Preliminary draft decree of ... (date) establishing the Code of Management of Subsoil Resources

The Walloon Government,

On the proposal of the Minister having the Environment and the Natural resources in its attributions;

After deliberation,

ARRESTED:

The Minister having the Environment and Natural Resources in his attributions is in charge of presenting to the Parliament the following draft decree:

CHAPTER1er . CODE FOR THE MANAGEMENT OF SUBSOIL RESOURCES

Article 1er. The following provisions form the decree part of Book III of the Environmental Code constituting the Code of Subsoil Resources Management.

"BOOK III. MANAGEMENT OF SUBSOIL RESOURCES

PART I. PRINCIPLES, SCOPE AND DEFINITIONS

TITLE I. PRINCIPLES AND SCOPE OF APPLICATION

Art. D. I. 1. The subsoil resources of the Walloon Region are the common heritage of its inhabitants.

They are exploited according to a principle of parsimonious management, in the respect of the health and the safety of the Man, of the protection of the Environment and by recognizing the primacy of the water resource, in accordance with the objectives of protection and with the modes of management of water aimed at the book II of the Code of the Environment containing the Code of the Water

To this end, this Code governs the management of Walloon subsoil resources, including activities in the underground environment, and regulates, in compliance with sustainable development, exploration and exploitation, including, where applicable, post-management:
1° of the mines ;
2° deposits of hydrocarbons and combustible gases;

(3) geological heat or cold storage sites;
(4) deep geothermal deposits for energy production (heat or electricity);
(5) ~~non~~shallow geothermal deposits for energy and heat production;
6° of careers;
7° of the historical slag heaps and the slag heaps;
(8) man-made or natural underground cavities;
9° sites for the geological storage of carbon dioxide on the territory of the Walloon Region.

Art. D. I. 2. The subsoil resources referred to in Article D.I.1, paragraph 2, 1° to 4°, which are exploitable and located on the territory of the Walloon Region are administered by the Region. Their management and exploitation are of general interest.

The Government may grant exclusive exploration or exploitation rights over them, without prejudice to the need to obtain an environmental permit and a town planning permit for the exercise of the corresponding activities and for the operation of the associated installations and equipment.

Art. D. I. 3. Except as otherwise provided, any shipment referred to in this Code shall be made either:

1° by registered mail with return receipt ;

(2) by the use of any similar form determined by the Government to give certainty of date to the sending and receipt of the instrument, regardless of the delivery service used for the instrument;

3° by depositing the document against a receipt.

The Government may determine the list of processes, including electronic ones, that it recognizes as allowing to give a certain date to the sending and receiving.

Art. D. I. 4. The dispatch is made at the latest on the day of the deadline.

The day of receipt of the deed, which is the starting point, is not included.

The day of the due date is counted in the time limit. However, when that day is a Saturday, Sunday or legal holiday, the due date is moved to the next business day.

TITLE II. DEFINITIONS

Art. D. I. 5. For the purposes of this Code, the following definitions apply

1° activities and installations in underground environments: sports, recreational, cultural and tourist activities, horticultural exploitation and deposits in natural or artificial underground cavities, including mines whose deposits are no

longer exploited, and the installations necessary for the exercise of these activities, with the exception of tunnels linked to communication routes in activity and in the military domain ;

2° Administration: the department or departments designated by the Government;

3° quarries: the activities of extraction and development of masses of mineral or fossil substances contained in the subsoil or existing on the surface and which are not classified as mines;

4° CoDT: The Code of Territorial Development;

5° mine concession: the act authorizing the exploitation of a mine referred to in the decree of July 7, 1988 on mines, mining and quarries, coordinated by the Royal Decree of September 15, 1919 or by any previous law;

6° waste: the substances defined in article 2, 1°, of the decree of June 27, 1996 on waste;

7° dependencies: activities and installations established in the vicinity of activities, underground or on the surface, necessary or useful for the exploration and exploitation of subsoil resources, including the installations necessary for the development of the products extracted from them and the installations for the management of waste from the extractive industry;

8° exploitation of subsoil resources: the development of subsoil resources within a perimeter or volume, possibly fixed in an exclusive exploration or exploitation permit, either by extracting all or part of the existing geological layers and bodies, for the purpose of marketing, with or without processing, the extracted rocks, minerals, substances and fluids, or by extracting or storing heat, gases or fluids, with the exception of works and operations for the abstraction of underground water, or by developing existing cavities ;

9° exploration of subsoil resources: any operation or campaign of operations carried out within a fixed perimeter and aimed at characterizing the subsoil and some of its resources, with a view to determining their existence and location as well as evaluating the possibilities of their exploitation or development, whatever the means implemented on the ground;

10° technical official: the official or officials designated by the Government;

11° subsoil official: the official or officials designated by the Government ;

12° geological formation: the lithostratigraphic division within which distinct rock layers can be mapped;

13° fracturing: extraction method based on the modification of the permeability of the medium;

14° shallow geothermal~~non~~ energy: all the ~~procédés~~processes that allow~~l'extraction et~~ the recovery of~~, qu'elle soit thermique ou électrique,~~ the energy ~~géothermique, soit l'énergie~~ extracted in heat stored in the ~~forme de~~

~~chaleur sous la surface de la terre solide,~~subsoil at depths of less than five hundred meters;

15° deep geothermal energy: all the processes that allow the extraction and valorization, whether thermal or electrical, of geothermal energy, i.e. the energy stored in the form of heat under the surface of the solid earth, at depths greater than or equal to five hundred meters;

16° geothermal deposit: the ~~gisement~~deposit enclosed in the bosom of the earth from ~~à des profondeurs supérieures à cinq cents mètres sous la surface du sol~~ which energy can be extracted in thermal ~~pouvant être valorisée en énergie thermique ou électrique, notamment par le biais des eaux chaudes et des vapeurs souterraines qu'il contient ;~~ form.

~~16°~~17° mines: either :

(a) any body of mineral or fossil substances in the subsoil that is known to contain, in seams, layers or clusters, gold, silver, platinum, mercury, lead, iron, copper, tin, zinc calamine, bismuth, cobalt, arsenic, manganese, antimony, molybdenum, lead, gallium, germanium, hafnium, indium, niobium, scandium, tantalum, tungsten, vanadium, uranium or other metallic materials, as well as their salts and oxides, barium, barite, sulfur, graphite, earth or stone coal, fossil wood, bitumen, alum and salt, as well as bituminous rocks susceptible to industrial processing for the purpose of obtaining hydrocarbon substances and phosphate rocks susceptible to industrial processing for the purpose of producing fertilizers;

(b) deposits of in situ or weathered and naturally displaced rock containing industrially recoverable rare earths, namely scandium, yttrium, lanthanum, cerium, praseodymium, neodymium, promethium, samarium, europium, gadolinium, terbium, dysprosium, holmium, erbium, thulium, ytterbium, and lutetium ;

~~17°~~18° environmental permit: the permit referred to in Article 1er, 1°, of the decree of March 11, 1999 on environmental permits;

~~18°~~19° mining exploration permit: the permit referred to in article 5 of the decree of July 7, 1988 on mines or by the laws on mines, minerals and quarries, coordinated by the royal decree of September 15, 1919;

~~19°~~20° exclusive exploration permit: the decision by which the Government grants exclusivity for the exploration of the resources referred to in Article D.I.1, paragraph 2, to a designated holder;

~~20°~~21° exclusive exploitation permit: the decision by which the Government grants exclusivity of the resource exploitation activities referred to in Article D.I.1, paragraph 2, to a designated holder;

~~21°~~22° post-management: the maintenance, monitoring, control and remediation obligations placed on the holder of an exclusive license following the total or partial cessation of exploration or exploitation;

~~22°~~23° reclamation: reclamation within the meaning of Article 1er, paragraph 1er, 13°, of the Decree of March 11, 1999 on environmental permits;

~~23°~~24° site: the perimeter consisting of the cadastral parcels referred to in the environmental permit;

~~24°~~25° Historic Waste Rock: a waste management facility for the coal mining and processing industry, with a volume of more than 50,000 cubic meters, established prior to the effective date of the Code;

~~25°~~26° Terrisse: historical slag heap with a volume of less than 50,000 cubic meters;

TITLE III. IMPLEMENTATION OF EUROPEAN OBLIGATIONS

Art. D. I. 6. This Code partially transposes :
1° Directive 94/22/EC of the European Parliament and of the Council of 30 May 1994 on the conditions for granting and using authorizations for the prospection, exploration and production of hydrocarbons;
2° Directive 2001/42/EC of the European Parliament and of the Council of 27 June 2001 on the assessment of the effects of certain plans and programmes on the environment;
3Directive 2009/31/EC of the European Parliament and of the Council of 23 April 2009 on the geological storage of carbon dioxide and amending Council Directive 85/337/EEC, Directives 2000/60/EC, 2001/80/EC, 2004/35/EC, 2006/12/EC and 2008/1/EC and Regulation (EC) No 1013/2006 of the European Parliament and of the Council;
4° Directive ~~2009/28/CE~~(EU) 2018/2001 of the European Parliament and of the Council of ~~23 avril 2009~~11 December 2018 on the promotion of the use of energy from renewable~~ et modifiant puis abrogeant les directives 2001/77/CE et 2003/30/CE~~ sources.

PART II. ADVISORY AND COORDINATING BODIES

TITLE I. SUBSOIL COUNCIL

Art. D.II.1. §1er . A Subsoil Council is hereby established. This council is composed of members appointed by the Government:
1° for one third of civil servants from the Administration ;
2° for one third of representatives of the operators;
3° one third of representatives of various interests, including scientific~~ et l'Institut scientifique de service public~~ members.

§ (2) For each full member, a substitute member shall be appointed. If the member is appointed by virtue of a specific function or title under the provisions governing

the operation and organization of the Underground Council, this rule may be waived.

An alternate member may serve only in the absence of the full member he or she replaces.

The alternate member has the same documents relating to the meetings of the body as the full members. These documents are sent to the alternate members at the same time as they are sent to the full members.

§ (3) Ministers may be invited to the meetings when a matter falling within their competence is submitted to the Subsoil Council for an opinion.

§ (4) The Government shall determine the number of members of the Underground Council, the manner in which they are to be presented and the functioning of the Underground Council.

The Government appoints the chairman and vice-chairman of the Subsoil Council from among the members referred to in paragraph 1er. §.

§The Government may set up specialized sections within the Subsoil Council and, depending on the specific nature of the matter dealt with, entrust the advisory tasks referred to in Article D.II.2. either to the general section or to specialized sections.

Art. D.II.2. The Basement Council's missions are:

1° to give an opinion on the draft strategic plan for the management of subsoil resources referred to in Article D. III.1;

2° to inform the Government of all aspects relating to the research and exploitation of the materials referred to in this Code;

3° to give an opinion on the projects of infrastructure works, regarding the rational exploitation of mineral materials or storage sites;

(4) to advise on competing uses of the same deposit or subsurface area;

5to give an opinion on applications for exclusive exploration or exploitation permits as well as on applications for environmental permits and town planning permits relating to installations and activities for the exploration and exploitation of subsoil resources;

6to give an opinion on the classification of historic slag heaps referred to in article D. VI.9 ;

7° to give an opinion on any application for planning permission relating to a historic slag heap;

8° to give an opinion on all matters submitted to it by the Government.

TITLE II - STRUCTURE FOR THE COORDINATION OF THE REGION'S INTERVENTION IN MATTERS OF GROUND MOVEMENTS DUE TO EXPLORATION AND OPERATING GROUND WORKS OR ANTHROPIC OR NATURAL CAVITY

Art. D.II.3. The Government may organize a permanent coordination structure of its services in the field of landslides due to underground exploration or mining works or quarries or to man-made or natural cavities, during and outside a crisis, intended in particular to :

1° to carry out a strategic reflection on the problem of collapses, both in the field of prevention and in the field of crisis management;

2° to coordinate the interventions of the authorities and different services of the Region in case of geological collapses;

3° to give opinions and advice upon specific request to an authority in charge of a crisis management following a geological collapse affecting or likely to affect directly or indirectly a public property.

The Government may specify the tasks of the unit referred to in paragraph 1er.

PART III. STRATEGIC PLAN FOR THE MANAGEMENT OF UNDERGROUND RESOURCES

Art. D.III.1. §The Government may draw up a strategic plan for the management of the subsoil resources referred to in Article D.I.1, paragraph 3, 1° to 5° and 7° to 9°, drawn up in accordance with the provisions of Book I of the Environmental Code. This plan establishes an analysis of the situation with regard to the management of subsoil resources on Walloon territory, as well as the Region's objectives and means to ensure the parsimonious management of these resources in order to meet current needs and those of 20 and 50 years, while ensuring the long-term sustainability of these resources. It sets out the actions to be taken by the Government in order to achieve the objectives and to manage current and future uses in accordance with the evolution of needs and techniques.

The plan is established in priority compliance with the objectives of water resource protection included in the Water Code and soil protection included in the decree of March 1, 2018 on soil management and remediation.

The plan shall include at least the following:

1° an inventory of Walloon subsoil resources, distinguishing between the types and location of deposits, the estimated volumes of deposits, their accessibility and the exploitation facilities with regard to their location and current techniques;

2° an evaluation of the needs and markets to identify the profitable sectors and compare them to the resources of the Walloon subsoil which could meet them;

(3) an estimate of current operating techniques and their probable evolution;

4° an estimate of the possibility of different exploitation of the same territory with different deposits;

(5) where possible, an order of priority between the exploitation of various competing subsoil resources;

(6) where applicable, the spatial determination of subsoil areas unavailable for exploration and exploitation, either because of the hydrogeological characteristics of the subsoil or because of the characteristics of human occupation of these areas or adjoining areas;

7° data relating to the coordination with the measures provided for by other sectoral plans and impacting other environments, in particular the river basin management plan referred to in Article D.24 of Book II of the Environment Code containing the Water Code, the land development plan referred to in Article D.II.2. of the CoDT, the Walloon Energy-Climate Plan constituting the Walloon Region's contribution to the integrated national energy and climate plan referred to in Article 3 of Regulation (EU) 2018/1999 of 11 December 2018 on the governance of the Energy Union and climate action, as well as the integrated national energy and climate plan referred to in the said Article 3 ;

8° an assessment of the previous plan.

§ (2) The plan shall be established for a maximum period of twenty years and shall be renewed in the manner in which it was prepared. The Government may provide for a shorter duration of the plan or for a revision within the twenty-year period.

PART IV. SUBSURFACE DATA BANK

Art. D.IV.1. §The Government ershall organize the collection, conservation and development, in particular in the form of a data bank, and the dissemination of data and information relating to the Walloon subsoil, and in particular :

1° to the geological constitution of Wallonia, including the superficial formations and the phenomena of alteration ;

2° to the deposits and mineral resources of the Walloon subsoil;

(3) the hydrogeology of the Region's territory;

(4) the cadastre of mining concessions, exclusive permits, associated environmental permits and ongoing operations;

5° to the production, consumption and flows of mineral and energy resources of the subsoil in Wallonia;

6Underground operating structures, active or decommissioned, such as wells, boreholes, tunnels and surface galleries;

7° to active and abandoned quarries, open pit or underground ;

8° to the hazards of natural and man-made ground movements and to incidents and accidents related to ground movements.

The §purpose of the dissemination of these data and of the work of valorisation is to allow the sharing of knowledge. To this end, the Public Service of Wallonia ensures the accessibility and dissemination of the data and the work of their valorisation via the Internet.

The data are collected through different documents such as permits and authorizations, approvals, declarations of well and cavity discovery works, impact studies, geologist observations, intervention files in case of disasters, geological and scientific studies and censuses, doctrinal publications, statistics from authorized institutes.

They are kept by the Subsoil Officer, in original or copy paper format, or in computer format.

§3. Personal data remains in the database as long as these documents are registered.

The Government is, within the meaning of the Act of 30 July 2018 on the protection of individuals with regard to the processing of personal data, responsible for processing the personal data transmitted.

§4. The archives of the Geological Map of Wallonia, whose custody is entrusted to the Administration, are kept at the disposal of the public.

PART V. REPORTING REQUIREMENTS FOR SUBSURFACE EXPLORATION

Art. D.V.1. §(1er) A prior declaration of commencement of work, made in accordance with the conditions and in the form established by the Government, is required:

(1) the undertaking, as well as the resumption by way of extension or deepening, of any excavation work, including galleries, shafts, soundings and drillings of any kind, which, even if carried out for purely scientific purposes, is planned to be ten metres below the level of the natural ground ;

2any geophysical survey, even if undertaken for purely scientific purposes, without prejudice to obtaining the prior authorizations prescribed by Article 120ter of the Penal Code;

3° any tracing to determine the flow of groundwater.

§(2) Any discovery of natural or man-made cavities, shafts and old mine shafts, as yet unknown or only known from plans or documents, is subject to a declaration within 15 calendar days, under the conditions and according to the form fixed by the Government.

Art. D.V.2. Government-appointed officials shall have access to offices, workshops and excavation and prospecting sites at all times when activity is being carried out there.

They shall also have access, in the same way, to places where a discovery as referred to in art. D.V.1., §2, has been made.

They may obtain all information and samples useful for the preparation of the geological map, the hydrogeological map and the geothermal potential map of the Walloon Region. For the same purpose, they can proceed to the description of the cavities, wells and issues discovered.

Art. D.V.3. The results of the deep excavations and geophysical surveys and the descriptions of the cavities and shafts and exits discovered are recorded in the subsurface data bank referred to in Art. D.IV.1.

If the searcher or discoverer, and in the case of penetrable cavities, the owner, specifies in the declaration referred to in Article D.V.1 that they are to be considered confidential, no documents or samples relating thereto may, without the prior written consent of the searcher or discoverer, and in the case of penetrable cavities, the owner, be communicated, nor may any results be disclosed, before the expiry of a period of time set by the searcher. This period may not exceed the duration of the exclusive permit if the research is related to the implementation of the permit.

The confidentiality of the data no longer applies upon termination of the operation of the licensed deposit or the bankruptcy or liquidation of the legal entity that generated the data if it occurs prior to the expiration of the license.

In the event of the discovery of a cavity or shaft or an exit of such a nature as to generate a ground movement hazard, the Administration is authorized to disseminate the location or outline of the threatening object.

PART VI. EXPLORATION AND EXPLOITATION OF SUBSOIL RESOURCES

TITLE I. EXPLORATION OF SUBSOIL RESOURCES

CHAPTER I. EXPLORATION OF SUBSOIL RESOURCES SUBJECT TO AN EXCLUSIVE LICENSE

Art. D.VI.1. §(1er) No person may reserve a right to explore subsoil resources referred to in article D. I. 1, paragraphs2 1 to 4, even on land belonging to that person, without holding an exclusive exploration permit issued by the Government in the manner provided in this Part.
§(2) Artificially induced fracturing for the exploration of liquid hydrocarbons and combustible gases is prohibited.

By way of derogation from paragraph 2, subparagraph 1, the Government may, at the time of granting or by amending the conditions of the exclusive exploration permit, provide for temporary exceptions for methods aimed at restoring the initial level of porosity around the coal seam gas wells.

