



Commission de protection  
du territoire agricole  
du Québec

THE ACT  
TO PRESERVE  
AGRICULTURAL LAND  
AND AGRICULTURAL  
ACTIVITIES

**A SUMMARY**

August 1999

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## NOTE

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This pamphlet provides an overview of the *Act to preserve agricultural land and agricultural activities*. It summarizes the main provisions, but does not supersede the text of the Act or its attendant regulations. The section numbers in parentheses refer to the Act.

Published by the Commission de protection du territoire agricole, this document deals solely with the provisions administered by the Commission. More-detailed documents and information pertaining to applications for authorization and declarations can be obtained from your municipality, or from the Commission at the addresses and phone numbers listed at the back of this pamphlet.

The Act also contains other measures related to the preservation of farming activities, in the form of good-neighbourliness rules (norms of reciprocity, restrictions on proceedings instituted against agricultural producers) and rules governing the powers of regional county municipalities and municipalities with respect of land use in agricultural zones. For information on these measures, contact the Ministère de l'Agriculture, des Pêcheries et de l'Alimentation du Québec, the Ministère de l'Environnement (for application of the "Guidelines for determining minimum distances to ensure odour management in rural areas") and the Ministère des Affaires municipales et de la Métropole (for application of the *Act respecting land use planning and development*).

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## PURPOSE OF THE ACT

The purpose of the legislation to preserve agricultural land as instituted by the Act is to guarantee a lasting territorial base for agricultural purposes and to foster the preservation and development of farming activities and farm enterprises in the established agricultural zones, in keeping with sustainable development imperatives.



## AGRICULTURAL ZONE

The government identified as a designated agricultural region any part of the territory where soil and surroundings need to be protected for agricultural purposes. Six orders in council, which came into force between November 9, 1978, and November 7, 1981, were passed to this effect. They eventually covered the entire territory of Québec south of the 50th parallel, starting with the St. Lawrence Lowlands and the Outaouais region.

Each local municipality then reached an agreement with the Commission de protection du territoire agricole on its agricultural zone plan (s. 47).

Finally, each regional county municipality (RCM) reviewed the agricultural zone plan of its member municipalities in the context of negotiations with the Commission, with the participation of the Union des producteurs agricoles. This review process (s. 69.1) resulted in the signing of 96 memorandums of agreement with as many RCMs on the limits of the agricultural zone in question.

All of the orders in council revising agricultural zones are in effect, and the review process has been completed.

Taking into account the one-time inclusions and exclusions currently in effect, as of April 1, 1998, Québec's agricultural zones represented a total area of 6,339,908 hectares. An agricultural zone has been established in 1,119 municipalities in 94 RCMs and 3 urban communities, and in each of Québec's 17 administrative regions.



To find out if your lot is included in an agricultural zone, contact your municipality, the land registry office or the Commission de protection du territoire agricole.



## CONTROLLED ACTIVITIES IN AGRICULTURAL ZONES

### 2.1 PROHIBITED ACTIVITIES

In order to give priority to farming activities, the Act controls non-agricultural activity.

The following are prohibited unless authorized by the Commission:

- using a lot for any purpose other than agriculture (residential, commercial, industrial or institutional) (s. 26);
- cutting maple trees in a sugar bush (except for the purposes of selection or thinning within the framework of forest management) and using a sugar bush for any purpose other than maple production (s. 27);
- effecting a subdivision, i.e. alienating part of a lot while retaining a right of property on a contiguous lot or a lot deemed to be contiguous (for the purposes of the Act, two lots that are separated by a public road, a railway, a public utility right of way or the surface of a lot for which an acquired right exists are deemed to be contiguous) (s. 28);
- alienating a lot (by way of sale or donation) while retaining a right of property on a contiguous lot or a lot deemed to be contiguous (s. 29);
- removing topsoil (s. 70).

### 2.2 EXCEPTIONS

#### 2.2.1 Rights recognized under the Act

1. Under the Act, a natural person whose main occupation is agriculture may, without the authorization of the Commission, erect a residence for himself, his child or his employee on a lot which he owns and where he carries out his main occupation.

An agricultural corporation or partnership may also erect a residence for a shareholder or member whose main occupation is agriculture on a lot which it owns and where the shareholder or member carries out his main occupation. It may also erect, on such a lot, a residence for an employee assigned to the agricultural operations of the corporation or partnership (s. 40).

2. A person may, without authorization of the Commission, alienate an area of 100 hectares or more if the contiguous residual area of which he remains the owner forms an area of at least 100 hectares (s. 29.2).

