified to take into account the opinions given in application of VI, is made available to the public for two months, then approved by the State representative, and published.

Article L655-6

(Order no. 2005-869 of 28 July 2005 Article 10 II Official Journal of 29 July 2005, in force on 1st January 2006)
(Order no. 2005-869 of 28 July 2005 Article 11 I Official Journal of 29 July 2005, in force on 1st January 2006)

For application to Mayotte of Article L. 541-14, paragraphs V to VIII are replaced by the following paragraphs:

V. - The draft plan is drawn up on the initiative and under the responsibility of the State. However, this competence is transferred at its request to the Conseil Général.

VI. - It is drawn up following consultation with a consultative committee composed of representatives of the communes and their groups, the local authority, the State, interested public bodies, professionals concerned and approved environmental protection associations.

VII. - The draft project is submitted for opinion to the Conseil Général and to the hygiene council.

VIII. - The draft plan, where necessary modified to take into account the opinions given in application of VII, is submitted for a public enquiry, then approved by the State representative.

Article L655-7

(Order no. 2005-869 of 28 July 2005 Article 10 IV Official Journal of 29 July 2005, in force on 1st January 2006)
(Order no. 2005-869 of 28 July 2005 Article 11 I Official Journal of 29 July 2005, in force on 1st January 2006)

For application to Mayotte of Article L. 551-2, the words "on the date of publication of Act no. 2003-699 of 30 July 2003 relating to the prevention of technological and natural risks and the repair of damages" are replaced by "on the date of publication of Order no. 2005-869 of 28 July 2005 relating to the adaptation of Environmental Law to Mayotte" and the words "within three years at the latest following the entry into force of the said law" are replaced by "before 31 December 2008".

Notwithstanding the provisions of the last paragraph of the same article, its modes of application, notably the categories of structure concerned, are set by a ruling of the State representative in Mayotte.

Article L655-8

(Order no. 2005-869 of 28 July 2005 Article 10 IV Official Journal of 29 July 2005, in force on 1st January 2006)

Sworn agents commissioned by the government representative are authorised to investigate infringements of the provisions of Book V of the present code when they apply to Mayotte.

CHAPTER VI
Antarctic — Article L656-1

Article L656-1

(Inserted by Act no. 2003-347 of 15 April 2003 Article 2 Official Journal of 16 April 2003)

Articles L. 711-1 to L. 713-9 apply to Mayotte.

BOOK VII
Protection of the environment in the Antarctic — Articles L711-1 to L713-9

SINGLE TITLE

Implementation of the protocol on environmental protection to the Antarctic Treaty signed in Madrid on 4 October 1991 — **Articles L711-1 to L713-9**

CHAPTER I
Common provisions — Articles L711-1 to L711-4

Article L711-1

(Inserted by Act no. 2003-347 of 15 April 2003 Article 1 Official Journal of 16 April 2003)

For application of the provisions of the present Title, the Antarctic is understood to be the zone defined in Article 6 of the Antarctic Treaty signed in Washington on 01 December 1959, i.e. the area located south of the 60° South latitude including all ice shelves.

Article L711-2

(Inserted by Act no. 2003-347 of 15 April 2003 Article 1 Official Journal of 16 April 2003)

I. - In accordance with the modes of implementation provided for under the present Title, the organisation of and engagement in activities in the Antarctic take into consideration the protection of the environment, and dependent and associated ecosystems, and the preservation of the Antarctic as a natural reserve for the world, devoted to peace, science and scientific research.

II. - The aforementioned activities are subject to either a preliminary declaration, or authorisation under the conditions defined in Chapter II, with the exception of:

- Fishing activities governed by the Convention for the Conservation of Antarctic Marine Living Resources, signed in Canberra on 20 May 1980;
- Exercising the right to freedom of navigation and freedom to overfly high seas in accordance with international law;
- Activities authorised by another Party to the Madrid protocol;
- Activities conducted by vessels and aircraft belonging to or used by the French State within the framework of their police or national defence missions.

Article L711-3

(Inserted by Act no. 2003-347 of 15 April 2003 Article 1 Official Journal of 16 April 2003)

The following are subject to the provisions of the present Title:

a) Any person, whatever his or her nationality, who engages in an activity in the district of Adélie Land, which comes under the authority of the French Southern and Antarctic Territories, and any vessel or aircraft used for this purpose;

b) Any individual with French nationality and legal entities created in accordance with French law that organises or participates in activities in other parts of the Antarctic, in addition to vessels sailing under the French flag and aircraft registered in France used for this purpose;

c) Any person, whatever his or her nationality, who organises on or from French territory, or participates in, activities to be carried out in any part whatsoever of the Antarctic.

Article L711-4

(Inserted by Act no. 2003-347 of 15 April 2003 Article 1 Official Journal of 16 April 2003)

None of the provisions of the present Title shall undermine the immunity provided by international law for warships and other vessels belonging to foreign States used for non-commercial purposes.

CHAPTER II

Declaration and authorisation — Articles L712-1 to L712-5

Article L712-1

(Inserted by Act no. 2003-347 of 15 April 2003 Article 1 Official Journal of 16 April 2003)

I. - Activities having a minor or transitory impact on the environment in the Antarctic, as stipulated in Article 8 of the Madrid Protocol, are subject to authorisation.

II. - All other activities are subject to a preliminary declaration.

Article L712-2

(Inserted by Act no. 2003-347 of 15 April 2003 Article 1 Official Journal of 16 April 2003)

The issuing of an authorisation is determined by a prior assessment of the impact of the activity on the environment.

Subject to Article L. 713-4, authorisation is only granted if the assessment shows that the impact of the activity is compatible with the preservation of the Antarctic environment.