CHAPTER II. SUBSOIL RESOURCE EXPLORATION ACTIVITIES

Art. D.VI.2. The activities and installations necessary for the exploration of subsoil resources are only carried out by virtue of a declaration or an environmental permit and, if applicable, a town planning permit within the meaning of the CoDT.

TITLE II. EXPLOITATION OF SUBSOIL RESOURCES

CHAPTER I. EXPLOITATION OF SUBSOIL RESOURCES SUBJECT TO AN EXCLUSIVE LICENSE

Art. D.VI.3. §(1er) No person may reserve a right to exploit subsoil resources referred to in article D. I. 1, paragraphs2 (1) to (4), even on land belonging to that person, without holding an exclusive exploitation permit issued in the manner provided for in this Part.

§(2) Artificially induced fracturing for the exploitation of liquid hydrocarbons and combustible gases is prohibited.

By way of derogation from paragraph 1er ~~du paragraphe 2,~~ the Government may, at the time of granting or by amending the conditions of the exclusive exploitation permit, provide for temporary exceptions for methods aimed at re-establishing the initial level of porosity around coal seam gas drillings and the exploitation of deep geothermal energy.

§3 By way of derogation from paragraph 1, the extraction of mining substances of less than 3 tons per year is not subject to an exclusive permit if it is an accessory to an activity of underground visits of old mine shafts, galleries and dependencies for tourist and didactic purposes.

Art. D.VI.4. The exclusive license to exploit subsoil resources includes the exclusive right to explore.

Art. D.VI.5. Except in the case where it is granted to the Walloon Region, the exclusive exploitation permit can only be awarded to an existing or a legal entity

in formation. In the latter case, the legal entity is constituted within the time limit set by the Government.

~~L'exploitation des ressources du sous-sol visées à l'article D.I.1., alinéa 3, 1°, dans le cadre d'un permis exclusif est un acte de commerce.~~

CHAPTER II. SUBSOIL RESOURCE EXPLOITATION ACTIVITIES

Section 1. Installations and activities for the exploitation of subsoil resources carried out within the framework of exclusive permits

Art. D.VI.6. §1er . Without prejudice to the application of article D.170 of Book II of the Environmental Code containing the Water Code, the installations and activities necessary or useful for the exploitation of subsoil resources for the purpose covered by the exclusive exploitation permits, including extraction waste management installations, wells, galleries, underground communications and extraction pits, may only be located and operated under an environmental permit and, where applicable, a planning permit within the meaning of the CoDT.

§ (2) Notwithstanding Article 50 of the Decree of March 11, 1999 on environmental permits, an environmental permit may not be issued for a period longer than that of the exclusive permit for exploration or exploitation of subsoil resources.

§ (3) The environmental permit referred to in paragraph 1er shall be accompanied by a security interest within the meaning of Article 55 of the Decree of 11 March 1999 on environmental permits.

§ (4) No other activity, installation or act that is incompatible with the operation in question may be authorized during the procedure for the examination of an environmental or single permit referred to in paragraph1er (1) or of a planning permit within the meaning of Article D. IV.4 of the CoDT.
The environmental permit and the urban planning permit cannot be issued when the activities and installations, and acts and works related to them, are incompatible with other activities or installations authorized under another administrative policy.

Section 2: ~~non~~Shallow Geothermal Deposits

Art. D.VI.7. Without prejudice to the application of article D.170 of Book II of the Environmental Code containing the Water Code, the installations and activities necessary for the exploitation of ~~non~~shallow geothermal deposits may only be established and operated under an environmental permit or a declaration within the meaning of the decree of March 11, 1999 relating to environmental permits and, where applicable, an urban planning permit within the meaning of the CoDT.

§ (2) The environmental permit may be accompanied by a security interest within the meaning of article 55 of the decree of 11 March 1999 on environmental permits.

Section 3. Careers

Art. D.VI.8. §1er . Quarries and their outbuildings, as well as extractive industry waste management facilities, may only be operated under the terms of an environmental permit or a declaration within the meaning of the decree of March 11, 1999 on the environmental permit.

§ (2) The environmental permit is accompanied by a security in the sense of article 55 of the decree of 11 March 1999 on the environmental permit.

Section 4. Historical and terrestrial sites

Art. D.VI.9. §1er . The Government classifies, possibly cumulatively, historic slag heaps according to whether they are to be or become :
1° a site benefiting from environmental, nature conservation, heritage or land use protection (category I);
2° a site that can be developed for its social, educational, cultural or tourist interest (category II);
3 a site that may be subject to economic exploitation other than tourism or mineral exploitation, or that may constitute a potential reserve of mineral or energy materials or that may require, in part or in whole, redevelopment, modification of its relief or removal of materials to ensure stability and protection of neighboring properties and roads (category III);

This classification is established according to the major interest or interests that each historic slag heap, individually or as part of a coherent whole, presents at the industrial, heritage, landscape, environmental, land use and urban planning, social, recreational or tourist, educational or cultural level.

Waste heaps classified as former extractive industry waste management facilities presenting a risk to human health and the environment in application of article 20 of directive 2006/21/EC of the European Parliament and of the Council of 15 March 2006 on the management of waste from the extractive industries are classified in category III.

The vocation of a historic slag heap may not be defined in the absence of at least one major criterion.

§2 . The proposed classification, or revision, total or partial of this classification is accompanied, for each old heap, by the justification of the proposed category.

The Government decides on the classification or its revision after a public inquiry in accordance with the procedures defined in Book I of the Environmental Code and the opinion of the Subsoil Council and the municipalities on whose territory the historical~~.~~ spoil heaps are located and, if applicable, the management contract for historical spoil heaps, referred to in §5, concerned.
The Government may designate other advisory bodies for consultation.

The advisory bodies and communes send their opinion to the Government within thirty days of receiving the project. If they fail to do so, the procedure is continued.

A notice relating to the classification project and the holding of the public inquiry is notified to the holders of real rights on the historic spoil heaps. Under their entire responsibility and without the legality of the classification order being questioned for this reason, the holders of rights who have received the information send, without delay, a copy to the third parties who hold a personal or real right on the real estate.

§3 No planning or environmental permit shall be issued that conflicts with the use of the historic slag heap as determined in the classification established under subsection1er .

The partial or total leveling ~~d'un~~and partial or total modification of the relief of the historic slag heap is prohibited

~~Par dérogation à l'alinéa 2, l'arasement d'un terril historique peut être admis lorsqu'il est nécessaire~~except for category III slag heaps where such operations are compatible with the particular purpose of the slag heap or are necessary to ensure public safety or

~~pour~~ the protection of neighbouring ~~motifs spécifiques déterminés par le~~ properties and roads.

When a slag heap falling under categories I and II requires programmable security work, motivated by necessities related to public safety or the protection of neighboring properties and roads, any party concerned may submit a reasoned request to the Government ~~.~~ for a prior review of its destination, resulting in a change in its classification, in accordance with paragraph 2.

§4 By way of derogation from paragraph 3, in the event of imminent danger, the partial or total leveling or the partial or total modification of the relief of a historic slag heap may be permitted when these operations are necessary to ensure public safety or the protection of neighboring properties and roads.

The request for a derogation~~ est octroyée conjointement par les autorités compétentes pour délivrer~~, accompanied by a technical file justifying the need for the derogation, shall be addressed to the Subsoil Officer.

The subsoil official notifies his decision at the latest within ~~permis, visées à l'article D.VI.10, et~~ eight working days following receipt of the application, after having sought the opinion of the Subsoil Council~~. Le~~ , the burgomasters concerned and

the management contract for the historical spoil heaps concerned. If no opinion is received from the bodies requested within five working days, it is deemed to be favourable.

A copy of the decision of the subsoil official is sent to the Government ~~établit~~, to the mayors concerned and to the management contract of the historical spoil heaps concerned.

In the absence of timely notification, the application is deemed approved.

The decision authorizing the partial or total leveling, or the modification of the relief, of the slag heap concerned is equivalent to a planning permit within the meaning of article D.IV.4. of the CoDT and an environmental permit within the meaning of article 10 of the decree of March 11, 1999 relating to the environmental permit.

The Government may specify the procedure for granting the exemption.

~~§4~~An appeal may be lodged with the Government by those to whom the decision of the subsoil official has been addressed and by any person who can show an interest. On pain of foreclosure, the appeal is lodged with the Government by means of a request within eight days of notification of the decision. The appeal shall suspend the contested decision. The day of receipt of the act which is the starting point of the appeal period is not included. The day of the deadline is counted in the time limit. However, if this day is a Saturday, a Sunday or a legal holiday, the due date is postponed to the next working day.

The Government shall send its decision within eight days from the first day following receipt of the appeal. In the absence of a decision within the time limit prescribed in the preceding paragraph, the decision that was the subject of the appeal is deemed to be confirmed.

The Government may determine the manner of recourse.

§5. The Government may extend the classification to all or part of the terrisses.

§~~5~~6. At the initiative of local authorities, operators of extractive industry waste or associations, holders of real rights or occupants of historic slag heaps, a participatory association called a "management contract for historic slag heaps" may be created within geographical areas corresponding to former mining basins determined by the Government. This association takes the form of a non-profit association within the meaning of the law of 27 June 1921 on non-profit associations, foundations, European political parties and European political foundations.
By way of derogation granted in accordance with the procedures determined by the Government, several slag heap management contracts may be created for each geographical area referred to in paragraph 1.
The Historic Slag heap management contract consists of the following three groups:

- The holders of real rights and occupants of the historical slag heaps concerned;
- members proposed by local actors;
- members proposed by the administrations and advisory bodies concerned.

The local actors referred to in the previous paragraph are :

- associations active in the environmental field;
- the actors linked to the different activities that have a significant impact on the geographical area concerned, such as businesses or tourism;
- actors related to cultural and educational activities that take place in the same area.

The decision-making bodies are organized in such a way as to be representative of the associates, without the predominance of any one group of associates, including that constituted by the municipalities and provinces.

§~~6~~7. In the event of several contracts for the management of historic waste heaps within the same geographical area determined by the Government pursuant to § 5, they shall coordinate their action in accordance with the procedures determined by the Government.

§~~7~~8. The purpose of the management contract for historic slag heaps is to inform and raise awareness in an integrated, comprehensive and concerted manner about the characteristics, resources and potential of slag heaps and to organize dialogue between all its members with a view to establishing a memorandum of understanding.

This memorandum of understanding contributes to achieving the objectives of valorization of the historic spoil heaps compatible with the environmental requirements described in article D.I.1. by committing its signatories, each within the framework of their responsibilities, to achieving specific objectives.

The Government may assign technical tasks to the management contract for historic slag heaps.

§~~8~~9. The Government may grant subsidies to the management contract for historic slag heaps according to the rules it determines. It may make them conditional on a program of activity.

The slag heap management contract shall draw up an annual activity report. In the event of several contracts for the management of historic waste heaps within the same geographical area determined by the Government pursuant to §5, an annual activity report coordinated by geographical area shall be drawn up.

The evaluation of the management contract of the historical spoil heaps is carried out annually by ~~l~~athe administration - the General Directorate of Natural Resources

and Environment - and communicated to the Minister having the natural resources in his attributions.

Art. D.VI.10. Historic tips and their dependencies can only be operated under an environmental permit or a declaration within the meaning of the decree of March 11, 1999 relating to environmental permits and, where applicable, an urban planning permit within the meaning of article D.IV.4 of the CoDT.

The environmental permit is accompanied by a security in the sense of article 55 of the decree of March 11, 1999 on the environmental permit.

The Government may make the exploitation of the terrisses subject to an environmental permit or to a declaration within the meaning of the decree of 11 March 1999 relating to the environmental permit.

Section 5. Underground Activities and Facilities

Art. D.VI.11. Activities and installations in the underground environment are subject to an environmental permit or a declaration within the meaning of the decree of March 11, 1999 on environmental permits and, where applicable, to a planning permit within the meaning of the CoDT. A security in the sense of article 55 of the March 11, 1999 decree on environmental permits may be imposed.

Section 6. Geologic storage of CO_2 with a total proposed storage capacity of less than one hundred kilotons undertaken for the purpose of exploration and development or testing of new products and processes

Art. D.VI.12. Geological storage of CO_2 with a total planned storage capacity of less than one hundred kilotons, undertaken for the purposes of exploration and development or experimentation of new products and processes, is subject to environmental permit or declaration in accordance with the rules laid down in the decree of March 11, 1999 relating to environmental permits and, where applicable, to planning permission within the meaning of Article D.IV.4 of the CoDT.

TITLE III. APPLICATIONS FOR EXCLUSIVE PERMITS FOR EXPLORATION AND EXPLOITATION OF SUBSOIL RESOURCES

CHAPTER I. INTRODUCTION OF APPLICATIONS FOR EXCLUSIVE PERMITS FOR EXPLORATION AND EXPLOITATION OF SUBSOIL RESOURCES

Art. D.VI.13. § 1er. Exclusive permits for the exploration and exploitation of subsoil resources are granted by the Government after a procedure during which interested applicants may submit a permit application.

The procedure is opened by a notice inviting applications, published in the Official Journal of the European Union and in the *Belgian Official Gazette*, either on the initiative of the Government or following the acceptance of an applicant's request, drawn up by registered mail or any other means of conferring a certain date determined by the Government, at the Government's address.

Applicants shall have one hundred and twenty days after the date of such publication to submit an application. Publication is requested by the Government.

The notice specifies:

(1) the type of permit;

(2) the geographic area or areas that are or may be the subject of an application, in whole or in part;

(3) the purpose of the application;

(4) compliance with the objective and non-discriminatory criteria on the basis of which the application will be assessed, namely:

(a) the technical and financial capabilities of the applicants to undertake and conduct the work and to meet the burdens resulting from the granting of the permit;

(b) the manner in which they intend to explore or exploit the geographical area in question ;

c) the quality of the preliminary studies carried out for the definition of the program of work;

(d) the post-management measures that the applicant plans to implement at the end of the exclusive license;

(e) the effectiveness and competence demonstrated by the applicants in connection with any other authorizations, particularly with respect to environmental protection;

(f) the possible proximity of an area already explored or operated by the applicants;

g) the positive repercussions envisaged for the development of the Walloon Region and the technological activities on its territory.

The references of the conditions and minimum requirements for the exercise and cessation of the activities concerned set by the Government are attached to the notice.

The Government may determine other objective and non-discriminatory criteria for assessing the application.

§ (2) The Government may decide not to apply the procedure referred to in paragraph 1er, where geological or operational considerations justify the granting of an exclusive permit for a given area to the holder of the exclusive exploration or exploitation permit for a contiguous area who applies for it. Holders of valid exclusive exploration or exploitation permits, mining concessions or oil and gas exploration and exploitation permits for any other contiguous area shall then be informed by the Government so that they may, within one hundred and twenty days of receipt of such information, also make application.

§ (3) By way of derogation from paragraph (1er), there shall be no competition where an exclusive exploitation permit is applied for by the holder of the exclusive exploration permit for the same resources, provided that the application has been the subject of a decision by the subsoil official declaring either

1° the completeness and admissibility of the application within the meaning of Article D. VI.18 made before the expiry of the exclusive exploration permit;

2° the incompleteness of the application within the meaning of Article D. VI. 18made before the expiry of the exclusive exploration permit, provided that the applicant has provided the additional information before the expiry of the term granted by the decision of the subsoil official

In this case, any application for an exclusive exploitation permit submitted by a third party is declared inadmissible and the exclusive exploration permit is extended until the Government decision on the application for an exclusive exploitation permit.

§By way of derogation from paragraph 1er, there shall be no competitive bidding when an exclusive exploration or exploitation permit is applied for in favour of the Walloon Region.

Art. D.VI.14. The application for a permit is addressed to the basement official.

The Government shall determine the terms and conditions for the submission of the application for a permit.

CHAPTER II. CONTENTS OF APPLICATIONS FOR EXCLUSIVE PERMITS FOR EXPLORATION AND EXPLOITATION OF SUBSOIL RESOURCES

Art. D.VI.15. §The Government ershall determine the form and content of the application for an exclusive license for exploration and exploitation of subsoil resources, as well as the number of copies that must be submitted, the scale and the content of the various plans that must be attached.

In particular, the application determines:

(1) the precise identity of the applicant, whether he belongs to an economic group and the interdependence between the applicant and the group;

(2) the type of permit applied for;

3° the geographical area or areas which are or may be the subject of an application, in whole or in part;

4° the purpose of the application including the resources and substances covered;

5° the objective and non-discriminatory criteria on the basis of which the application is assessed, namely :

(a) the technical and financial capabilities of the applicant to undertake and conduct the work and to meet the burdens resulting from the granting of the permit;

(b) the manner in which the applicant intends to explore or exploit the geographical area in question ;

c) the quality of the preliminary studies carried out for the definition of the program of work;

(d) the post-management measures that the applicant plans to implement at the end of the exclusive license;

(e) the effectiveness and competence demonstrated by the applicant in connection with any other authorizations, particularly with respect to environmental protection;

(f) the possible proximity of an area already explored or operated by the applicant;

g) the positive repercussions envisaged for the development of the Walloon Region and the technological activities on its territory.

§(2) When the application for an exclusive permit is filed by the Walloon Region, the latter is exempted from providing the elements referred to in §1er, 5°, a) and e).

Art. D.VI.16. The application shall include an environmental impact report in accordance with Article D.56 of Book Ier of the Environmental Code and, where applicable, all required documents concerning the control of major accident hazards involving hazardous substances.

Notwithstanding Article D.56, § 4, of Book Ier of the Environmental Code, the Government shall determine by regulation, on the advice of the "Environment" Unit, the municipalities and any other body that it deems useful to consult, the scope and degree of detail of the information that the environmental impact report must contain, for each type of exclusive permit application, in addition to the minimum content referred to in Article D.56, § 3, of Book Ier of the Environmental Code

CHAPTER III. INSTRUCTION OF APPLICATIONS FOR EXCLUSIVE PERMITS FOR EXPLORATION AND EXPLOITATION OF SUBSOIL RESOURCES

Art. D.VI.17. § 1er. An application is incomplete if any information or documents required by or under D. VI.15 and D. VI.16.

§ 2 The application is inadmissible if:

(1) it was filed in violation of Article D. VI.14 ;

2° it is judged incomplete on two occasions;

(3) the applicant fails to provide the supplements within the time period specified in Article D. VI.18, §2 .

Art. D.VI.18. § (1) erThe subsoil official shall decide on the completeness and admissibility of the application and shall send the decision on completeness and admissibility to the applicant within thirty days from the day he receives the application.

If the application is incomplete, the subsoil official sends the applicant a list of the missing documents and specifies that the procedure starts again from the date of their receipt.

§ (2) The applicant shall send the requested supplements to the subsoil official within sixty days of receiving the request for supplements. If the applicant has not sent the requested supplements within the prescribed period, the subsoil official shall declare the application inadmissible. The supplements shall be provided in as many copies as the original permit application contains.

§ (3) Within thirty days from the receipt of the supplements by the subsoil official, the latter shall send the applicant the decision on the completeness and admissibility of the application.