3. A person may, without authorization of the Commission, erect a residence on his property when the property comprises several contiguous lots that are vacant (without non agricultural use) and form an area of 100 hectares or more (s. 31.1).
4. The Act provides for various **acquired rights** regarding a lot that are transferable from one owner to the next.

Thus, a person may, without the authorization of the Commission, alienate, subdivide and use for a purpose other than agriculture a lot that, when the provisions of the Act were made applicable to it:

- (a) was being used for a purpose other than agriculture both legally and in practice (s. 101); or
- (b) was already governed by a permit authorizing its use for a purpose other than agriculture (e.g. valid building permit, operating permit issued by the Ministère de l'Environnement) (s. 101);
- (c) was or had become adjacent to a public road along which public water and sewer services were or were to be installed under a municipal by-law approved in accordance with the law (s. 105);

For lots for which a right referred to in paragraphs (a) and (b) exists, the surface covered by those acquired rights may, if smaller and if the owner held a larger surface when the provisions of the Act were made applicable to it, be increased to a half-hectare (53,820 sq. ft.) if the lot was being used or was already governed by a permit authorizing its use for residential purposes, or to one hectare (107,640 sq. ft.) if its use or authorized use under the permit was for commercial, industrial or institutional purposes (s. 103).

The acquired right described in paragraph (c) does not extend to any part of the lot situated more than 60 metres from the right of way of a public road in the case of a residential use, or more than 120 metres from that right of way in the case of commercial, industrial or institutional use (s. 105).

**The right to the residential use of a lot or an acquired right referred to in paragraphs (a) and (b) is extinguished when the part of the surface covered by the right is left uncropped (becomes covered by vegetation) for more than one year (s. 31 and 102).**

## 2.2.2 Prescribed activities

As of June 18, 1998, the following activities are allowed under regulations made pursuant to the new provisions of the *Act to preserve agricultural land and agricultural activities* and do not require authorization from the Commission (or a declaration):

- expanding a residential site built prior to the Act's entry into force;
- erecting a rough shelter measuring 20 square metres on a bushlot of 10 hectares or more in size;
- selling all of one's property to more than one agricultural producer who owns adjacent land;
- erecting a billboard;
- relinquishing, by the Ministère des Transports or a municipality, excess right of way to the owners of adjacent land.

The above activities are added to cases where a permit to remove topsoil is not required; for example, where the operator's main occupation is horticulture.

**The above activities and related conditions are set out in the applicable regulations.**

### 3

## COMMISSION DE PROTECTION DU TERRITOIRE AGRICOLE

The mission statement of the Commission is to ensure for future generations a territory for farming and agricultural development.

To this end, its function is to secure the preservation of Québec's agricultural land and help make this a concern of rural communities.

The Commission decides on applications for authorization, supervises the administration of the Act and gives its opinion or advice to the government on matters relating to the preservation of agricultural land and farming activities.

For the above purposes, the members of the Commission decide on applications submitted to them concerning the inclusion or exclusion of a lot in or from an agricultural zone; the subdivision, alienation or use of a lot for purposes other than agriculture; the cutting of maple trees in a sugar bush; and the removal of topsoil. For example, the Commission decides on applications to extend the territorial limits of municipal planning programs for residential, commercial, industrial or institutional use.

The Commission has offices in Québec City and Longueuil. To help bring it closer to the people it serves, the Commission also holds public meetings in the regions on a regular basis to consult or hear persons interested by an application.

### 4

## PROCEDURE FOR SUBMITTING AN APPLICATION FOR AUTHORIZATION

**4.1** A person wishing to undertake anything for which the authorization of the Commission is required must apply to the local municipality using the forms provided for to this effect.

The municipality must transmit the application to the Commission within 45 days of its receipt (s. 58.1).

The municipality studies the application and makes a recommendation to the Commission regarding the advisability of granting or denying the application. The municipality's recommendation must be **substantiated**, taking into account the criteria described in section 62 of the Act.

If the application deals with the use of a lot for a new purpose other than agriculture, the municipality must indicate in its recommendation whether other areas that are suitable for the purposes targeted by the application are available elsewhere in the territory of the local municipality, outside the agricultural zone (s. 58.2).

An authorized municipal officer must indicate whether the application is consistent with the municipality's zoning by-law (s. 58.1). If not, the application is deemed **inadmissible** unless:

- it is accompanied by a **draft by-law passed by the council** for the purpose of rendering the application consistent;
- **and**
- the advice of the RCM or urban community is also required **and** the latter indicates that the draft by-law is consistent with the interim control by-law or the development plan in force (s. 58.5).