Article L712-3

(Inserted by Act no. 2003-347 of 15 April 2003 Article 1 Official Journal of 16 April 2003)

Where necessary, authorisation may be accompanied by recommendations, especially concerning:

- The geographical areas involved;
- The period during which the activities shall be taking place;
- The equipment used, particularly the conditions of use of radioactive equipment for scientific purposes;
- The equipment and preparation plans for emergency situations;
- The waste management method.

Article L712-4

(Inserted by Act no. 2003-347 of 15 April 2003 Article 1 Official Journal of 16 April 2003)

Decommissioning of an authorised installation is itself subject to authorisation.

Article L712-5

(Inserted by Act no. 2003-347 of 15 April 2003 Article 1 Official Journal of 16 April 2003)

A Conseil d'Etat decree defines the modes of application of the present Chapter. It determines the competent authorities for issuing authorisations, the activities stipulated in section II of Article L. 712-1, the content and modes of implementation for the preliminary impact evaluation, the procedure applicable to declarations and authorisation requests, and the regulations applicable to existing installations.

CHAPTER III

Inspections and sanctions — Articles L713-1 to L713-9

SECTION I

Administrative inspections and sanctions — Articles L713-1 to L713-4

Article L713-1

(Inserted by Act no. 2003-347 of 15 April 2003 Article 1 Official Journal of 16 April 2003)

A declared activity may be suspended, interrupted or subjected to special limitations should it appear that it causes damage to the environment of a more serious or different nature to that identified at the time of its declaration. Except in cases of emergency, the author of the declaration is obliged to present his or her observations beforehand.

Article L713-2

(Inserted by Act no. 2003-347 of 15 April 2003 Article 1 Official Journal of 16 April 2003)

An authorisation may be suspended, repealed or modified should it appear that the authorised activity causes damage to the environment of a more serious or different nature to that identified at the time of issue. Except in cases of emergency, the holder of the authorisation is obliged to present his or her observations beforehand.

Article L713-3

(Inserted by Act no. 2003-347 of 15 April 2003 Article 1 Official Journal of 16 April 2003)

The administrative authority may direct a person responsible for an activity, declared or authorised in accordance with Chapter II, to bring the conditions of execution thereof into compliance with the terms of the declaration or authorisation.

If, on expiry of the time limit set by formal notice, the person has not complied with this injunction, the administrative authority may enforce the provisions laid down in Articles L. 713-1 and L. 713-2.

Article L713-4

(Inserted by Act no. 2003-347 of 15 April 2003 Article 1 Official Journal of 16 April 2003)

The administrative authority may issue a warning to any person identified as conducting activities that are incompatible with the Madrid Protocol and the present Title. Prior to this, such a person is invited to present his or her observations. Once a warning has been issued, all authorisations shall be refused on these grounds for a period of five years.

SECTION II

Criminal sanctions — Articles L713-5 to L713-9

Article L713-5

(Inserted by Act no. 2003-347 of 15 April 2003 Article 1 Official Journal of 16 April 2003)

The following action is taken against infringements of the present Title committed by persons mentioned in Article L. 711-3:

1° The organisation of or participation in an activity which has not been granted authorisation as provided by section I of Article L. 712-1, or the disregard of the conditions of the said authorisation, is punishable by one year of imprisonment and a fine of 75 000 euros;

2° The following are punishable by two years of imprisonment and a fine of

30 000 euros:

- The act of leading a mineral resource prospecting or extraction activity in the Antarctic, other than an activity conducted for scientific research purposes within the limits of authorisation issued to this effect;
- The commercialisation of materials resulting from an illicit mineral resource prospecting or extraction activity in the Antarctic;

3° The introduction or disposal of radioactive waste in the Antarctic is punishable by two years of imprisonment and a fine of 75 000 euros;

4° Under the conditions provided by Article 121-2 of the Code pénal, any legal entity may be declared responsible for the offences defined in the present Title. They incur a fine in accordance with the modes of implementation stipulated in Article 131-38 of the aforementioned code;

5° Equipment which has been used or was intended for committing an offence, or the materials which are the product thereof, may be confiscated.

Article L713-6

(Inserted by Act no. 2003-347 of 15 April 2003 Article 1 Official Journal of 16 April 2003)

The acts mentioned in 1° of Article L. 713-5 are not subject to criminal sanctions in the event of an emergency involving the safety of human life, vessels, aircraft or equipment and facilities of high value, or the protection of the environment, which make a preliminary authorisation request in accordance with the present Title impossible.

Article L713-7

(Inserted by Act no. 2003-347 of 15 April 2003 Article 1 Official Journal of 16 April 2003)

In addition to judicial police officers acting in compliance with the provisions of the Code de procédure pénale, the following are authorised to detect and investigate infringements of the present Title and enactments for its application:

- Customs officers;
- Agents authorised to record infringements of legislation pertaining to nature reserves;

- Administrators of Maritime Affairs, Inspectors of Maritime Affairs, Maritime Affairs Technical and Administrative Officers, seafarers unions, ship Commanders, First Officers and First Officers of State vessels, and Commanders of State aircraft in charge of sea surveillance.

Article L713-8

(Inserted by Act no. 2003-347 of 15 April 2003 Article 1 Official Journal of 16 April 2003)

Without prejudice to the rules of jurisdiction defined in Article 382 of the Code de procédure pénale, and the provisions of Article L. 935-1 of the Code de l'organisation judiciaire, the Paris Tribunal de Grande Instance shall be competent to judge infringements of the provisions of the present Title, and the enactments for its application, observed in the Antarctic, outside Adélie Land, which comes under the authority of the French Southern and Antarctic Territories.

Article L713-9

(Inserted by Act no. 2003-347 of 15 April 2003 Article 1 Official Journal of 16 April 2003)

A Conseil d'Etat decree determines the methods of application of the present Chapter.