If the basement official finds the application incomplete a second time, he or she shall declare it inadmissible.

§ (4) If the application is inadmissible, the subsoil official shall inform the applicant, under the conditions and within the time limits referred to in paragraphs 1er and 3.

Art. D.VI.19. In the decision by which the subsoil official declares the application complete and admissible, he shall designate the bodies to be consulted and the municipalities whose territory is located within the area covered by the application.

The Government may designate bodies whose consultation is mandatory.

Art. D.VI.20. If the subsoil official has not sent the applicant the decision referred to in Article D. VI.18, § 1er, or the decision referred to in Article D. VI.18,

§ 3, the application shall be considered admissible, at the end of the periods provided for in those provisions. The procedure is continued.

Art. D.VI.21. Any application for an exclusive exploration or exploitation permit for subsoil resources is subject to a public inquiry in accordance with the provisions of Book I^{er} of the Environmental Code.

Art. D.VI.22. At the close of the public inquiry, the applicant has a period of thirty days to examine the public inquiry file and respond to the observations.

After this period, the municipality shall communicate the file to the basement official within eight days.

Art. D.VI.23. On the day he certifies that the application is complete and admissible in accordance with Article D.VI.18, § 1er, or on the expiration of the period provided for in Article D.VI.18, §3 , the subsoil official shall send a copy of the application and any supplements thereto for notice to the designated notice bodies and to the municipalities concerned.

These bodies and municipalities shall send their opinions within one hundred and twenty days from the date of referral by the subsoil official.

The advisory bodies may extend their deadline, by reasoned decision, once and for a maximum of thirty days.

If the notices are not sent within this period, the procedure is continued.

Art. D.VI.24. § (1er) On the basis of the opinions obtained or upon expiration of the period referred to in Article D.VI.23, the subsoil official shall prepare a draft summary report within one hundred and twenty days, which shall contain a proposal for a decision designating, in the event of multiple applications, the successful application and including, if applicable, special conditions.

In the case referred to in Article D. VI.23, paragraph3 , the time limit for the subsoil official to send his draft summary report is extended by the same time limit as that set for the advisory bodies and the municipalities.

The draft summary report mentions and takes into account:

1° the results of the public inquiry and the opinions collected during the procedure ;

(2) the manner in which environmental impacts have been incorporated into the application, as well as a statement of the principal measures for monitoring significant impacts that may be carried out by the exclusive licensee;

(3) all the information needed to assess the applicant's financial and technical capabilities, as well as the manner in which it intends to explore or exploit the geographical area that is the subject of the application;

(4) any lack of efficiency and responsibility demonstrated by the applicant in activities performed under previous authorizations.

An evaluation of the applications, based in particular on the objective and non-discriminatory criteria referred to in D. VI.13, § 1er, paragraph4 , 4°, is proposed by the subsoil official.

The summary report on applications for exclusive exploitation permits shall include a proposal for a lump-sum contribution due to the communes, the amount of which shall be calculated in accordance with Article D.VI.36, §3.

§ (2) The file containing the draft summary report shall be submitted to the Subsoil Council, which shall issue its opinion within sixty days of receipt of the request from the subsoil official.

The Council of the Underground can extend its deadline, by reasoned decision, only once and for a maximum of twenty days.

If the notice is not sent within this period, the procedure is continued.

§ (3) Within thirty days of receiving the opinion of the Subsoil Council, the Subsoil Officer shall send his summary report to the Government and the applicants.

The time limit referred to in paragraph 1er may be extended by decision of the basement official. The duration of the extension may not exceed thirty days. This decision shall be sent to the applicants within the period referred to in paragraph 1er.

Art. D.VI.25. §1er . If the summary report has not been sent within the time limit, the Government shall continue the procedure, taking into account the entire file and any other information at its disposal.

§ (2) If the Subsoil Council has not been consulted by the Subsoil Officer pursuant to Article D. VI.24, the Government shall request its opinion within fifteen days. The Subsoil Council shall give its opinion within sixty days of receiving the Government's request.

The Council of the Underground can extend its deadline, by reasoned decision, only once and for a maximum of twenty days.

If the notice is not sent within this period, the procedure is continued~~.§ 3. Dans le cas de demandes relatives à un permis exclusif d'exploitation des hydrocarbures et de gaz combustibles, le Gouvernement envoie le dossier pour avis à la Commission européenne~~.

§ If necessary, the Government sends the file to the European Commission for its opinion. If the project covered by the application for an exclusive permit is subject to state aid, the Government sends the file to the European Commission.

Art. D.VI.26. §1er . The Government shall notify its decision within sixty days from :

(1) receipt of the opinion of the European Commission, or of the Commission's decision not to issue ~~d'avis~~an opinion, in the case referred to in Article D. VI. §25~~,~~ 3 ;
2° receipt of the summary report ;
3° the expiration of the period referred to in Article D. VI.25, § 2, if the summary report was not sent within the period specified when the subsurface official consulted with the Subsurface Council ;
4° receipt of the opinion of the Subsoil Council in the event that the summary report has not been sent within the time limit set and the Government consults the Subsoil Council;
5° the expiry of the deadline set for the Subsoil Council in the event that the summary report has not been sent within the deadline, the Government has to consult the Subsoil Council and the Subsoil Council has not submitted its opinion within the deadline.
§ 2 The Government's decision is notified to the applicant and to the municipalities whose territory is affected by the decision, as well as, by ordinary mail, to the subsoil official, to the technical official, to the delegated official referred to in Article D.I.3. of the CoDT and to the official in charge of supervision referred to ~~l'article~~in Articles D. ~~140~~146 to D. 154 of Book I of the Environmental Code, as well as to each body consulted.

§ (3) If the Government fails to take a decision within the time limit referred to in paragraph1er (a), the applicant may send a reminder to the Government within one year of receiving the summary report or of the time limit set for its submission.

If there is no reminder within one year, the applicant is deemed to have abandoned the application.
If no decision is made by the Government within 60 days of receipt of the reminder letter, the permit is deemed to be denied.

Art. D.VI.27. Where an application for an exclusive permit has been the subject of competing applications, the decision granting the permit to one of the applicants shall, at the same time, declare the rejection of the other applications for the area within the perimeter of the permit.

Unsuccessful applicants are notified of the decision at the same time as it is sent to the beneficiary.

The decision by which the Government decides not to grant the permit is notified simultaneously to all applicants.

Art. D.VI.28. The Government's decision on the exclusive permit application is accompanied by an environmental statement summarizing how environmental considerations were integrated into the decision, and how the environmental

impact report and opinions were taken into account, as well as the reasons for the choice of the plan or program as adopted, taking into account reasonable alternatives considered.

The Government Decree, by extract, and the environmental statement are published in the *Belgian Official Gazette*.

CHAPTER IV. REGISTERS

Art. D.VI.29. §1er . The subsoil official shall establish and maintain a register of exclusive exploration permits and exclusive subsoil resource exploitation permits granted, transferred, withdrawn or expired.

The objective of the registry is to provide a clear and coherent view of all exclusive licenses in progress, surrendered, withdrawn or expired.

§2 The personal data contained in the permits referred to in §1er are collected as and when these permits are issued. They remain in the register as long as the permits are registered.

§3. The basement official is, within the meaning of the Act of 30 July 2018 on the protection of privacy with regard to the processing of personal data, responsible for the processing of personal data identified in the register.

TITLE IV. CONTENT, EFFECTS AND DURATION of exclusive exploration and exploitation permits for underground resources

CHAPTER IER. CONTENT, EFFECTS AND DURATION OF THE EXCLUSIVE PERMIT FOR THE EXPLORATION OF SUBSOIL RESOURCES

Section 1. Content of the exclusive permit for exploration of subsoil resources

Art. D.VI.30. § 1er The exclusive exploration permit shall contain at least:

(1) the name and address of the exclusive licensee;

(2) the resource or resources covered by the exclusive permit;

(3) the period of validity of the permit and the date of its issuance;

(4) the perimeter, and if applicable the volume, covered by the exclusive permit;

(5) the general research program;

(6) how environmental impacts were integrated into the decision;

(7) a statement of the principal non-negligible impact monitoring measures to be carried out by the exclusive licensee;

(8) the specific conditions of implementation of the exclusive permit;

9° the information to be provided periodically to the Government ;

(10) the minimum expenses to be incurred and their possible indexation;

(11) the amount of the contribution of the holder of the exclusive licence to the Common Guarantee Fund for the compensation of damages related to the exploitation of subsoil resources referred to in Article D. IX.4 ;

(12) a post-management plan, in accordance with Article D. VIII.5, as well as the amount of the related security. The amount is equivalent to the costs that the public authorities would incur if they had to have the post-management obligations carried out.

§ (2) The Government may determine additional particulars to be included in the exclusive exploration permit.

Section 2: Effects of the exclusive license for exploration of subsoil resources

Art. D.VI.31. §1er . The exclusive exploration permit confers, without prejudice to the obtaining of an environmental permit for the activities and installations relating thereto, the exclusive right to prospect, within a given perimeter or volume, for the subsoil resources it lists.

~~§ 2.~~§(2) The exclusive exploration permit is not enforceable until the subsoil official determines that the security has been established.

The security shall consist, at the option of the applicant, of a deposit with the Caisse des dépôts et consignations or an independent bank guarantee or such other form of security as the Government may determine, up to the amount specified in the permit.

In the event that the security consists of a cash payment, the exclusive licensee is required to increase the security annually by the amount of interest earned during the previous year.

If the security consists of an independent bank guarantee, it must be issued by a credit institution approved either by the Banking and Finance Commission or by an authority of a Member State of the European Union that is empowered to supervise credit institutions.

§3 . During the period of validity of an exploration permit, no other activity or act inconsistent with the purpose of the exploration permit may be authorized under this Code or under any other administrative policy.

§ ~~3~~4. An exploration permit may not be issued where the activities related thereto are incompatible with other activities or facilities authorized under another administrative policy.

Art. D.VI.32. Subject to the general obligations of the holders of exclusive permits and the specific conditions of the permit, any holder of an exclusive exploration permit has the right to dispose of the products of exploration, but only after a determination by the subsoil official and provided that the exploration activities and facilities~~d'exploitation~~ themselves are authorized and carried out in accordance with the provisions of the environmental permit or declaration.

The report shall cover the origin of the products and the conditions of their extraction. The subsoil official shall send the holder a report of the finding within thirty days of the request made to him.

Section 3. Duration of the exclusive license for exploration of subsoil resources

Art. D.VI.33. The exclusive exploration permit is granted for a period not exceeding the time required to carry out the exploration, and for a maximum of seven years.

The validity of the permit is calculated from the day after the applicant is notified.

CHAPTER II. CONTENT, EFFECTS AND DURATION OF THE EXCLUSIVE LICENSE TO EXPLOIT SUBSOIL RESOURCES

Section 1. Contents of the exclusive license for the exploitation of subsoil resources

Art. D.VI.34. § 1er The exclusive operating permit shall contain at least:

(1) the name and address of the exclusive licensee;

(2) the resource or resources covered by the exclusive permit;
(3) the period of validity of the permit and the date of its issuance;
(4) the perimeter, and where applicable the volume, covered by the exclusive exploitation permit ;
5° the expected positive repercussions of the project for the development of the Walloon Region and the technological activities on its territory;

(6) the general operating program;

(7) how environmental impacts were integrated into the decision;

(8) a statement of the major non-negligible impact monitoring measures to be carried out by the exclusive licensee;

9° the specific conditions of implementation of the exclusive permit ;

10° the information to be provided periodically to the Government ;

11° the minimum expenses to be incurred and their possible indexation ;

12° where applicable, the compensation due to the inventor for the discovery of the deposit;

(13) the amount of the lump-sum contribution due to the municipalities, in accordance with Article D.VI.36, §3 ;

14° the amount of the contribution of the holder of the exclusive license to the Common Guarantee Fund for the compensation of damages related to the exploitation of subsoil resources referred to in Article D. IX.4 ;

15° a post-management plan, in accordance with Article D. VIII.5, as well as the amount of the related security. The amount is equivalent to the costs that the public authorities would incur if they had to carry out the post-management obligations. The exclusive permit may provide that the security shall be divided into tranches insofar as these correspond to the operating phases provided for in the permit.

§ (2) The Government may determine additional information to be included in the exclusive license for the exploitation of subsoil resources.

Section 2: Effects of the exclusive license to exploit subsoil resources

Art. D.VI.35. §(1er) The exclusive exploitation permit confers, without prejudice to the obtaining of an environmental permit for the activities and installations relating thereto, exclusivity on the exploitation, within a determined perimeter or volume, of the subsoil resources that it lists.

The granting of an exclusive exploitation permit renders null and void the exclusive exploration permit, the mining exploration permit and the exclusive oil and fuel gas exploration permit within the perimeter or volume covered by the exclusive exploitation permit for the substances covered by the latter.

~~§2.~~ §(2) The exclusive exploitation permit is not enforceable until the subsoil official determines that the security has been established.

Where the security is split, the environmental permit is not enforceable for a part of the operation until the subsurface official finds that the corresponding slice of the required security has been established.

The security shall consist, at the option of the applicant, of a deposit with the Caisse des dépôts et consignations or an independent bank guarantee or such other form of security as the Government may determine, up to the amount specified in the permit.

In the event that the security consists of a cash payment, the exclusive licensee is required to increase the security annually by the amount of interest earned during the previous year.

If the security consists of an independent bank guarantee, it must be issued by a credit institution approved either by the Banking and Finance Commission or by an authority of a Member State of the European Union that is empowered to supervise credit institutions.

§3. The exclusive operating permit may not be issued where the activities involved are incompatible with other activities or facilities authorized under another administrative policy.

Art. D.VI.36. §1er . Subject to the general obligations of exclusive licensees and the specific terms of the license, any holder of an exclusive license shall have ownership of the products of the operation covered by the license, provided that the operations and facilities of the operation itself are properly authorized.

The holder of the exclusive exploitation permit may dispose of the substances not covered by the exclusive permit, the extraction of which necessarily results from the work, as well as of the dewatering water.

§ 2 The owner of the surface may claim the disposal of those non-transferable substances that are not used for the exploitation of the subsoil resources, upon payment of an indemnity corresponding to the normal costs of extraction.

§(3) The granting of an exclusive license for the exploitation of subsoil resources gives rise to an annual contribution due to the communes located within the area covered by the exclusive license.

The contribution is fixed by the Government at the time of the granting of the exclusive permit, on the proposal of the underground official.

The basic fee of 30.00 euros per hectare, indexed on January 1 of each year on the basis of the health index of the preceding October. They are linked to the central index of the month of October ~~2019.~~2021

The amount of the contribution, set by the Government, is calculated in proportion to the surface area, according to the type of exploitation and the environmental impact of the exploitation method used, and according to the values of these parameters, ~~précisées~~specified by the Government, according to the following formula

$R = 30 \times f \times T \times S$ where:

$-$ R is the annual fee (in euro)

- T is the factor related to the type of operation

$-$ f is the environmental operating factor

$-$ S is the area of the exclusive license on the territory of the beneficiary municipality (per hectare).

Section 3. Duration of the exclusive exploitation permit for subsoil resources

Art. D.VI.37. The exclusive exploitation permit is granted for a period not exceeding thirty years, which begins the day after the applicant is notified.

TITLE V. TRANSFER, EXTENSION AND RENEWAL OF EXCLUSIVE PERMITS FOR THE EXPLORATION AND EXPLOITATION OF SUBSOIL RESOURCES

CHAPTER I. EXTENSION OF EXCLUSIVE EXPLORATION AND EXPLOITATION PERMITS TO OTHER SUBSTANCES IN THE SAME DEPOSIT

Art. D.VI.38. With the authorization of the Government and after the advice of the Conseil du Subsoil, the currently valid exclusive exploration and exploitation permits may be extended to other substances in the same deposit and the same area.

Art. D.VI.39. § 1er. An application for the exploration or exploitation of other substances in the same deposit within the perimeter of an exclusive permit referred to in Article D. VI.38 is addressed to the subsoil official by the holder of the exclusive permit.

§2. The extension application shall contain an environmental impact report as defined in Article D. VI.16, a discussion of how environmental impacts have been incorporated into the application, and a discussion of the major monitoring measures for non-negligible impacts as defined in Article D. VI.16.

The Government determines the form and content of the application, as well as the number of copies that must be submitted, the scale and the content of the various plans that must be attached.

§3. The application is incomplete if any information or documents required by or under paragraph 2 are missing.

The application is ineligible if:

1° it was introduced in violation of paragraph 1er;

2° it is judged incomplete on two occasions;

(3) the applicant fails to provide the supplements within the time period referred to in paragraph4 .

§4. The subsoil official shall decide on the completeness and admissibility of the application and shall send the decision on completeness and admissibility to the applicant within thirty days from the day he receives the application.

If the application is incomplete, the subsoil official sends the applicant a list of the missing documents and specifies that the procedure starts again from the date of their receipt.

The applicant shall send the requested supplements to the subsoil official within sixty days of receiving the request for supplements. If the applicant has not sent the requested supplements within the prescribed period, the subsoil official shall

declare the application inadmissible. The supplements shall be provided in as many copies as the original permit application contains.

Within thirty days from the receipt of the supplements by the subsoil official, he/she shall send the applicant the decision on the completeness and admissibility of the application.

If the basement official finds the application incomplete a second time, he or she shall declare it inadmissible.

If the application is inadmissible, the subsoil official shall inform the applicant, under the conditions and within the time limits referred to in paragraphs and 1er3.

If the subsoil official has not sent the applicant the decision referred to in paragraph 1er or the decision referred to in paragraph 4, the application shall be considered admissible after the time limits provided for in these provisions have expired. The procedure shall be continued.

§5. The extension request is subject to a public inquiry in accordance with the provisions of Book Ier of the Environmental Code.

Within ninety days of the decision to declare the file admissible and complete, or at the end of the period specified in paragraph4 7, the subsoil official shall submit a report to the Subsoil Council.

The Subsoil Council shall have a period of thirty days from the receipt of the request to issue its opinion. If the opinion is not sent within this period, the procedure shall continue.

§6. The subsoil official shall send his report, including a proposal for a decision, to the Government within sixty days of receipt of the opinion of the Subsoil Council, or, failing that, on expiry of the period allowed for the Subsoil Council to give its opinion.

The Government shall take a decision within sixty days from the date of receipt of the report of the subsoil official.
The Government shall determine the specific requirements of the new permit and its expiration date.
The Government's decision is accompanied by an environmental statement summarizing how environmental considerations have been integrated into the decision, and how the environmental impact report and opinions have been taken into account, as well as the reasons for the choice of the plan or program as adopted, taking into account reasonable alternatives considered.

The Government Decree, by extract, and the environmental statement are published in the Belgian Official Gazette.

CHAPTER II. TRANSFER OF EXCLUSIVE EXPLORATION AND EXPLOITATION PERMITS

Art. D.VI.40. §(1er) Subject to authorization granted by the Government and after consultation with the Conseil du sous-sol, valid exclusive exploration and exploitation permits may be transferred, in whole or in part, in any form whatsoever, including, in particular, by merger, takeover or acquisition of companies, or by transfer of shares, corporate units or assets.