**4.2** Only an RCM, a community or a municipality that has the support of its RCM or community may apply to **exclude** certain lots from the agricultural zone (s. 65).

**4.3** With the aim of adopting an overall view to its agricultural zone and agroecosystem sustainability, a member local municipality of a regional county municipality whose development plan has been reviewed according to the government's directions regarding the agricultural zone may also, provided it is has the support of the RCM or the Union des producteurs agricoles, apply to identify the conditions and circumstances under which new residences would be permitted in certain parts of the agricultural zone (s. 59). This process is intended as an alternative to the case-by-case handling of applications for authorization to use land for residential purposes and is aimed at viewing the agricultural zone as a whole.

## 5

### PROCESSING OF APPLICATIONS

Applications are processed at two levels: by the municipality and then by the Commission.

#### BY THE MUNICIPALITY

- The municipality receives an application (s. 58).
- It has 45 days to consider the application and transmit it to the Commission, making a recommendation as to whether or not to approve it. The recommendation must be substantiated, taking into account the criteria set out in the Act. The municipality must also indicate whether the application is consistent with its zoning by-law and whether other areas that are suitable for the purposes targeted by the application are available outside the agricultural zone.
- If the application is not consistent with the municipality's zoning by-law, it is inadmissible.

#### BY THE COMMISSION

- If the application is admissible, it is first studied by the Commission's professional services and is then treated by the commissioners.
- Based on the information it has, the Commission issues a **preliminary orientation**, which informs the interested parties of its initial position with regard to the application.
- The interested parties have 30 days to comment on the preliminary orientation, either through written submissions or by testifying before the Commission.
- When these written submissions or oral testimonies cause the Commission to change its initial position regarding the application, the changes are communicated to the parties, who have 10 days to submit written comments.
- The Commission's decision, which must be substantiated, is communicated in writing to the interested parties.

## 6

### CRITERIA TAKEN INTO ACCOUNT IN COMMISSION DECISIONS

When an application seeks authorization for a new use for purposes other than agriculture, the applicant must first demonstrate that there is no available area elsewhere in the territory of the local municipality, outside the agricultural zone, that is suitable for the purposes targeted by the application (s. 61.1).

In rendering a decision, the Commission takes into account that it is in the general interest to preserve agricultural land and farming activities. It examines all the facts submitted to it and considers the specific characteristics of the region concerned (s. 12).

The Commission **must take** the following criteria into consideration:

- the soil capability of the lot and of neighbouring lots;
- the possible uses of the lot for agricultural purposes;
- the consequences of an authorization on existing farming activities and the development of those activities and on the possibilities of agricultural use of neighbouring lots;
- the restrictions and effects resulting from the application of laws and regulations, in particular those relating to the environment and, more specifically, with respect to livestock operations;
- the availability of other sites where farming restrictions would be eliminated or reduced, particularly for applications dealing with a lot that is part of a census agglomeration or census metropolitan area as defined by Statistics Canada or with a lot within the territory covered by the Commission de développement de la métropole;
- the homogeneity of the farming community and farming operations;
- the impact on the preservation of water and soil resources for agriculture in the territory of the local municipality and in the region;
- the establishment of land holdings of a sufficient area for farming activities;

- the impact on the economic development of the region upon proof submitted by a municipality, community, public body or agency providing public utility services;
- the socioeconomic conditions necessary for the viability of a community when justified by the low population density of the region.

The Commission **may take** the following criteria into consideration:

- an indication to the effect that the application is not consistent with the development plan and complementary document transmitted by the RCM or community or with the land use objectives of the Commission de développement de la métropole;
- the consequences of a refusal for the applicant.

The Commission **must not take** into consideration (s. 62.1):

- the fact that the object of the application has been wholly or partly achieved;
- the possible consequences of the decision on an offence already committed;
- any fact or evidence not related to a provision of section 12, 61.1, 61.2, 62 or 65.1;
- the fact that a lot division is indicated on a cadastral plan.

For applications seeking authorization to exclude an aggregate of lots or part of a lot from the agricultural zone, the Commission must, in addition to considering the criteria defined in section 62, be satisfied that the exclusion meets **a need and a development objective** identified in the development plan of the local municipality, RCM or community (s. 65.1).