The application for authorization of the transfer is addressed to the subsoil official by the transferee.

§(2) The application shall contain, at a minimum, the items required by Article D.VI.15, paragraph 2, item 1, and item 5, (a), (e) and (f).

The Government determines the form and content of the application, as well as the number of copies that must be submitted, the scale and the content of the various plans that must be attached.

§3. The application is incomplete if any information or documents required by or under paragraph 2 are missing.

The application is ineligible if:

1° it was introduced in violation of paragraph 1er;

2° it is judged incomplete on two occasions;

(3) the applicant fails to provide the supplements within the time period referred to in paragraph4 .

§4. The subsoil official shall decide on the completeness and admissibility of the application and shall send the decision on completeness and admissibility to the applicant within thirty days from the day he receives the application.

If the application is incomplete, the subsoil official sends the applicant a list of the missing documents and specifies that the procedure starts again from the date of their receipt.

The applicant shall send the requested supplements to the subsoil official within sixty days of receiving the request for supplements. If the applicant has not sent the requested supplements within the prescribed period, the subsoil official shall declare the application inadmissible. The supplements shall be provided in as many copies as the original permit application contains.

Within thirty days from the receipt of the supplements by the subsoil official, he/she shall send the applicant the decision on the completeness and admissibility of the application.

If the basement official finds the application incomplete a second time, he or she shall declare it inadmissible.

If the application is inadmissible, the subsoil official shall inform the applicant, under the conditions and within the time limits referred to in paragraphs and 1er3.

If the subsoil official has not sent the applicant the decision referred to in paragraph 1er or the decision referred to in paragraph 4, the application shall be considered admissible after the time limits provided for in these provisions have expired. The procedure shall be continued.

§5. Within sixty days of the decision to declare the file admissible and complete, or at the end of the period set out in paragraph4 7, the subsoil official shall send a report to the Subsoil Council.

The Subsoil Council shall have a period of thirty days from the receipt of the request to issue its opinion. If the opinion is not sent within this period, the procedure shall continue.

The subsoil official shall send his report, including a proposal for a decision, to the Government within sixty days of receipt of the opinion of the Subsoil Council, or, failing that, on expiry of the period allowed for the~~conseil~~ Subsoil Council to give its opinion.

The Government shall take a decision within sixty days from the date of receipt of the report of the subsoil official.

The decision is notified to the applicant and published by extract in the *Belgian Official Gazette*.

The decision by which the Government authorizes the transfer does not take effect until the subsoil official recognizes that the required security has been established.

CHAPTER III. EXTENSION AND RENEWAL OF EXCLUSIVE EXPLORATION AND EXPLOITATION PERMITS

Art. D.VI.41. Exclusive exploration and exploitation permits can be :

(1) renewed once, at the request of the holder, when the duration is insufficient to carry out the research or the fruiting ;

2° extended to an adjacent territory, provided that the area requested does not exceed one third of the area covered by the exclusive exploitation permit, with a maximum of three hundred hectares. This possibility is valid only once and until the expiration of the initial exclusive permit.

The area covered by the new permit may be reduced to include deposits already recognized by the permit holder.

Art. D.VI.42. The provisions relating to the application for an exclusive exploration and exploitation permit provided for in Articles D. VI.13 to D. VI.28 are applicable to the application for renewal of a permit and to the application for extension to a contiguous territory, with the exception of the competitive bidding provided for in Article D. VI.13, §1er .

The Government may specify the contents of the application files and decisions relating to these specific applications.

TITLE VI. WITHDRAWAL AND RENUNCIATION OF EXCLUSIVE PERMITS FOR EXPLORATION AND EXPLOITATION OF SUBSOIL RESOURCES

~~**Art. D.VI.42.**~~**Art. D.VI.43.** §1er . The holder of an exclusive exploration or exploitation permit may have its exclusive permit withdrawn in any of the following cases:

(1) failure to implement the general work program within two years of notification of the granting of the permit;
(2) failure to implement or insufficient implementation of the annual program for two consecutive years, particularly in the case of persistent inactivity or activity clearly unrelated to the financial effort subscribed;
(3) failure to comply with general obligations and special conditions;
(4) failure to pay or insufficient payment of the contribution to the Common Guarantee Fund referred to in Article D. IX.4 ;
(5) failure to pay or insufficient payment of the annual contribution due to the municipalities referred to in section D. VI.36.

§ The subsoil official, on the basis of the review of the general program and the annual program referred to in ~~paragraphes~~paragraphs1er ~~et 2~~ , shall send to the exclusive licensee :

(1) a proposed decision;
(2) information that the exclusive permit holder has the opportunity to send comments within thirty days of receipt of the letter and may request a hearing;
3° the possibility of being assisted or represented by a counsel.

The Subsoil Officer shall determine, if necessary, the day on which the holder shall be invited to make an oral statement of defence.

§ (3) On expiry of the period referred to in paragraph 2, or before expiry of that period if the holder acknowledges the facts, or, where appropriate, after hearing the holder or his counsel make an oral statement in his defense, the subsoil official shall transmit his report containing the documents referred to in that paragraph to the1er Government.

§ 4. Within sixty days of receipt of the report, the Government decides on the report of the subsoil official. The decree pronouncing the withdrawal of an exclusive exploration or exploitation permit is published in the *Moniteur belge* and notified to the holder.

~~**Art. D.VI.43.**~~**Art. D.VI.44.** The holder of an exclusive permit may relinquish it by notifying the subsoil official.

The waiver shall take effect, together with the triggering of the obligations set out in Part VIII, within ninety days of notification thereof.

~~**Art. D.VI.44.**~~**Art. D.VI.45.** Withdrawal or renunciation of the exclusive exploration or exploitation permit shall entail the nullity of the environmental permit and the single permit insofar as it takes the place of the environmental permit issued for the exercise of the activities and facilities necessary for exploration and exploitation, or of the declaration, with the exception of the activities and facilities necessary for reclamation and post-management, as well as the surcharge relating thereto.

TITLE VII. OBLIGATIONS OF HOLDERS OF EXCLUSIVE PERMITS FOR THE EXPLORATION AND EXPLOITATION OF SUBSOIL RESOURCES

CHAPTER I. GENERAL OBLIGATIONS OF HOLDERS OF EXCLUSIVE LICENSES FOR EXPLORATION AND EXPLOITATION OF SUBSOIL RESOURCES

~~**Art. D.VI.45.**~~**Art. D.VI.46.** The holder of an exclusive exploration and exploitation permit shall comply with the general obligations and specific conditions of its permit.

~~**Art. D.VI.46.**~~**Art. D.VI.47.** The holder of an exclusive exploration and exploitation permit :
1° elects an administrative~~dans le périmètre visé par le permis exclusif et en informer~~ domicile in the Walloon Region and informs the subsoil official thereof;

(2) designates a person from among its members to be responsible for the implementation of the exploration or exploitation.

~~**Art. D.VI.47.**~~**Art. D.VI.48.** § 1er The holder of the exclusive exploration or exploitation permit shall submit to the subsoil official :

(1) within one month of the issuance of the permit, the work program for the remainder of the current year;
(2) before December 31 of each year, the work program for the following year, with adaptation of the post-management measures and the corresponding security ;

3° in the first quarter, the report on the work done during the past year.

§ (2) Holders of an exclusive permit for exploration and exploitation of a geothermal deposit shall submit to the subsoil official, in addition to the information referred to in paragraph1er , a monthly seismic report.

§ (3) The Government may determine the manner of approval of the documents submitted.

~~**Art. D.VI.48.**~~**Art. D.VI.49.** Access to the works and appurtenances is prohibited to the public, except as expressly authorized and under the responsibility of the exclusive licensee. The prohibition shall be marked by the exclusive permit holder by means of fences or, in the absence of fences, by means of precise inscriptions.

~~**Art. D.VI.49.**~~**Art. D.VI.50.** The holders of exclusive permits shall provide the subsoil official with all the information that he deems useful to request from them concerning the operation that they propose to carry out, as well as the extraction sites and surface installations that they plan to establish.

~~**Art. D.VI.50.**~~**Art. D.VI.51.** Regardless of the permit issued and without prejudice to the obligations imposed by other provisions, the holder of an exclusive exploration or exploitation permit :

(1) take all necessary precautions to avoid, reduce or remedy any danger, nuisance or inconvenience to public safety, the preservation of buildings and the health of the works and property resulting from the implementation of its exclusive permit;

2° immediately report to the basement official, the technical official and the mayor any accident or incident that may be detrimental to the interests referred to in 1° ;

(3) provide all necessary assistance to enable the competent officials to carry out the actions referred to in Article D.~~146, 1°, 2° et 3°~~162 of Book Ier of the Environmental Code;

(4) inform the subsurface official and the technical official of any significant interruption in the work program referred to in section D. VI.49 at least ten days before such operation except in cases of force majeure ;

(5) inform the basement official and the technical official of the judicial reorganization or bankruptcy within ten days of its pronouncement, except in cases of force majeure ;

(6) informs the basement official and the technical official of their decision to terminate at least six months before the termination.

CHAPTER II. MAINTENANCE OF PLANS

~~Art. D.VI.51.~~Art. D.VI.52. Every holder of an exclusive licence to explore for or exploit subsoil resources shall keep accurate plans and progress records of all work undertaken within the exclusive licence area.

The Government shall specify the requirements for maintaining the plans.

~~Art. D.VI.52.~~Art. D.VI.53. The holder of an exclusive exploration or exploitation permit shall, in accordance with the instructions of the subsoil official, place markers at surface points within the perimeter covered by the exclusive permit to be designated by the latter, in order to mark the boundaries and certain important points. This operation shall be carried out at the request and in the presence of the subsoil official, who shall draw up a record thereof.

~~Art. D.VI.53.~~Art. D.VI.54. The holder of the exclusive exploration or exploitation permit shall keep up to date, in duplicate, a parcel plan of the surface on which are shown the boundaries of the perimeter covered by the permit, the location of milestones and landmarks, the main roads, public buildings and important engineering works, the position of wells, buildings and other constructions of interest to exploration or exploitation, as well as all existing dwellings and constructions on the surface within the perimeter and within a radius of one hundred meters around the perimeter of the permit. One copy is kept at the place of business and the second copy is sent to the administration as soon as it is updated.

The holder of the exclusive licence shall send a copy of the plan referred to in paragraph 1er to any municipality in whose territory the exclusive licence extends, on request.

CHAPTER III. MODIFICATION OF THE PARTICULAR CONDITIONS OF THE EXCLUSIVE PERMITS FOR EXPLORATION AND EXPLOITATION OF SUBSOIL RESOURCES

~~Art. D.VI.54.~~Art. D.VI.55. §1er On its own initiative or at the request of the operator, the Government may, on the advice of the subsoil official and the bodies designated by the Government, supplement or modify the specific conditions of the exclusive exploration permit or the exclusive exploitation permit for subsoil resources in the event that it finds that these conditions are no longer appropriate to avoid, reduce or remedy the dangers, nuisances or inconveniences to the environment, safety or health

The Government shall determine the form and content of the proposal for supplementing or amending the special conditions of exploitation and of the application for supplementing or amending the special conditions of the exclusive license for exploration or exploitation of subsoil resources, as well as the number of copies to be submitted.

§ (2) On pain of inadmissibility, the request to supplement or modify the special conditions referred to in paragraph 1 shall be sent to the Subsoil Officer accompanied either by an environmental impact report in accordance with Article

D.VI.16, or by a reasoned request for exemption from environmental impact assessment, if the Subsoil Officer considers that the modification is not likely to have significant impacts on the environment. In the latter case, the applicant shall justify his request in relation to the criteria for determining the probable extent of the impact, as referred to in Article D. 54 of Book I of the Environmental Code.

§3 The subsoil official shall send his proposal for supplementing or amending the special conditions referred to in §1 to the operator.

The proposal is accompanied by an environmental impact report in accordance with Article D.VI.16. If the subsoil official considers that the change is a minor one to the exclusive permit, which is not likely to have significant environmental impacts, he may request from the Government an exemption from the environmental impact assessment. In the latter case, he must justify his request in relation to the criteria for determining the probable extent of the impacts, referred to in Article D. 54 of Book I of the Environmental Code.

§In the event of a request for exemption from environmental impact assessment, the Government consults the "Environment" unit and the persons and bodies that it deems useful to consult. The opinions are sent to the Government within thirty days of the request. After this period, the procedure is continued. Within thirty days of the closing of the consultations, the Government decides on the request for exemption. The decision of the Minister and the reasons for his decision to exempt the draft delimitation of a prevention or monitoring area from an impact assessment is published in the *Moniteur belge*.

§The subsoil official shall send the application or the proposal for a decision to supplement or modify the special conditions referred to in §1, if applicable, together with the environmental impact report for the opinion of the Subsoil Council to the advisory bodies that it deems useful to consult and to the municipalities concerned.

These bodies and municipalities shall send their opinions within thirty days from the date of referral by the subsoil official. If the opinions are not sent within this period, the procedure is continued.

§If the application or proposed decision to supplement or modify the special conditions referred to in §1 is the subject of an environmental impact report, the file shall be submitted to a public inquiry in accordance with the provisions of Book I of the Environmental Code.
At the end of the public inquiry, the municipality communicates the file to the basement official within eight days.

§7 Within thirty days of receipt of the opinions and, where appropriate, the observations of the public inquiry, the subsoil official shall submit to the Government his summary report together with a proposal for a decision. This period may be extended once, for a maximum period of thirty days.

§The Government shall decide on the request or proposal for a decision to supplement or modify the special conditions referred to in §1 within thirty days of receiving the summary report.
The Minister's decision is accompanied by an environmental statement summarizing how environmental considerations were integrated into the decision, how the environmental impact report and advice were taken into account, and the reasons for selecting the plan or program as adopted, taking into account reasonable alternatives considered.

The Government Decree, by extract, and, if applicable, the environmental statement are published in the *Belgian Official Gazette*.

§9. The Government may specify procedures for the implementation of this section.

PART VII. REAL RIGHTS, OCCUPATION OF OTHER PEOPLE'S LAND, EASEMENTS AND ACQUISITION OF REAL ESTATE FOR THE PURPOSE OF EXPLORATION AND EXPLOITATION OF SUBSOIL RESOURCES

TITLE I. PRINCIPLES

CHAPTER I. UNDERGROUND ACTIVITIES AND INSTALLATIONS TO A DEPTH OF TWENTY METERS WITHIN THE FRAMEWORK OF EXCLUSIVE PERMITS FOR THE EXPLORATION AND EXPLOITATION OF UNDERGROUND RESOURCES

Art. D.VII.1. The holder of an exclusive license for exploitation of subsoil resources shall have the real rights on the land that includes underground activities and facilities necessary for the exploitation of subsoil resources to and including twenty meters in depth.
By way of derogation from paragraph 1er, the holder of an exclusive permit for the exploitation of subsoil resources relating to an open-pit mine must have either a real right or a right of enjoyment granted by the holder of real rights.

CHAPTER II. ACTIVITIES AND INSTALLATIONS OR SURFACE AND UNDERGROUND STRUCTURES BETWEEN TWENTY METERS AND ONE HUNDRED METERS DEEP WITHIN THE FRAMEWORK OF EXCLUSIVE PERMITS FOR THE EXPLORATION AND EXPLOITATION OF SUBSOIL RESOURCES

Art. D.VII.2. §1er . For surface activities and installations or structures and underground activities and installations or structures between twenty meters and one hundred meters in depth, both inside and outside the perimeter determined

by the exclusive exploration or exploitation permit, as well as communication routes and private fluid or energy transport pipelines the Government may, after a public inquiry in accordance with the terms of Book I of the Environmental Code, decree that it is in the public interest to establish such installations or works and to carry out such activities, under, on or over private land or private property.

Such declaration of public utility shall confer upon the holder of the exclusive permit in whose favor it is made the right to establish such facilities under, on or over such private land or private domain, to supervise the same and to carry out the work necessary for their operation and maintenance, all under the conditions determined in said declaration.

The work may only be started after the expiration of a period of two months from the date of notification to the interested right holders and tenants by registered mail.

§ 2. The beneficiary of the easement provided for in paragraph 1er shall pay compensation to the owner of the land subject to the easement or to the holders of real rights attached to the land.

The compensation is paid in a single payment in lieu of a lump sum.

In the event of undivided ownership by several holders of real rights in the land subject to the easement, the amount of the lump-sum compensation shall be divided among them in proportion to their respective shares in the undivided ownership.

In the event of dismemberment of the right of ownership attached to the land encumbered by the easement, the amount of the lump-sum compensation shall be paid to the holder of the real right of enjoyment of the building concerned, without prejudice to any recourse that the bare owner, the emphyteutic lessor or the owner of the land on which the easement is located may have against the holder of the real right, on the basis of the civil law rules governing their relationship.

In the event of an existing contractual or legal easement encumbering the occupied land, the amount of the lump-sum compensation shall be paid in full to the owner of the land encumbered by it, without prejudice to any recourse that the beneficiary of the existing easement may have against that owner on the basis of the rules of civil law to which their relations are subject.

§3 . The Government shall determine :

1° the procedure to be followed for the declaration of public utility referred to in paragraph 1er, in particular the form of the application, the documents that must accompany it, the examination of the file and the time limits within which the competent authority shall decide and notify the applicant of its decision ;

(2) the amount of the indemnity referred to in paragraph 2, calculated in accordance with the following formula: I = M x S, where:

I is the value of the indemnity in €,

M is the reference amount in €/m², calculated on the basis of values fixed by regulation relating to the type of installation concerned, the province concerned and the use of the land occupied;

S is the surface area in m² delimited by the vertical planes 1.50 meters apart from the external limits of the installations or works covered by the declaration of public utility.

The reference amount M is indexed on January 1 of each year on the basis of the health index for the preceding October. They are linked to the central index of the month of October ~~2019.~~2021

Art. D.VII.3. The partial occupation of private land or private property respects the use to which it is put. It does not entail any dispossession but constitutes a legal public utility easement prohibiting any act likely to harm the installations or their operation.

The Government shall determine the prohibitions and requirements to be observed by anyone who performs, causes to be performed or intends to perform acts and works in the vicinity of the installations.

In the event of a violation of the prohibitions and prescriptions provided for by or pursuant to this article, the beneficiary of the easement shall have the right to demolish the constructions erected and the plantations and to restore the premises to their original state, as well as to take all protective measures deemed useful, all at the expense of the offender, without prejudice to the damages to which the violation may give rise.

If the violation does not prevent an emergency intervention on the installations benefiting from the easement, the beneficiary of the easement shall first give the offender formal notice to put an end to the violation immediately and to restore the premises to their original state. To this end, the beneficiary shall set a deadline for the offender that cannot be less than thirty days.

Art. D.VII.4. The owner of the land encumbered by the easement may, within the time limit set by the Government, inform the Government that he or she is requesting the beneficiary of the easement to purchase, in whole or in part, the land occupied.

The same applies, if the work undertaken is only temporary, when the occupation of the land deprives the owner of the income for more than one year or when, after the work, the land is no longer suitable for its normal use.

If no amicable sale agreement is reached between the owner of the encumbered land and the beneficiary of the easement, article D. VII.7 applies. Where the holder

of the exclusive license purchases or has expropriated at the request of the owner all or part of the land occupied by the latter, the lump-sum compensation received in return for the public utility easement encumbering the land concerned constitutes an advance on the purchase price or expropriation compensation to be agreed upon amicably or, where applicable, to be set by the judge in the expropriation procedure.

In fixing this price or compensation for expropriation, no account shall be taken of the loss of value resulting from the constraints of occupying the land by the installations of the exclusive licensee.

Where applicable, the positive balance between the acquisition price or expropriation compensation and the advance received shall be increased by interest calculated at the legal interest rate in effect for the period beginning on the date on which the exclusive licensee actually occupies the land and ending on the date of the first amicable offer of acquisition made by the exclusive licensee to the owner.

Art. D.VII.5. § (1er) The installations are moved and, if necessary, removed at the request of the owner of the encumbered land or of the person entitled to erect buildings on it, if they wish to make use of this right. The Government may grant the beneficiary of the easement additional time to obtain the authorizations required by the relocation.

If the interested parties make use of this right without requiring the relocation or removal of the installations, the beneficiary of the easement retains the right to supervise these installations and to carry out the work necessary for their operation, maintenance and repair.

The cost of relocation or removal of the facilities shall be borne by the easement beneficiary; however, the persons mentioned in paragraph 1er shall give at least six months written notice of the proposed work. If the work is not significantly commenced within two years of notification, the cost of relocation of the facilities shall be reimbursed to the easement holder upon request.

§ (2) Notwithstanding paragraph (1er), in order to avoid moving the installations, the beneficiary of the easement may propose to the owner to purchase the occupied land. He shall inform the Government thereof. If no amicable agreement is reached between the owner of the encumbered land and the manager of the facilities, the provisions of Article D. VII.7 shall apply.

Art. D.VII.6. The exclusive licensee shall make good any damage caused by its work in establishing or operating its facilities, and shall make good any damage caused to third parties either by its work or by the use of the land subject to the easement. Compensation for damage caused is entirely the responsibility of the exclusive licensee. They are due to the persons who suffer such damage; the amount is determined either out of court or by the courts.

Art. D.VII.7. The holder of the exclusive permit in whose favour a Government decree declaring it to be in the public interest has been issued may,

at his request and within the limits of this decree, be authorized by the Government to pursue the necessary expropriations at his own expense, in the name of the Walloon Region or in his own name if he has the power to expropriate by virtue of a decree provision.

Art. D.VII.8. In the portion of its route in undeveloped private property, no raised or buried construction or shrubbery may be established above the connection, on the surface extending on either side of the axis of the pipeline up to a distance of one meter fifty centimeters from this axis.

CHAPTER III. ACTIVITIES, INSTALLATIONS AND UNDERGROUND STRUCTURES BEYOND A DEPTH OF ONE HUNDRED METERS WITHIN THE FRAMEWORK OF EXCLUSIVE PERMITS FOR THE EXPLORATION AND EXPLOITATION OF UNDERGROUND RESOURCES

Art. D.VII.9. The placement of underground installations or structures necessary for the exploitation of subsoil resources beyond a depth of one hundred meters and the exercise of activities related thereto constitute a legal public utility easement, with the responsibility of the holder of the exclusive exploration or exploitation permit to ensure their supervision and to carry out the work necessary for their operation and maintenance.

CHAPTER IV. OTHER CASES REQUIRING THE ACQUISITION OF REAL RIGHTS

Art. D.VII.10. The Government may determine other cases in which the implementation of the exclusive permit and the application for planning and environmental permits relating to the activities and installations for the exploitation of subsoil resources referred to in Article D. I. 1. are subject to the acquisition of real rights by the permit holder over the property affected by the exploitation.

CHAPTER V. PARTICULARS IN THE DEEDS OF ASSIGNMENT

Art. D.VII.11. In all inter vivos, private or notarial deeds of transfer, whether declaratory, constitutive or translative of real or personal rights of enjoyment of more than nine years, of emphyteusis or of surface area of all or part of the land, relating to a built or unbuilt building, including deeds recording a lease, mention shall be made :

1° the existence of an exclusive exploration or exploitation permit for subsoil resources and its duration ;

2° the existence of a mining exploration permit or a mining concession;

3° the existence of an exclusive permit for the exploration or exploitation of bituminous rocks, oil and combustible gases, as referred to in Article 2 of Royal

Decree No. 83 of 28 November 1939 on the exploration and exploitation of bituminous rocks, oil and combustible gases;
(4) the existence of the easement referred to in section D. VII.2.

TITLE II ACQUISITION OF LAND

Art. D.VII.12. § 1er. The Government may decree that it is in the public interest to expropriate any real estate necessary for the exploration and exploitation of the subsoil resources referred to in Article D. I. 1,paragraph 2, 1° to 4°, and 7°, for the development of their access roads or for complementary infrastructure works.

§ The Walloon Region, the provinces, the municipalities and the persons under public law designated by the Government may proceed with the expropriation and acquisition for public utility of the buildings necessary for the exploitation of quarries, the development of their access roads or complementary infrastructure works, provided that the deposit reserves subject to expropriation are not necessary for the continuation of the industrial activity or for the satisfactory amortization of the installations of a similar neighboring enterprise that used to own them.

Art. D.VII.13. § (1er) Land acquired pursuant to D. VII.12 shall be made available to users by lease, leasehold, emphyteusis or sale.

The deed of provision shall contain a clause specifying the economic activity to be carried on on the land, as well as the other terms and conditions of its use and, in particular, the date on which the activity should begin.

In the event of a sale, the deed also contains a clause according to which the Region or the interested public entity has the right to repurchase the land if the user ceases the economic activity indicated or does not respect the terms of use.

In this case, and in the absence of an agreement between the parties, the purchase price of the land is determined by the Administration's acquisition committees, acting under the expropriation procedure.

On the other hand, and in the absence of an agreement between the parties, the equipment and tools, the buildings constructed and the infrastructure established since the property was transferred by the Region or by a person governed by public law shall be paid for at their market value at the time of the land acquisition. This value is determined by the acquisition committees.

In the event of sale, the user may resell the property only with the agreement of the Region or the person governed by public law who sells the property; the clauses referred to in paragraphs 2 and 3 shall be included in the resale agreement.

§ (2) The acquisition committees of the Administration, as well as the receivers of estates, regardless of the person of public law involved, are entitled to proceed, without special formalities and in the manner provided for in paragraph (1er), to

the sale by mutual agreement, to the lease by mutual agreement, for a period not exceeding ninety-nine years, of the real estate acquired or expropriated by virtue of this decree, or of the state-owned real estate, to which the Government decides to give an assignment provided for by this decree. Copies of the deeds referred to in this paragraph may be issued.

Interested public bodies may themselves sell, lease or lease-back immovables acquired or expropriated by them under this Decree. Where the person governed by public law does not call upon the committee or the collector, he shall submit the draft deed of sale, lease or leasehold to one of them for approval. The committee or the collector shall notify its approval or refusal to approve within one month of receipt of the file. If necessary, this period may be extended by one month at the request of the committee or the receiver.

In the event of refusal to endorse, the committee or the receiver shall determine, giving reasons, the conditions it requires for the endorsement. The endorsement shall be deemed to have been granted when the committee or the receiver allows the period specified in paragraph2 .

TITLE III. RIGHT TO OCCUPY AND EXPLOIT OTHER PEOPLE'S LAND FOR THE EXPLOITATION OF QUARRIES AND OPEN-PIT MINES

Art. D.VII.14. In the absence of the owner's consent, the Government may grant the right to any enterprise which so requests to occupy and exploit the lands of others for the purpose of supplying a quarry or open pit where the same substances have been extracted for at least five years provided that such lands are enclosed within or projecting into his field of operation and interfere with the economic and rational exploitation of the deposit, and provided that the reserves of the deposit which are the subject of the right are not necessary for the continuance of the industrial activity or for the satisfactory amortization of the installations of a similar neighbouring enterprise which held them.

The procedure to be followed to obtain such rights is defined by the Government and includes a public inquiry in accordance with the procedures defined in Book I^{er} of the Environmental Code.

The beneficiary of the right to occupy and exploit the land of others shall pay the owner compensation which, in the absence of mutual agreement between the parties, shall be determined in accordance with the procedure laid down in matters of expropriation for public utility.

TITLE IV. LEASE OF LAND SUBJECT TO AN ENVIRONMENTAL PERMIT FOR A QUARRY OR OPEN PIT MINE AND THE APPURTENANCES THERETO

Art. D.VII.15. In the case of a farm lease relating to land subject to an environmental permit granted for a quarry or open-pit mine and their appurtenances, and in the absence of an agreement between the parties, the operator may dispose of the land subject to an environmental permit at the earliest

after the harvesting of the products growing at the time of the issuance of the permit. The indemnities due to the lessee are those provided for in Articles 45 and 46 of the Civil Code, Book III, Title VIII, Chapter II, Section 3: Special rules for farm leases.

TITLE V. LIFTING OR REVISING RESTRICTIONS IMPOSED ON THE CLOSURE OF MINE SHAFTS

Art. D.VII.16. The subsoil official may lift or revise the impositions made in the decisions of the Permanent Deputation of the Provincial Council referred to in Article 16 of the Walloon Regional Executive Order of 30 April 1992 laying down the procedure and conditions for the withdrawal of a mining title, or taken under previous legislation, at the request of the surface owner, or on the occasion of applications for planning or urbanization permits within the meaning of the CoDT.

PART VIII. PROVISIONS RELATING TO THE POSTGESTION OF EXCLUSIVE PERMITS FOR THE EXPLORATION AND EXPLORATION OF SUBSURFACE RESOURCES

TITLE I. PRINCIPLES

Art. D.VIII.1. §1er . The rights attached to an exclusive permit for exploration or exploitation of subsoil resources end either on the expiry of the exclusive permit, or by withdrawal or renunciation by the holder.

§ (2) The expiry, withdrawal or renunciation of the exclusive exploration or exploitation permit shall leave the post-management provisions in full force and effect until the subsoil official has ascertained that the post-management obligations have been fully met and has agreed to the release of the related security.

§ 3. Not later than two years prior to the expiration of the exclusive exploration or exploitation permit, the exclusive permit holder shall either:

(1) files an application for renewal of the exclusive permit or, if applicable, a new application;

(2) implements the initial reclamation operations set out in the environmental permit and the post-management operations.

Art. D.VIII.2. Dissolved companies may not close their liquidation before the subsoil official has ascertained the complete fulfillment of the post-management obligations imposed by the exclusive permit and authorized the release of the related security interest, or has automatically fulfilled the obligations and activated the security interest.

Art. D.VIII.3. § 1er. Within sixty days of the renunciation, of the expiration of the period referred to in Article D. VIII.1 or of the withdrawal, the Government

may decide to suspend the fulfillment of the post-management obligations in the event that the Walloon Region decides to take over the exploitation or exploration itself or to proceed with a competition referred to in Article D. VI.13.

In such a case, the holder of the exclusive permit shall, for a period of three years from the date of notification of the Government's decision, maintain the underground works and installations, including the open pits, necessary for their preservation. In the event of effective resumption of exploration or exploitation, the three-year period may be reduced by the Government.

This decision suspends the reclamation obligations.

§ (2) The renunciation of the exclusive exploitation permit by the holder automatically entails the maintenance obligation referred to in paragraph 1er, unless the subsoil official exempts the holder from this obligation by means of a decision that the deposit has been depleted or is no longer economically exploitable.

Art. D.VIII.4. If the exclusive permit holder fails to comply with his post-management or maintenance obligations, the subsoil official may automatically provide for them at the expense of the exclusive permit holder after the latter has been given formal notice. In case of emergency, the subsoil official may proceed even without this formality.

In order to carry out these ex officio actions, the subsoil official calls on the security. If the amount is insufficient, he recovers the additional costs incurred from the exclusive licensee.

TITLE II. POST-MANAGEMENT PLAN

Art. D.VIII.5. § 1er. The post management plan, if any, adapted pursuant to Article D. VI. 48The post management plan, if adapted pursuant to Article D. VI, §1er, sets the overall objectives and framework, at the scale of the exclusive permit:
(1) the reintegration of exploration and exploitation activity sites and areas influenced by these activities into their environment;
(2) post-reclamation monitoring;
3° or palliative actions of perennial negative consequences, such as demerger.
§ 2. The post management plan shall contain, at a minimum, operational provisions relating to:
1° to the effects of subsidence;
2° to the geotechnical risks associated with underground structures;
(3) the groundwater and surface water regime;
4° to induced seismicity;
5° to the rising of gases and radioactive elements;
6° to the conservation, creation, suppression of natural habitats;

7° to dismantling.

The Government may complete and specify the minimum content of the plan.

PART IX. COMPENSATION FOR DAMAGES CAUSED IN CONNECTION WITH EXCLUSIVE PERMITS FOR EXPLORATION AND EXPLOITATION OF SUBSOIL RESOURCES

TITLE I. GENERAL PROVISIONS

Art. D.IX.1. §1er . The holder of an exclusive exploration or exploitation permit for subsoil resources shall, by operation of law, make good any damage caused either by the exploration or by the exploitation of subsoil resources.

§ (2) Without prejudice to its contribution to the Joint Guarantee Fund for Compensation for Damage referred to in Article D. IX.4, the holder of the exploration or exploitation permit shall provide a guarantee, at the request of the subsoil official, if the work is likely to cause, within a short period of time, a specific damage and if it is to be feared that its resources will not be sufficient to meet its possible liability.

The subsoil official shall determine the nature and amount of the guarantee referred to in paragraph 1.er

§ (3) In the event of transfer or devolution of the rights conferred by an exploration or exploitation permit, the liability for damage resulting from work already done at the time of the transfer or devolution is incumbent jointly and severally on the former and the new holder of the exclusive permit.

Art. D.IX.2. The holder of an exclusive permit for exploration or exploitation of subsoil resources, which has expired, been withdrawn or renounced, shall repair the damage caused by his works, including wells, galleries and other underground works established permanently, until the decision of the subsoil official attesting to the complete fulfillment of his post-management obligations.

Art. D.IX.3. §1er . Any application initiating proceedings in matters of compensation for an owner injured by acts and works for the exploitation of subsoil resources shall first be submitted, at the request of one of the parties, for conciliation, to the judge competent to hear it at the first level of jurisdiction.

In the event of a dispute over liability, the exclusive licensee shall so state at the conciliation appearance.

In the absence of any dispute as to its liability, the exclusive licensee shall make an irrevocable settlement offer to the applicant within six months of the request. In the event of an emergency, a shorter time limit is set by the competent judge. If an agreement is reached, the minutes of the conciliation shall record the terms thereof and the copy shall be signed by the executor.

§ 2 The experts are taken from among the persons holding the diploma of civil mining engineer or civil mining engineer and geologist, or from among the notable persons experienced in the field of mining and its works.

§ (3) No plan shall be admitted as evidence in a dispute unless it has been surveyed or verified by a person holding a diploma of civil mining engineer or civil mining engineer and geologist. The verification of plans is always free of charge.

TITLE II. COMMON GUARANTEE FUND FOR THE COMPENSATION OF DAMAGES RELATED TO THE EXPLOITATION OF SUBSOIL RESOURCES EXERCISED WITHIN THE FRAMEWORK OF EXCLUSIVE PERMITS

Art. D.IX.4. §1er . A Common Guarantee Fund is hereby established for the compensation of damages related to the exploitation of underground resources.

§ 2 The Fund shall be financed by :
1° the holders of exclusive exploration or exploitation permits for subsoil resources according to the following distribution

a) a lump sum portion of the contribution is paid prior to the implementation of the permit. The actual payment of the contribution is a condition of the enforceability of the permit;
b) a portion of the contribution is paid annually based on the progress of exploration and development work;

2° a lump-sum contribution from holders of mining concessions and exclusive permits for the exploration and exploitation of oil and fuel gases, in the amount of thirty euros per well identified on the concession or the perimeter of the exclusive permit.

The Government shall determine the amount of the lump sum portion of the contribution referred to in 1°, a).

§ (3) The annual contribution to the Fund for exclusive licensees referred to in paragraph 2 shall be proportionate to the volume exploited annually.

It is determined according to the operating technique used by means of an environmental operating factor, set by the Government, favouring environmentally friendly techniques.

The calculation is based on the following formula:

$$C.F. = f \times V \times t_F$$

where:

1° $C.F.$ is the annual contribution to the fund, expressed in euros;
2° f is the environmental operating factor;

3° V is the volume exploited during the past year, including by-products and waste rock, expressed in Nm³. For deep geothermal energy, V is the annual energy production expressed, as the case may be, in thermal kWh or electrical kWh;
4° t_F is the contribution rate to the fund expressed in euro/Nm³. For deep geothermal energy, it is expressed, depending on the case, in euro/kWh thermal or euro/kWh electrical.

The Government determines the values of the rate t_F by type of substance exploited.

Art. D.IX.5. §1er . The Fund shall intervene to repair damage to built property, infrastructure and roads caused by operations carried out under an exclusive exploration or exploitation permit or under an exclusive permit for the exploration and exploitation of oil and fuel gases, where the permit holder is insolvent or no longer exists, provided that the damaged property is properly authorized by a planning permit within the meaning of Article D.IV.4 of the CoDT or by an environmental permit or covered by a declaration if these are prescribed.

§ (2) The Fund shall intervene to repair damage to built property, infrastructure and roads caused by operations carried out under an existing or withdrawn mining concession, when the concessionaire is insolvent or no longer exists, under the following conditions
(1) the procedures for claiming compensation provided for by law have been previously implemented by the claimant and they could not result in compensation;
2° the damage is related to the operation of the concession or to former wells included in it;
(3) the damaged property is properly permitted by a planning permit as defined in Article D.IV.4 of the CoDT or by an environmental permit.

Art. D.IX.6. §1er . The Fund intervenes in the following cases :
(1) for claims for compensation, based on a judgment or agreement obligating the defaulting permit holder to repair damages;
2° for safety work ordered by the mayor, ~~le fonctionnaire~~the supervisory officials referred ~~visé~~to in Articles D.146 to ~~l'article~~ D.~~140~~154 of Book I of the Environment Code or the subsoil official in accordance with the procedures set out in Article D. X.3 and Article D.~~149~~169 of Book Ier of the Environmental Code, on condition that such work has received prior approval from the subsoil official, for all or part of the work subject to approval, without prejudice to other required authorizations;
(3) for security works to be carried out on his property by the owner who is not a subsoil resource operator and provided that such works have received the prior approval of the subsoil official, for all or part of the works subject to approval, without prejudice to other required~~.~~ authorizations;

4° for the financing of studies and actions related to the prevention of underground risks.

§ (2) The Government shall provide for the procedure of prior approval of the works and the procedure of reimbursement of the safety works.

§ (3) The proper execution of the work is ascertained by the underground official. The intervention is based on an invoice from a company approved by the Scientific and Technical Center of Construction.

Art. D.IX.7. The Government shall determine the rules of operation and intervention of the Common Guarantee Fund for the compensation of damages related to the exploitation of subsoil resources.