## PRELIMINARY ORIENTATION

For each application for authorization, the Commission drafts a summary of the application, indicating its preliminary orientation regarding the application, that is, its intention to grant or refuse the application.

This step is a major change in the decision-making process. It was introduced in April 1998 as part of the reform of the administrative justice system and is aimed at communicating the Commission's position on an application to the intervening parties more rapidly so that they may present their views before the Commission renders its decision. The entire process is designed to be equitable and transparent.

Once the Commission's preliminary orientation has been communicated to them, the intervening parties are given an opportunity to submit their comments in writing or request a hearing to make their opinions known orally.

Should these written submissions or oral testimonies lead the Commission to change its position regarding the application, the intervening parties are given another opportunity to present their views in writing.

## THE DECISION

Every decision of the Commission must be substantiated and communicated in writing to the applicant and every interested party, as well as to the local municipality and regional county municipality or community in which the lot contemplated in the application is situated (s. 64). Any decision in which there are errors in writing or calculation or any other error of form may be corrected upon request. The same applies to any decision that grants more than was applied for or fails to rule on a part of the application (s. 18.5).

The Commission may also, on its own initiative or upon request, review a decision it has made provided no proceeding has been brought before the Administrative Tribunal of Québec, in particular when an applicant or interested party was unable to present its views (s. 18.6). Any interested party may contest a decision of the Commission before the Administrative Tribunal of Québec within 30 days of the decision (s. 21.1).

The Tribunal may not, unless there has been a significant error of law or fact in the contested decision, reevaluate the assessment of the application made by the Commission (s. 21.4).

## DECLARATION

Under the *Act to preserve agricultural land and agricultural activities*, a declaration setting forth the right to proceed with an activity without the Commission's authorization must be submitted in the following instances:

- when a person is applying to his municipality for a **building permit** (s. 32) to erect a residence or main building or to change the use of a farm building or expand such a building in cases where the change of use or the expansion is for purposes other than agriculture and the person is invoking the rights recognized in sections 31, 31.1 and 40 or acquired rights.

No municipality may issue a building permit for a lot situated in an agricultural zone unless the application is submitted with a certificate of authorization or a notice of compliance with the Act issued by the Commission or unless the three-month period provided for in section 100.1 of the Act has elapsed.

- when the alienation (sale) of land will result in the delimiting, for the first time, of an area for which acquired rights exist (s. 32.1);
- when a municipality is applying to widen an existing right of way of a public road to 30 metres.

The person signing the declaration is fully responsible for the facts contained in that document. The Commission verifies whether the information provided is exact.

Under the amendments made to the Act in 1997 and the new regulations, a declaration is no longer required in the following cases:

- submitting a plan for subdivision;
- constructing a farm building;
- constructing an accessory building on an area for which acquired rights exist.

## PENALTIES

When a person violates any provision of the Act or refuses to comply with a decision of the Commission, the latter may issue an order (s. 14) or apply to the courts to have a subdivision or alienation made in violation of the Act repealed (s. 30), or obtain an order from the Superior Court directing the person to comply with the Act (s. 85) and have the necessary work done to restore the lot to its original state (s. 84 and 86).

Note that the general recourses provided for in the Code of Civil Procedure may also be used in the event of an offence under the Act. For example, contempt of a court judgment is punishable by a fine or by imprisonment.

Every person who commits an offence is liable to a fine or to penal proceedings (s. 87 and 88).