PART X. SUPERVISION, ADMINISTRATIVE MEASURES, VIOLATIONS AND SANCTIONS

TITLE I. MONITORING AND ADMINISTRATIVE MEASURES

CHAPTER I. SURVEILLANCE

Art. D.X.1. The subsoil official and the officials designated by the Government exercise police supervision for the preservation of the buildings and the safety of the soil. They shall observe the manner in which the operation is carried out in order to enlighten the ~~propriétaires~~operators on the defects or improvement of the operation.

Art. D.X.2. Without prejudice to the provisions of Book I^{er} of the Environment Code, holders of exclusive permits shall provide the subsoil official with all the means of visiting the work and, in particular, of entering any place that may require special supervision. They shall produce, at their request, plans and records of the progress of the work. They shall provide them with all information on the status and conduct of the work. During underground visits, they shall have them accompanied by the person authorized to provide the information necessary for the accomplishment of their mission.

Art. D.X.3. Without prejudice to the provisions of Book I^{er} of the Environmental Code and the decree of March 11, 1999 relating to environmental permits, the owners and occupants of land on which former mine shafts or structures listed in the subsoil database referred to in Article D. IV.1 are located shall give access to the subsoil official and to the holders of exclusive permits or mining concessions for the purpose of verifying the state and safety of the structures.

The subsurface official is authorized to enter the land to be crossed to reach the land referred to in paragraph 1er.

He shall notify the owner of the premises, at least fifteen days before any access, of the periods during which these operations are envisaged. In case of urgency, the notification period may be reduced but not to less than two days.

In the event that the site is occupied by a third party, the owner who receives the notification referred to in paragraph 3 shall inform that person of the planned operations and shall immediately transmit the identity of that person to the subsoil official.

CHAPTER II. ADMINISTRATIVE MEASURES

Art. D.X.4. §1er . The subsoil official is competent, in the same way as the officials designated by the Government, to take the measures provided for in Article 71 of the Decree of March 11, 1999 on environmental permits, for activities, installations and establishments subject to environmental permits under this Part. The hypotheses of intervention provided for in the aforementioned article are extended to threats to the conservation of underground works, to the soundness of works undertaken underground or on the surface, and to the conservation of property.

§ (2) The work, including that to be carried out for the safety of the old mine shafts existing within the perimeter of the exclusive mining permit, is at the expense of the holder of the exclusive mining permit or of the operator of an establishment subject to an environmental permit, even when such work is carried out ex officio.

§ (3) The subsoil official and the officials referred to in paragraph (1) may 1erequest the assistance of the police in the performance of their duties.

Art. D.X.5. If there is no longer an operator or the operator is insolvent, the officials referred to in Article D. X.4 have the same prerogatives with respect to the owners of the property concerned.

TITLE II. INFRACTIONS AND SANCTIONS

Art. D.X.6. § (1er) A person commits a second category violation as defined in ~~la partie VIII de la partie décrétale~~Article D.178, §2, paragraph 3, of Book Ier of the Environmental Code who:
(1) carries out research or exploitation of the subsoil resources referred to in Article D.I.1, paragraphs2 1 to 4, without having the exclusive permit required by Articles D.VI.1 and D.VI.3 VI.3;
2° violates the clauses and conditions inserted in the exclusive exploration or exploitation permits, the mine concession acts and the specifications of the research and exploitation permits;
(3) violates the general and specific conditions of exclusive permits set forth in sections D. VI.47 to D. VI.56 ;

(4) fails to comply with the orders of the basement official under section D. X.4 ;
(5) deface, remove, or obstruct access to a device for securing or closing former mine shafts or mine exits;
6° enters mining works and structures to which access is prohibited;
(7) obstructs the subsoil official's mission to monitor disused wells entered in the subsoil data bank under section D. IV.1.

§ (2) Any holder of a mining concession who fails to comply with the obligation referred to in Article D. XII.2 to secure all the shafts in his concession and to report to the subsoil official within three years of the entry into force of the Code commits a second category offence within the meaning of Part VIII of the Decree part of Book I^{er} of the Environmental Code.

Art. D.X.7. Any person who contravenes the provisions of Title V or the regulatory provisions adopted for their execution commits a third category offence within the meaning of Article D.151 of Part VIII of the Decree of Book I^{er} of the Environmental Code.

Art. D.X.8. The public action is prescribed by three years from the day when these offences were committed.

PART XI. PROVISIONS FOR GEOLOGICAL STORAGE OF CARBON DIOXIDE

TITLE I. GENERAL PROVISIONS

Art. D.XI.1. This section applies to CO_2 exploration and geological storage.

This part does not apply to geologic storage of CO_2 with a total proposed storage capacity of less than one hundred kilotons undertaken for the purpose of research and development or testing of new products and processes.

Art. D.XI.2. For the purposes of this Part, the following definitions apply

1° geological storage of CO_2: injection and storage of CO_2 streams in underground geological formations;

(2) storage site: a defined volume within a geological formation used for the geological storage of CO_2, and the associated surface and injection facilities;

3° leakage: any release of CO_2 from the storage complex;

(4) the storage complex: the storage site and the surrounding geologic realm that is likely to affect the overall integrity and safety of the storage, i.e., secondary containment formations;

5° the hydraulic unit: the porous space related to the hydraulic activity, in which a technically measurable pressure conductivity is observed, and which is delimited

by flow barriers, such as faults, salt domes, lithological barriers, or by a thinning or an outcrop of the formation ;

(6) exploration: the evaluation of potential storage complexes for the purpose of geological storage of CO_2 through activities in subsurface formations such as drilling to obtain geological information about the strata contained in the potential storage complex and, where appropriate, conducting injection tests to characterize the storage site;

7° the exploration permit: the decision of the Government authorizing exploration and specifying the conditions under which it may take place;

8° the operator: any natural or legal person, from the public or private sector, who operates or controls a storage site or who has been delegated decisive economic power with regard to the technical operation of this storage site;

9° the storage permit: the decision of the Government authorizing the geological storage of CO_2 in a storage site by the operator, and specifying the conditions under which it may take place;

(10) substantial modification: any modification not provided for in the storage permit that is likely to have significant effects on the environment or human health ;

11° the CO_2 stream: a stream of substances that results from CO_2 capture processes;

12° the CO_2 diffusion zone: the volume in which CO_2 diffuses into the geological formations;

13° Migration: the movement of CO_2 within the storage complex;

14° significant irregularity: any irregularity in the injection or storage operations, or concerning the state of the storage complex itself, which implies a risk of leakage or a risk to the environment or human health ;

15° significant risk: the combination of the probability of occurrence of damage and the seriousness of that damage, which cannot be ignored without calling into question the safe geological storage of carbon dioxide for the environment in order to contribute to the fight against climate change, for the storage site concerned ;

(16) corrective measures: measures taken to correct significant irregularities or to stop leaks in order to prevent or stop the release of CO_2 from the storage complex;

17° the closure of a storage site: the definitive cessation of CO_2 injection in this storage site;

18° post-closure: the period following the closure of a storage site, including the period following the transfer of responsibility to the Walloon Region;

(19) the transportation system: the pipeline system, including associated compressor and expansion stations, for transporting CO_2 to the storage site;

20° the decree of November 10, 2004: the decree of November 10, 2004 establishing a greenhouse gas emission allowance trading system, creating a Walloon Kyoto Fund and relating to the flexibility mechanisms of the Kyoto Protocol;

21° Directive 2009/31/EC: Directive 2009/31/EC of the European Parliament and of the Council of 23 April 2009 on the geological storage of carbon dioxide and amending Council Directive 85/337/EEC, Directives 2000/60/EC, 2001/80/EC, 2004/35/EC, 2006/12/EC and 2008/1/EC and Regulation (EC) No 1013/2006 of the European Parliament and of the Council

TITLE II. SELECTION OF STORAGE SITES

Art. D.XI.3.§ 1er The storage sites are designated by the Government, after an evaluation of the storage capacity available in certain parts or the entire territory of the Walloon Region.

§ 2 The assessment of available storage capacity shall be carried out by the holder of an exploration permit referred to in Article D. XI.4, § 1er, and in accordance with the characterization and assessment criteria set forth in Appendix 1.

§ (3) A geological formation within a defined area shall be designated as a storage site only if, under the proposed conditions of use, there is no significant risk of leakage or significant risk to the environment or health.

TITLE III. PROVISIONS RELATING TO EXPLORATION AND STORAGE PERMITS

CHAPTER I. COMMON PROVISIONS

Art. D.XI.4.§ (1er) Exploration may not be undertaken without an exploration permit issued in the manner provided in this chapter.

Geologic storage of CO_2 may be conducted only in a storage site designated pursuant to section D.XI.3 and may not be undertaken without a storage permit, issued as provided in this chapter.

§ (2) The holder of an exploration permit shall have the sole right to explore the $_2$potential CO storage complex. There may be only one operator per storage site.

During the term of an exploration permit and during the process of issuing a storage permit, no other incompatible activities or uses of the complex may be authorized under this part or under any other administrative policy. An exploration permit and storage permit may not be issued where the activities thereunder are incompatible with other activities or facilities authorized under another administrative policy.

§ (3) The storage permit for a particular site shall be granted in priority to the holder of the exploration permit for that site, provided that the exploration of the site in question has been completed, all the conditions provided for in the exploration permit have been complied with, and the application for the storage permit in accordance with Article D. XI.5, § 3, is sent during the period of validity of the exploration permit.

Art. D.XI.5. § (1er) The application for a permit shall be sent to the Government in five copies.

§ 2 The application for an exploration permit shall include at least the following information:

(1) the surname, first name, title, nationality and domicile of the applicant:

(a) if the application is made on behalf of a company, the company name, legal form, registered office, a copy of the coordinated articles of association and proof of the authority of the person who signed the application

(b) if the application is submitted by several companies acting jointly and severally, the information concerning the applicant shall be provided by each of them;

(2) the location and description of the facilities and/or activities planned in connection with the exploration;

(3) the nature, quantities, and significant effects of foreseeable emissions from the exploration activity in each environment;

(4) the identification of the techniques planned to prevent or, if not possible, to reduce these emissions;

(5) a description of any man-made easements and/or treaty obligations regarding land use that prevent the exploration from being carried out;

(6) the duration of the exploration permit applied for;

(7) its geographical limits;

8° mining research permits and mining concessions, exclusive permits for the research and exploitation of oil and combustible gas, permits for the exploration and exploitation of a geothermal deposit, exploration and storage permits issued pursuant to this decree and federal permits for the exploitation of an "underground natural gas storage reservoir" site included in whole or in part in the perimeter applied for, held by the applicant or by third parties

(9) the general program and timing of the work that the applicant proposes to carry out during the term of the exploration permit;

(10) the minimum financial investment that the applicant commits to the research;

(11) the following documents to justify the applicant's technical and financial capacity to undertake and conduct the work and to meet the obligations resulting from the granting of the exploration permit:

(a) the qualifications and professional references of the company's executives responsible for conducting and monitoring the exploration or exploitation work

b) a list of oil, gas or mining exploration or exploitation works in which the company has participated during the last three years, accompanied by a summary description of the most important works;

c) a description of the human and technical resources envisaged for the execution of the work;

d) the last three balance sheets and accounts of the company;

e) the company's off-balance sheet commitments, guarantees and sureties, a presentation of pending litigation and the financial risks that may result for the company;

f) guarantees and sureties from which the company benefits;

g) any other appropriate document to justify its financial capacities;

(h) any additional details requested by the subsoil official on the information and documents mentioned in this paragraph;

(12) the following map documents, from general to more specific, signed by the applicant and submitted in a manner that ensures their preservation:

a) a copy of a small scale map (1:100,[e] 000) locating the requested perimeter on a portion of the Region's territory;

b) a copy of a large-scale map 1:20,000 [e]on which are specified the summits and boundaries of the requested perimeter, the geographic and geodetic points used to define them and, if applicable, the boundaries of the acts referred to in 8° included in whole or in part within this perimeter;

(13) a memorandum justifying the boundaries of the perimeter and providing information on the exploration or exploitation work already carried out within the perimeter and its results;

(14) an electronic copy of the application file.

§ 3. The application for a storage permit shall include at least the following information:

(1) the information referred to in paragraph 2, 1, 5, 7, 8, 10 and 11;

(2) characterization of the storage site and storage complex and assessment of the likely safety of the storage in accordance with Article D.XI. 3§§ 2 and 3 ;

(3) the total quantity of CO_2 to be injected and stored, as well as the sources and methods of transportation contemplated, the composition of the CO_2 streams, the injection rates and pressures, and the location of the injection facilities;

(4) a description of measures to prevent significant irregularities;

(5) a proposed monitoring plan in accordance with Article D. XI.23, § 2 ;

(6) a proposal for corrective action in accordance with Article D. XI.26, § 2 ;

(7) a proposed provisional post-closure plan in accordance with Article D. XI.27, § 3 ;

8° an environmental impact study of the project in accordance with the provisions of Chapter III of Part V of Book I^{er} of the Environmental Code;

(9) evidence that the financial guarantee or other equivalent arrangement provided for in section D.XI.29 is valid and effective before the commencement of injection;

(10) an electronic copy of the application file.

Art. D.XI.6.§ 1er. An application is incomplete if any information or documents required by Article D. XI.5, §§ 2 or 3, depending on whether the application is for an exploration permit or a storage permit, are missing.

§ 2 The application is inadmissible if:

(1) it was filed in violation of Article D. XI.5, § 1er ;

2° it is judged incomplete on two occasions;

(3) the applicant does not provide the supplements within the time limit referred to in Article D. XI.7, § 2.

Art. D.XI.7.§ (1er) The Government shall decide on the completeness and admissibility of the application and shall send the decision declaring the application complete and admissible to the applicant within thirty days from the day it receives the application.

If the application is incomplete, the Government sends the applicant a list of the missing documents and specifies that the procedure starts again from the date of their receipt by the Government.

§ (2) The applicant shall send the requested supplements to the Government within six months of receipt of the request for supplements. If the applicant has not sent the requested supplements within the prescribed period, the Government shall declare the application inadmissible. The supplements shall be provided in as many copies as the original permit application.

§ (3) Within thirty days from the date of receipt of the supplements by the Government, the Government shall send the applicant a decision on the completeness and admissibility of the application.

If the Government considers the application incomplete a second time, it declares it inadmissible.

§ (4) If the application is inadmissible, the Government shall inform the applicant, under the conditions and within the time limits referred to in paragraphs 1er and 3.

Art. D.XI.8. In the decision by which the Government declares the application complete and admissible in accordance with Article D. XI.7, it shall designate the bodies that must be consulted.

Art. D.XI.9. If the Government has not sent the applicant the decision referred to in Article D. XI.7, § 1er, paragraph 1er, or the decision referred to in Article D. XI.7, § 3, the application is considered admissible at the end of the time limits provided for in those provisions. The procedure is continued.

Art. D.XI.10. The procedural time limits until the decision referred to in Article D. XI.15 are calculated:

(1) from the day on which the Government or its delegate sends its decision certifying the admissibility of the application;

(2) failing that, from the day following the deadline for sending its decision on the admissibility of the application.

Art. D.XI.11. § The public inquiry relating to the application for a storage permit ershall be conducted in accordance with Chapter 3, Title III, Part III, Book Ier of the Environmental Code.

§ (2) On the day on which it certifies that the application is complete and admissible in accordance with Article D. XI. 7or on the expiry of the period referred to in Article D. XI. 9the Government shall send a copy of the application file and any additions thereto to the municipalities designated in accordance with Article D.29-4 of Book Ier of the Environmental Code.

§ The notice of public inquiry referred to in Article D.29-7 of Book Ier of the Environmental Code shall be posted within five days of receipt of the documents referred to in paragraph 2.

The municipal college of each municipality where a public inquiry has been held shall send, within ten days of the closing of the inquiry, to the Government, the objections and written and oral observations made during the public inquiry, including the minutes referred to in article D.29-19 of Book Ier of the Environmental Code. It shall attach its opinion, if any.

Art. D.XI.12. On the day on which it certifies that the application is complete and admissible in accordance with Article D. XI. 7or on the expiry of the period provided for in Article D. XI. 9the Government shall send a copy of the application file and any additions thereto for the opinion of the various bodies it designates pursuant to Article D. XI.8

These bodies shall send their opinion within one hundred and fifty days of the date of referral by the Government or its delegate.

Within one month of the day on which the Government deems the application for a storage permit to be complete and admissible, it shall inform the European Commission that the application is at its disposal.

Art. D.XI.13. § 1er. on the basis of the opinions collected, the Government shall draw up, within a period of two hundred days, the summary report which shall include the opinions collected during the procedure and shall contain a proposal for a decision including, where appropriate, operating conditions. It shall notify the applicant accordingly.

§ (2) The period referred to in paragraph 1er may be extended. The duration of the extension may not exceed one hundred days. This decision shall be sent to the applicant within the period referred to in paragraph 1er.

§ (3) If the application is for a storage permit, the Government shall send to the European Commission the application for a storage permit, the summary report and the draft decision attached to this report.

From the date of this dispatch, the procedure is suspended for a period of four months, unless the European Commission has informed the Government of its decision not to issue an opinion on the project, in which case the suspension ends upon receipt of this decision by the Government.

Upon expiration of the period referred to in paragraph2 , the Government or its delegate shall decide on the application within the period referred to in Article D. XI.15.

Art. D.XI.14. If the summary report has not been drawn up within the time limit set, the Government shall continue the procedure, taking into account in particular the impact assessment file and any other information at its disposal.

If the application is for a storage permit, the Government shall send the elements referred to in paragraph 1er to the European Commission.

From the date of the letter referred to in paragraph 2, the procedure is suspended for a period of four months, unless the European Commission has informed the Government of its decision not to issue an opinion on the project, in which case the suspension ends upon receipt of this decision.

Upon expiration of the period referred to in the preceding paragraph, the Government shall decide on the request within the period referred to in Article D. XI.15.

Art. D.XI.15. The Government shall send its decision to the applicant and, by ordinary mail, to each authority or administration consulted within a period of two hundred and fifty days, increased, if necessary, by the extension period referred to in Article D. XI.13, § 2.

If the summary report is drawn up before the expiry of the period referred to in Article D. XI.13, § 1er, the Government shall send its decision to the applicant and, by ordinary mail, to each authority or administration consulted, within fifty days of the date on which the summary report is drawn up.

If the Government departs from the opinion of the European Commission, it shall state the reasons for this.

The Government notifies its decision to the European Commission.

Art. D.XI.16. The permit shall be deemed to have been denied if the decision has not been sent within the time limit provided for in Article D. XI.15.

CHAPTER II. SPECIAL PROVISIONS RELATING TO THE EXPLORATION PERMIT

Art. D.XI.17. § 1er The decision to grant the exploration permit shall contain at least:

(1) the name and address of the permit holder;

(2) the period of validity of the permit;

(3) the manner in which the permit may be extended if the period of validity of the permit proves insufficient to complete the exploration when it has been carried out in accordance with the permit;

(4) the geographical limits within which the exploration may be carried out;

(5) the manner and frequency in which the permit holder shall communicate to the Government the information referred to in section D. XI.24.

§ (2) An exploration permit shall be issued for a limited volume and for a period not exceeding the time necessary to carry out the exploration.

§ (3) The Government may include additional information in the decision to grant an exploration permit.

CHAPTER III. SPECIAL PROVISIONS FOR STORAGE PERMITS

Art. D.XI.18. The Government shall issue a storage permit only if, on the basis of the application submitted pursuant to D. XI. 6, § 3, and any other relevant information, it is satisfied that:

(1) all requirements required by or under this Part and other relevant laws or regulations that follow from requirements of European law are met;

(2) the operator's finances are sound and the operator is reliable and technically competent to operate and control the site;

(3) the professional and technical development and training of the operator and all staff members is ensured;

(4) where a hydraulic unit has more than one storage site, the potential pressure interactions are such that both sites can simultaneously meet the requirements of this part.

The Government shall take into consideration any opinion of the European Commission on the draft storage permit issued pursuant to Articles D. XI.13, § 3, and D. XI.14.

Art. D.XI.19. § 1er. The decision to grant a storage permit shall contain at a minimum:

(1) the name and address of the operator;

(2) the location and delineation of the storage site and storage complex, and relevant information relating to the hydraulic unit;

(3) the conditions to be met for the storage operation, the total quantity of CO_2 for which geological storage is authorized, the reservoir pressure limits and the maximum injection rates and pressures;

(4) requirements for the composition of the CO stream $_2$and the procedure for accepting the CO_2 stream in accordance with section D. XI.22 and, where applicable, other requirements for injection and storage, aimed in particular at preventing significant irregularities;

(5) the Government-approved monitoring plan, the obligation to implement the plan and the requirements for updating the plan in accordance with section D. XI.23, and the disclosure requirements in accordance with section D. XI.24 ;

(6) the obligation to notify the Government in the event of a leak or significant irregularity, the approved corrective action plan, and the obligation to implement it in the event of a leak or significant irregularity, in accordance with section D. XI.26 ;

(7) the conditions of closure and the approved interim post-closure plan referred to in section D. XI.27 ;

(8) any provisions for modification, review, updating, and revocation of the storage permit pursuant to section D. XI.20 ;

(9) the requirement to establish and maintain financial security or any other equivalent provision in accordance with section D. XI.29.

§ (2) The Government may attach additional information to the decision to grant a storage permit.

Art. D.XI.20. § (1er) The operator shall inform the Government of any planned changes in the operation of a storage site, including changes that affect the operator. If necessary, the Government shall update the storage permit or the conditions attached to it.

§ 2. No substantial change may be made without a new or updated storage permit issued by or under this part.

§ 3 The Government shall review and, if necessary, update or revoke the storage permit either:

(1) when it has been notified of leaks or significant irregularities or has been made aware of them in accordance with Article D. XI.26, §1er ;

(2) if it appears from reports submitted pursuant to section D. XI.24 or environmental inspections conducted pursuant to section D. XI.25 that the conditions of the permit are not being complied with or that there is a risk of leakage or significant irregularity;

(3) upon learning of any other failure of the operator to comply with the conditions of the permit;

4° if it appears necessary according to the latest scientific findings and technological developments;

(5) without prejudice to points (1) to (4), five years after the date of issue of the permit, and every ten years thereafter.

When the Government is considering updating or withdrawing a storage permit, unless there are special reasons for urgency, it notifies the operator. The operator has thirty days to send his observations in writing to the Government and to indicate whether he wishes to be heard. The Government shall immediately notify the operator of the date and place of the hearing, which shall be held within thirty days of receipt of the request for a hearing.

§ 4. After the withdrawal of a storage permit pursuant to paragraph 3, the Government shall issue a new storage permit or close the storage site pursuant to D. XI.27, § 1er, 3°.

Until a new storage permit is issued, the Government temporarily assumes all legal obligations in connection with :

(1) the acceptance criteria when deciding to continue CO_2 injections;

(2) monitoring and corrective action in accordance with the requirements of this part;

3° the restitution of quotas in case of leakage in accordance with the decree of November 10, 2004;

4° preventive and remedial actions in accordance with articles D.112, paragraph 1er, and D.113, paragraph 1er, of Book Ier of the Environmental Code.

The Government shall recover all costs incurred from the former operator, including through the use of the financial guarantee referred to in Section D. XI.29.

If the storage site is closed pursuant to D. XI.27, § 1er, 3°, D.XI.27, § 4, applies.

TITLE IV. LAND OCCUPANCY

Art. D.XI.21. § (1er) The holder of an exploration or storage permit may, within the area bounded by the permit and subject to the conditions set forth

below, occupy land for the purpose of erecting thereon all buildings and surface facilities required and to perform such work as may be necessary for the conduct of the activities to which the permit relates.

The occupation of land on which buildings are erected requires the authorization of all parties entitled to the surface of the land and to the buildings erected thereon.

Without prejudice to paragraph2 , the rights holders in relation to the surface of the ground authorize the holder of an exploration or storage permit issued under this part to carry out exploration operations or geological storage of CO_2 therein, in accordance with the rules to which such activities are subject, if such activities take place at a depth of not less than eight hundred metres below the surface of the ground.

This obligation is without prejudice to the right of the entitled parties to compensation for damage caused to the surface of the land and to the constructions erected on it, and to prior compensation for loss of use as a result of the occupation of their land.

Occupation of land other than that referred to in paragraph 2 is only possible after payment of annual compensation to all holders of a real right to the land in question. Compensation shall be paid in accordance with Articles 45 and 46 of the Tenancy Act to tenants whose current tenancy agreement is terminated on the basis of Article 6, § 3, of the Tenancy Act.

In the absence of agreement, the amount of compensation for holders of a right in rem is, at the request of the most diligent party, determined by the justice of the peace, who may, if necessary, call in experts in the matter. The compensation represents at least one and a half times the amount of income that the land would have generated for the holder of the right in rem if it had not been occupied.

§ (2) Buildings and facilities erected by the licensee remain, notwithstanding Article 546 of the Civil Code, the property of the original owner. Article 555 of the Civil Code shall not apply to the original owner or the permittee.

§ (3) Occupancy of land by the licensee is a precarious right which in any event terminates at the latest on the expiration date of the license. The permit holder shall remove the buildings and facilities erected by him on such land within six months of the expiration of the permit or the cessation of the authorized activities.

§ (4) The owner of the land or buildings may apply to the Justice of the Peace for an order that the holder of the permit repurchase them. The Justice of the Peace shall grant this request if, after the activities to which the permit relates have ceased, the land or the structures erected thereon are no longer or will no longer be suitable for the use made of them before occupation or if the duration of the occupation has the effect of depriving the owner of his peaceful enjoyment in a disproportionate manner.

In the absence of agreement, the sale price shall, at the request of the most diligent party, be fixed by the justice of the peace, who may call upon experts in the field if necessary. The sale price shall be at least one and a half times the value

of the land or buildings before their occupation. The compensation already paid to the owner under paragraph 1er shall be taken into account in determining the sale price.

§ (5) Those entitled to the surface area of the land in front of storage facilities for which responsibility has been transferred to the Walloon Region pursuant to Article D. XI.28 are required to provide free access to these facilities at all times to allow inspection, monitoring and maintenance operations.

TITLE V. OBLIGATIONS RELATED TO OPERATION, CLOSURE AND POST-CLOSURE

Art. D.XI.22. § A CO_2 stream consists mainly of carbon dioxide. To this end, no waste or other material may be added for disposal. However, a CO stream $_2$may contain substances that have accidentally become associated at the source or during capture or injection operations, and trace substances may be added to the stream to help control and verify CO_2 migration. The concentrations of all accidentally associated or added substances are below levels that would be expected to either:

(1) compromise the integrity of the storage site or appropriate transportation infrastructure;

(2) present a significant risk to the environment or human health;

(3) violate the provisions of applicable law.

§ The operator shall take into account the guidelines adopted by the European Commission pursuant to Article 12(2) of Directive 2009/31/EC for compliance with the criteria referred to in paragraph 1er.

§ (3) The operator shall accept $_2$and inject CO streams only if an analysis of their composition, including corrosive substances, and a risk assessment have been conducted and the risk assessment has determined that the contamination levels are within the conditions referred to in paragraph 1er.

For each injection site, the operator shall maintain a record of the quantities and properties of the $_2$delivered and injected CO streams, including the composition of those streams.

§ (4) The Government may specify levels that may compromise the integrity of the storage site or appropriate transportation infrastructure, present a significant risk to the environment or human health, or violate the provisions of applicable law.

The Government may also determine the methods to be used to calculate these levels, where appropriate, taking into account the guidelines set by the European Commission.

Art. D.XI.23. § 1er. The operator shall conduct monitoring of the injection facilities, the storage complex, including the CO_2 diffusion area if possible, and, if applicable, the surrounding environment, to:

(1) compare the actual behavior of CO_2 and formation water in the storage site to the modeling of that behavior;

2° detect notable irregularities ;

3° detect the migration of CO_2 ;

4° detect CO_2 leaks ;

(5) detect clear deleterious effects on the surrounding environment, including in particular on drinkable water, for human populations or for users of the surrounding biosphere;

(6) evaluate the effectiveness of corrective actions taken under section D. XI.26 ;

(7) update the assessment of the safety and integrity of the storage complex in the short and long term, including whether the stored CO_2 will remain fully and permanently contained.

§ 2. In order to carry out the monitoring referred to in paragraph 1er, the operator shall draw up a monitoring plan and rely on it, in accordance with the criteria laid down in Annex 2, which shall include detailed monitoring data in accordance with the provisions of the Walloon Government Decree of 13 December 2012 determining the sectoral conditions relating to establishments engaged in an activity involving greenhouse gas emissions and the guidelines established pursuant to Article 14 and Article 23, § 2, of Directive 2003/87/EC of the Parliament and of the Council of 13 October 2003 establishing a scheme for greenhouse gas emission allowance trading within the Community and amending Council Directive 96/61/EC.

The plan shall be updated in accordance with the requirements set out in Annex 2 and, in any event, every five years to take account of changes in the assessed risk of leakage, changes in the assessed risks to the environment and human health, new scientific knowledge and improvements in the best available technology. The updated plans are again submitted to the Government for approval.

Art. D.XI.24. At intervals to be determined by the Government, and in any event at least once a year, the operator shall communicate to it :

(1) all results of monitoring conducted in accordance with section D.XI.23 during the reporting period, including information on the monitoring techniques employed;

(2) the quantities and properties of the $_2$delivered and injected CO streams, including the composition of those streams, during the reporting period, recorded in accordance with Article D. XI.22, § 3, paragraph 2;

(3) proof of the establishment and maintenance of the financial guarantee, in accordance with Article D. XI.29 and Article D. XI.19, § 1er, 9;

4° any other information deemed useful by the Government to assess compliance with the conditions stipulated in the storage permit and to improve knowledge of the behaviour of CO_2 in the storage site.

TITLE VI. SUPERVISION AND ADMINISTRATIVE MEASURES

Art. D.XI.25. § 1er The Government shall establish a system of routine or spot inspections of all storage complexes subject to this part to monitor and promote compliance with the requirements of this part and to monitor effects on the environment and human health.

§ 2 Inspections shall include visits to surface facilities, including injection facilities, evaluation of injection and monitoring operations performed by the operator, and verification of all records maintained by the operator.

§ (3) Routine inspections shall be carried out at least once a year until three years after closure and every five years until responsibility is transferred to the Walloon Region. They shall cover the injection and monitoring facilities and review all the effects that the storage complex is likely to have on the environment and human health.

§ 4. spot inspections are performed:

(1) when the Government has been notified of leaks or significant irregularities or has been made aware of them in accordance with Article D. XI.26, § 1er ;

(2) when the reports referred to in Section D. XI.24 have shown that the conditions stipulated in the permits were not properly complied with;

(3) to examine serious complaints relating to the environment or human health ;

(4) in any case where the Government deems it useful.

§ The Government shall prepare a report on the results of the inspection. This report shall assess compliance with the requirements of this Part and indicate whether further action is required. It shall be sent to the operator concerned within two months of the inspection and shall be made public within the same period.

§ The Government may use the services of an expert in connection with the supervisory measures referred to in this section.

§ The Government may determine additional inspection and monitoring measures pursuant to this section.

Art. D.XI.26. § Iner the event of a leak or significant irregularity, the operator shall immediately inform the Government and the mayor and governor of the Province concerned. He shall take the necessary corrective measures, including measures relating to the protection of human health. In the event of a leak or significant irregularity involving a risk of leakage, the operator also informs the authority referred to in Article 10/1 of the Decree of 10 November 2004.

§ (2) The corrective measures referred to in paragraph (1er) shall be taken, at a minimum, on the basis of a corrective action plan submitted to the Government in accordance with Article D. XI. 53, § 6, and Article D. XI.19, § 1er, 6.

§ (3) The Government may at any time require the operator to take the necessary corrective measures and measures related to the protection of human health. These measures may be additional to or different from those provided for in the corrective action plan.

The Government may also take corrective measures at any time.

§ (4) If the operator fails to take the necessary corrective measures, the Government shall take such measures itself.

§ (5) The statement of costs incurred in connection with the measures referred to in paragraphs 3 and 4 shall be enforceable.

The Government shall recover such costs from the operator, including through the use of the financial guarantee provided for in section D. XI.29.

Art. D.XI.27. § 1er A storage site is closed either:

(1) if the conditions stipulated in the permit are met;

2° at the justified request of the operator, after authorization by the Government;

(3) if the Government so decides after withdrawal of the storage permit pursuant to Article D. XI.20, § 3.

§ (2) After the closure of a storage site pursuant to paragraph 1er, 1° or 2°, the operator shall remain responsible for monitoring, reporting and corrective measures in accordance with the requirements of this Part, and shall continue to assume all obligations concerning the surrender of allowances in the event of leakage in accordance with the Decree of 10 November 2004, and preventive and remedial actions in accordance with Articles D.112 to D. 129of Book Ier of the Environmental Code, until responsibility for the storage site is transferred to the Walloon Region pursuant to Article D. XI.28, §§ à 1er5.

The operator is also responsible for sealing the storage site and dismantling the injection facilities.

§ The obligations referred to in paragraph 2 shall be fulfilled on the basis of a post-closure plan drawn up by the operator in accordance with best practice and in accordance with the requirements of Annex 2.

A provisional post-closure plan is submitted to the Government or its delegate for approval, in accordance with Article D. XI. 53, 7°, and Article D. XI. 19,er § 1, 7°.

Prior to the closure of a storage site under paragraph 1er, 1° or 2°, the provisional post-closure plan shall be :

(1) updated as necessary, taking into account risk analysis, best practices and technological improvements ;

(2) submitted to the Government for approval;

3° approved by the Government as a final post-closure plan.

§ (4) After the closure of a storage site pursuant to paragraph 1er, 3°, the Walloon Region shall be responsible for monitoring and measurements in accordance with the requirements of this Part and shall assume all obligations concerning the surrender of allowances in the event of leakage in accordance with the Decree of 10 November 2004, and preventive and remedial actions in accordance with Articles D. 112and D. 113paragraph 1er, of Book Ier of the Environmental Code.

The Walloon Region shall comply with the post-closure requirements of this Part on the basis of the provisional post-closure plan referred to in paragraph 3, which shall be updated as necessary.

§ The Government shall draw up and approve the statement of costs incurred in connection with the measures referred to in paragraph 4. The statement shall be binding.

The Government shall recover these costs from the operator, including through the use of the financial guarantee provided for in section D. XI.29.

TITLE VII. TRANSFER OF RESPONSIBILITY

Art. D.XI.28. § 1er. When a storage site has been closed pursuant to section D. XI.27, all legal obligations regarding monitoring and remediation in accordance with the requirements of this part, surrender of allowances in the event of leakage in accordance with the Executive Order of November 10, 2004, and preventive and remedial actions in accordance with sections D. 112paragraph 1er and D. 113paragraph 1er, of Book Ier of the Environmental Code are transferred to the Walloon Region by decision of the Government or at the request of the operator, if the following conditions are met:

1° all the available elements tend to prove that the $_2$stored CO remains perfectly and permanently confined;

(2) a minimum period to be determined by the Government has elapsed. The duration of this minimum period may not be less than twenty years, unless the Government or its delegate is satisfied that the criterion referred to in paragraph 1 is met before the end of this period;

(3) the financial obligations referred to in Article XI.30 have been met;

(4) the site has been sealed and the injection facilities dismantled.

§ (2) The operator shall prepare a report demonstrating that the condition set forth in paragraph 1er, 1°, has been met, which he shall submit to the Government for approval of the transfer of responsibility.

At a minimum, this report demonstrates that:

1° the real behavior of the $_2$injected CO is consistent with the modeled behavior;

2° there is no detectable leak;

3° the storage site evolves towards a situation of long-term stability.

The Government may lay down detailed rules concerning the evaluation of the elements referred to in paragraph 2, emphasizing any implications for the technical criteria to be taken into consideration in defining the minimum period referred to in paragraph 1er, 2° and taking into account the guidelines adopted by the European Commission pursuant to Article 18, § 8, of Directive 2009/31/EC.

§ (3) After having ascertained that the conditions referred to in paragraph 1er, 1° and 2° are met, the Government shall draw up a draft decision approving the transfer of responsibility. This draft decision shall specify the method to be used to apply the conditions referred to in paragraph 1er, 4°, and shall contain any updated requirements for the sealing of the storage site and for the dismantling of the injection facilities.

If the Government considers that the conditions referred to in paragraph 1er, points 1° and 2°, are not met, it shall inform the operator of the reasons.

§ The Government shall make the reports referred to in paragraph 2 available to the European Commission within one month of receiving them. It shall also provide any other related documentation that it takes into consideration when preparing a draft decision of approval on the transfer of responsibility.

It shall send to the Commission all draft approval decisions prepared in accordance with paragraph 3, and any other documentation that has been taken into consideration in reaching its conclusion.

The Government suspends its decision for a period of four months from the date of dispatch, unless the European Commission indicates that it has decided not to issue an opinion, in which case the procedure is suspended for a period of one month only from the date of dispatch of the draft decision of approval.

§ (5) After ascertaining that the conditions referred to in paragraph 1er, items 1 to 4, have been met, the Government shall adopt the final decision and send it to the operator. The Government shall also send the final decision to the Commission, giving reasons if it departs from the Commission's opinion.

§ 6 Once the transfer of responsibility has occurred, routine inspections under D.XI.25, § 3, cease and monitoring may be reduced to a level that allows for the detection of leaks or significant irregularities. If leaks or significant irregularities are detected, monitoring is intensified as necessary to determine the extent of the problem and the effectiveness of corrective actions.

§ (7) In the event of fault on the part of the operator, including inadequate data, concealment of relevant information, negligence, deliberate deception or lack of due care, the Government shall recover from the former operator the costs incurred after the transfer of responsibility has taken place.

The Government shall prepare a statement of the costs incurred in this context. This statement is binding.

Without prejudice to section D. XI.30, there shall be no further recovery of costs after the transfer of responsibility.