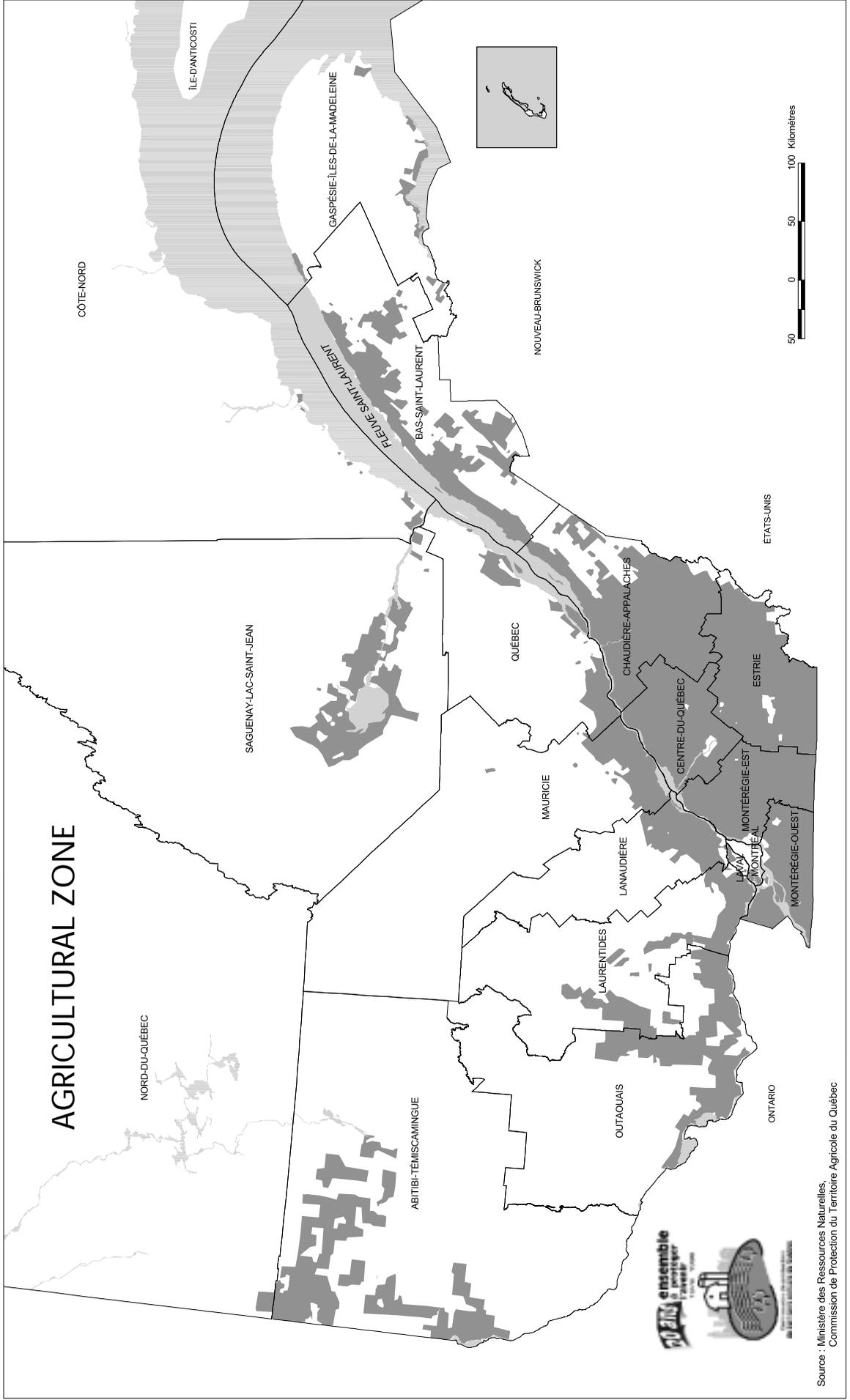
## AUTHORIZATION AND DECLARATION FORMS

To find out if a lot is subject to the provisions of the Act, or to obtain information on an application for authorization or a declaration, contact:

- your municipality
- Commission de protection  
du territoire agricole du Québec  
200, chemin Sainte-Foy, 2e étage  
Québec (Québec) G1R 4X6  
Tel.: 1-800-667-5294 (toll-free)  
(418) 643-3314
- Commission de protection  
du territoire agricole du Québec  
25, boulevard La Fayette, 3e étage  
Longueuil (Québec) J4K 5C7  
Tel.: 1-800-361-2090 (toll-free)  
(450) 442-7100

In addition to this pamphlet, the Commission has published more-detailed documents pertaining to applications for authorization and declarations. These publications are available from the Commission's offices or on the Internet, at the following address: <http://doc.gouv.qc.ca>. Click on "administrative tribunaux of Québec" to obtain information on the Commission de protection du territoire agricole du Québec as well as to access various general-interest documents published by the Commission, including those mentioned above.

As well, every four months, the Société québécoise d'information juridique (SOQUIJ) publishes a compendium of decisions ("Recueil en matière de protection du territoire agricole") rendered by the Commission de protection du territoire agricole and court rulings related to the preservation of agricultural land. SOQUIJ's on-line database "Azimut" (HYPERLINK <http://www.azimut.soquij.qc.ca>) contains the full text (in French) of over 25,000 decisions and orders of the Commission made since 1990.



Source : Ministère des Ressources Naturelles,  
Commission de Protection du Territoire Agricole du Québec

N.B.: This map is a general plan of the administrative regions with an agricultural zone. For the exact boundaries, refer to the official plan (1:20 000) of the agricultural zone in question.