§ (8) When a storage site has been closed pursuant to Article D. XI.27, § 1er, 3°, the transfer of responsibility is considered effective when all available evidence tends to prove that the stored CO_2 will be perfectly and permanently contained and that the site has been sealed and the injection facilities dismantled.

TITLE VIII. FINANCIAL PROVISIONS

Art. D.XI.29. § 1er. The prospective operator, as part of its application for a storage permit, shall submit evidence that appropriate arrangements can be made, in the form of a financial guarantee or other equivalent arrangement to ensure that all obligations under the permit, issued pursuant to this part, including closure and post-closure requirements and preventive and remedial actions pursuant to sections D. 112paragraph 1er, and D. 113paragraph 1er, of Book Ier of the Environmental Code, as well as the obligations resulting from the inclusion of the storage site in the scope of the decree of November 10, 2004, are met.

This financial guarantee is valid and effective before the start of the injection.

§ (2) The financial security shall be periodically adjusted to reflect changes in the assessed risk of leakage and the estimated costs of any obligations arising from the permit issued pursuant to this part, as well as any obligations arising from the inclusion of the storage site within the scope of the November 10, 2004, Executive Order.

The financial guarantee is validly adopted only with the express written consent of the Government which refers to the new contract or its amendment.

§ (3) The financial guarantee or other equivalent arrangement referred to in paragraph 1er shall remain valid and effective:

(1) after a storage site is closed pursuant to Article D. XI.27, § 1er, 1° or 2°, until responsibility for the storage site is transferred to the Government pursuant to Article D. XI.28, §§ 1 througher 5;

(2) after the withdrawal of a storage permit pursuant to D. XI.20, § 3 :

(a) until a new storage permit has been issued ;

(b) in the event of closure of the site pursuant to Article D. XI.27, § 1er, 3°, until the transfer of responsibility pursuant to Article D. XI.28, § 8, provided that the financial obligations referred to in Article D. XI.30 have been met;

§ (4) The Government may determine the manner in which the financial guarantee is established and may be released.

Art. D.XI.30. § (1er) The operator shall make a financial contribution available to the Government, before the transfer of responsibility has occurred in accordance with Article D. XI.28.

The operator's contribution shall take into account the criteria referred to in Annex 1re and the elements related to the history of CO_2 storage that are relevant for establishing post-transfer obligations and shall cover at least the projected cost of monitoring for a period of 30 years.

This financial contribution can be used to cover the costs incurred by the Government after the transfer of responsibility to ensure that CO 2remains fully and permanently contained in the geological storage sites after the transfer of responsibility.

§ The Government may set additional terms and conditions for the financial contribution referred to in paragraph 1er, taking into account the guidelines adopted by the European Commission pursuant to Article 20, § 2 of Directive 2009/31/EC.

TITLE IX. ACCESS TO THIRD PARTIES

Art. D.XI.31. § (1er) Potential users shall access transmission systems and storage sites for the purpose of geological storage of 2produced and captured CO in accordance with this section.

The transmission system operator shall provide the access referred to in paragraph 1er in a transparent and non-discriminatory manner, in accordance with the terms and conditions it proposes and which are approved by the Government, taking into account the following elements

(1) the storage capacity available or reasonably capable of being made available, and the transportation capacity available or reasonably capable of being made available;

(2) the share of the Region's CO_2 emission reduction obligations that it intends to meet through CO_2 capture and geological storage;

3° the need to deny access in the event of incompatibility of technical specifications that cannot be reasonably resolved;

(4) the need to respect the reasonable and justifiable needs of the owner or operator of the storage site or transmission system and the interests of any other users of the site or system or of the processing or handling facilities who may be affected.

§ The operators of the transmission systems and the operators of the storage sites may refuse access on the grounds of lack of capacity. The refusal shall be duly justified.

§ (3) An operator who denies access due to lack of capacity or lack of connection shall make any necessary adjustments provided that they are economically feasible or that a potential customer is willing to pay for them, and provided that they do not adversely affect the safety of the transport and geological storage of CO_2 from an environmental perspective.

Art. D.XI.32. In the event of a cross-border dispute, the dispute resolution system of the Member State having jurisdiction over the transmission system or storage site to which access has been denied shall apply.

If, in a cross-border dispute, the transmission system or storage site concerned falls within the jurisdiction of several Member States, the latter shall consult each other to ensure that the provisions of Directive 2009/31/EC are applied consistently.

TITLE X. RECORDS

Art. D.XI.33. § 1er The Government sets up and maintains:

(1) a record of storage permits granted;

(2) a permanent record of all closed storage sites and surrounding storage complexes, including maps and sections showing their extent, the information available to establish that the $_2$stored CO will remain fully and permanently contained, and all technical records pertaining to that site

§ (2) For the administrative policy that concerns it, each competent authority shall take the records referred to in paragraph 1er into consideration in the relevant planning procedures and when authorizing activities that may affect or be affected by the geological storage of CO_2 in registered storage sites.

Art. D.XI.34. Environmental information on the geological storage of CO_2 is made available to the public in accordance with Book Ier of the Environmental Code.

TITLE XI. COMPENSATION FOR DAMAGES

Art. D.XI.35. The holder of an exploration or storage permit shall, as of right, make good any damage caused either by the exploration or by the operation of the storage site.

TITLE XII. PENALTIES

Art. D.XI.36. Any person who contravenes the provisions of this Part or the implementing orders issued pursuant to this Part commits a second category offence within the meaning of Article D. ~~151~~178, §2, of Book Ier of the Environmental Code.

However, anyone who violates Article D. XI.20, § 1er, of the Environmental Code commits a third category violation within the meaning of Article D. ~~151~~178, § 2, of Book Ier of the Environmental Code.

PART XII. TRANSITIONAL PROVISIONS

TITLE I. GENERAL PROVISIONS

Art. D.XII.1. § 1er. Within two years of the entry into force of this Code, holders of mining exploration permits and mining concessionaires who meet the declaration requirements referred to in Article 71, paragraph 1er, 1er and 2 èmeindents, of the Mining Decree of July 7, 1988, within the time limits prescribed in Article 71, paragraph 2, of the same Decree, or issued after the entry into force of the Mining Decree of July 7, 1988 submit an application for an environmental permit for the installations and activities necessary or useful for the exploration and exploitation of the subsoil resources for the substances covered by the mining concession or exclusive permit, including installations for the management of extraction waste, shafts, galleries, underground communications and extraction pits.

The special conditions and specifications laid down in these permits and concessions remain applicable, notwithstanding the application of the general obligations of the holders of exclusive permits referred to in Title VII of Part VI. In the event of contradiction between the special conditions and the general obligations, the general obligations shall prevail.

The provisions relating to the modification of the special conditions of exclusive permits provided for in Article D. VI. 56are applicable to the special conditions and specifications laid down in these permits and concessions.

If the application referred to in paragraph 1er is not submitted within the prescribed time limit, the permits concerned shall lapse, except as regards the reclamation and after-care obligations, and the concessionaires shall be deemed to have relinquished their concession.

Concessionaires shall file an application for relinquishment in accordance with Articles D.XII.6 and D.XII.7 within two years of the effective date of this Code, with a view to withdrawing the concession.

§ (2) Mining concessions whose concessionaires have not complied with the declaration requirements of article 71, paragraph 1er, 1er and 2 èmeindents, of the Mining Decree of July 7, 1988, within the time limits prescribed in article 71, paragraph 2, of the same Decree, shall lapse on the date of entry into force of this Code, except with regard to the obligations of rehabilitation and post management.

The concessionaires referred to in paragraph 1er shall file a waiver application in accordance with Articles D.XII.6 and D.XII.7 within two years of the entry into force of this Code.

By way of derogation from paragraph 2, the licensees referred to in paragraph 1er who have submitted a renunciation file in accordance with the provisions of Article 48 of the Mining Decree of 7 July 1988 and the orders and regulations issued for its implementation shall retain the benefit of their application.

Withdrawal of concessions is pursued in accordance with the procedure set forth in Article D.XII.8.

Art. D.XII.2. §1er . The holders of mining concessions ensure the safety of the shafts of the concession. They shall draw up a report on this security and send it to the subsoil official within three years of the entry into force of this Code.

The report shall contain at a minimum:

(1) the known or suspected location of the shaft or mine exit ;

(2) the date of the last inspection;

(3) a description of the state of security of the well;

4° a photographic report of this state of security;

(5) a history of the condition of the shaft or mine exit since its closure;

(6) if not secured, an analysis demonstrating an acceptable risk of collapse.

The Government may extend the content of the report referred to in paragraph 1er, and determine the manner in which it is to be drawn up and transmitted, and the manner in which the subsoil official is to monitor the state of security of the wells.

§ (2) The transfer of mining concessions in any form whatsoever, including the transfer or merger of companies, or the transfer of shares or assets, as well as the leasing or leasing out of mining concessions, is prohibited.

Art. D.XII.3. §1er . The provisions of Title VII of Part VI, and of Parts IX and X are applicable to mining exploration permits, mining concessions, exclusive oil and fuel gas exploration permits and exclusive oil and fuel gas exploitation permits.

§ (2) The holder of a mining title, withdrawn for whatever reason, shall repair the damage caused by his works, including shafts, galleries and other underground works established in a permanent manner. If the mining title is withdrawn on the basis of an accepted renunciation, this obligation is valid until the Government decision attesting to the complete fulfillment of its post management obligations.

§ (3) The provisions of Chapter II of Part VII of Title Ier shall apply only to installations and activities placed or carried on at the surface under the permits and concessions referred to in paragraph 1er after the entry into force of this Code, and not between twenty and one hundred meters of depth.

§ The Government may specify the manner of application of the provisions referred to in §§ 1er to 3 to which reference is made.

Art. D.XII.4.

§(1er) Exclusive permits for the exploration and exploitation of oil and fuel gases issued prior to the entry into force of this Code shall remain valid for the term established by the permit, without prejudice to the provisions of Article D.XII.3, §1. er

§(2) Applications for permits filed before the effective date of this Code and administrative appeals relating thereto shall be processed in accordance with the rules in effect on the day the application was filed.

§(3) Applications for exclusive permits filed by a holder of an exclusive permit for the exploration and exploitation of oil and fuel gases for the same substances in a contiguous territory are exempt from the competition referred to in Article D. VI.13, provided that the area requested does not exceed one third of the area of the original permit, with a maximum of three hundred hectares. This possibility is valid only once.

Art. D.XII.5. § 1 . The classification of spoil heaps fixed by the Walloon Government decree of 16 March 1995 fixing the classification of spoil heaps remains in force until the entry into force of the classification of historical spoil heaps according to their vocation provided for in article D.VI.9.

§ 2 The members of the Regional Commission for Advice on the Exploitation of Quarries (CRAEC), appointed by virtue of the decree of the Walloon Government of October 2, 2003, shall continue to exercise their powers until the appointment of the members of the Subsoil Council.

TITLE II. RENUNCIATION OF MINING CONCESSIONS

Art. D.XII.6. Two copies of the application for total or partial surrender of a mining concession shall be sent to the subsoil official by registered mail with acknowledgement of receipt.

Art. D.XII.7. §1er . The application states:

1° the surname, first name, capacity, nationality, domicile of the applicant, and if it is a company, the company name, legal form and registered office of the company;

2° the mining titles for the substances in question that the applicant holds, specifying those that are included in whole or in part in the area for which the waiver is requested.

With regard to 1°, if the application is submitted by several companies acting jointly and severally, the information concerning the applicant shall be provided by each of them.

§ 2. The following documents shall be attached to the waiver application:

(1) all documents proving the rights of the applicant and, where applicable, the powers of the person signing the application.

If the concession is held jointly by more than one licensee, the applicant's information shall be provided by each licensee;

(2) the following map documents signed by the applicant and submitted under conditions that ensure their preservation:

(a) a copy of a map at a scale of 1:100,000 showing the area within the provinces for which the waiver is sought;

(b) a copy of a map on a scale of 1:25,000 showing the vertices and boundaries of the area for which renunciation is sought, the geographical or geodetic points used to define them and, where appropriate the limits of concessions and mining exploration permits of any kind included in whole or in part within this perimeter, the names of neighbouring concessions, the limits of the areas that have been mined under the concession for which the waiver is requested, the limits of the areas that have been farmed out;

(3) in the case of an application for partial relinquishment involving a change in the boundaries of the concession, the plans referred to in paragraph 2 shall indicate the new boundaries;

4° a certificate from the registrar of mortgages stating that there is no mortgage registration on the concession or, if there is, a statement of those that have been taken, attaching the release of these registrations;

5° an exhaustive list of pits and mine exits that have been the subject of an abandonment order by the Permanent Deputation of the Provincial Council referred to in Article 16 of the Walloon Regional Executive Order of 30 April 1992 setting out the procedure and conditions for the withdrawal of a mining title, or taken under previous legislation, with the references of this order;

6° an exhaustive list and a map at a scale of 1:10,000 showing the location of shafts and mine outlets that have not been the subject of an abandonment order, whether they are located on the surface or not located on the surface but known from the plans;

(7) a statement signed by the holder(s) certifying that the wells and outlets referred to in paragraph 5 meet the conditions of the abandonment orders;

8° a risk analysis, the content of which is determined by the Government;

If this is not the case, the holders shall notify the period within which they propose to regularize the situation.

Art. D.XII.8. §1er . The subsoil official shall verify, within one year, whether or not the applicant has met his obligations. If the applicant has not fulfilled his obligations, the subsoil official shall set time limits within which the applicant shall perform the prescribed safety work in accordance with the laws and regulations and shall obtain the release of all entries made on the mine.

§ (2) On expiry of the periods provided for in paragraph 1er, the applicant shall send the subsoil official a certificate from the registrar of mortgages stating that the mine is free and clear of all registrations and shall inform him of the completion of the prescribed work.

§ 3. Within sixty days of receipt of the document referred to in paragraph 2, the official shall send a report to the Government containing a proposal for a decision.

§ 4. Within sixty days of receipt of the report of the subsoil official, the Government shall rule on the waiver request.

In the event of a partial waiver, the decree may impose new obligations and specifications on the concessionaire.

§5 . The Government decree pronouncing the total or partial withdrawal of the concession on the grounds of renunciation is published in the *Moniteur belge* and notified to the applicant.

TITLE III. AUTOMATIC WITHDRAWAL OF MINING CONCESSIONS

Art. D.XII.9. §1er . The Government may proceed ex officio to withdraw mining concessions in the following cases :
1° when the licensee no longer exists or cannot be found;
2° after formal notice, when the concessionaire fails to comply with his obligations to request a waiver in accordance with Articles D.XII.6 to D.XII.8 or Article 48 of the Mining Decree of July 7, 1988 and the orders and regulations issued for its implementation;
3° after formal notice to the concessionaire, in the event of non-compliance with the work program provided for in the specifications or with the general obligations of concessionaires.

§ (2) The subsoil official shall prepare a report on the involuntary withdrawal.

The procedure set forth in Article D.XII.8., §§ 4 and 5, shall apply.

The Government's order pronouncing the automatic withdrawal of the concession or research permit is transcribed at the mortgage registry.

TITLE IV. APPLICATIONS SUBMITTED BEFORE THE ENTRY INTO FORCE OF THE CODE

Art. D.XII.10. Applications for permits for the reclamation of waste heaps referred to in article 2 of the decree of May 9, 1985 concerning the reclamation of waste heaps whose acknowledgement of receipt is prior to the date of entry into force of the Code shall continue to be examined in accordance with the provisions of the decree of May 9, 1985 concerning the reclamation of waste heaps.

TITLE V. ACTIVITIES NEWLY SUBJECT TO EXCLUSIVE LICENSE

Art. D.XII.11. For resource exploration activities referred to in Article D.I.1., paragraph 3, 3° and 4°, regularly carried out on the date of entry into force of the Code and newly subject to an exclusive permit, the application referred to in Article D.VI.13, §1er, paragraph 2, must be submitted by the holder of the permit authorizing this activity within three months of the entry into force

of the Code, and must be followed by the filing of an application for an exclusive permit within the time limit referred to in Article D.VI.§1er, paragraph 3.

If the holder referred to in paragraph 1er fails to meet these obligations, the authorizations issued for this activity shall lapse.

The Government shall publish the notice referred to in Article D.VI.13, §1er, within 60 days of receipt of the request filed by the holder referred to in paragraph 1er.

If the exclusive permit is not granted to the holder referred to in paragraph 1er, the holder must cease operations within six months of receipt of the refusal decision referred to in D.VI.26, §1er, or of the notification referred to in Article D.VI.27, paragraph 2.

In the absence of a decision as referred to in D.VI.26, §1er, if the holder referred to in paragraph 1er has not sent the reminder provided for in Article D.VI.26, §3, he must cease his activities within six months of the expiry of the period referred to in Article D.VI.26, §3, paragraph 2.

In the absence of a decision by the Government following the reminder letter referred to in Article D.VI.26, §3, paragraph 2, the holder must cease his activities within six months of the tacit refusal decision referred to in Article D.VI.26.

Appendix 1re. Criteria for characterizing and evaluating the potential carbon dioxide storage complex and surrounding area

The characterization and assessment of the potential storage complex and surrounding area shall be carried out in three stages according to the best practices in effect at the time of the assessment and the following criteria. Deviations from one or more of these criteria may be authorized by the Government provided that the operator has demonstrated that this does not impair the effectiveness of the characterization and assessment.

Step 1: Data collection

Sufficient data should be collected to construct a static volumetric and three-dimensional (3D) geological model of the storage site and the storage complex including the overburden, as well as the surrounding area including hydraulically connected areas. These data concern at least the following intrinsic characteristics of the storage complex:

a) geology and geophysics ;

(b) hydrogeology (in particular, existence of aquifers for consumption) ;

(c) reservoir engineering (including volumetric calculations of pore volume for CO_2 injection and final storage capacity);

d) geochemistry (dissolution rates; mineralization rates) ;

e) geomechanics (permeability, fracture pressure);

f) seismicity;

(g) the presence of natural or man-made pathways, including boreholes, that could result in leakage, and the condition of such leakage pathways

Documents are presented regarding the following features of the complex surroundings:

(a) areas surrounding the storage complex that may be affected by CO_2 storage at the storage site;

(b) population distribution in the area below the storage site;

c) proximity to important natural resources;

(d) activities around the storage site and possible interactions with these activities (e.g., hydrocarbon exploration, production and storage, geothermal exploitation of aquifers, and use of groundwater supplies);

(e) proximity to potential CO_2 sources (including estimates of the total potential mass of CO that $_2$can be stored economically) and adequate transportation networks.

Step 2: Construction of the static three-dimensional geological model

Using the data collected in Step 1, a static three-dimensional geologic model or series of models of the proposed storage complex, including overburden and areas where fluids are likely to communicate through hydraulic phenomena, is constructed using computer-based reservoir simulators. The static geologic model(s) characterize the complex from the following perspectives:

a) geological structure of the natural trap;

(b) geomechanical, geochemical and flow properties of the reservoir, the overlying layers (overburden, seals, porous and permeable horizons) and the surrounding formations;

c) characterization of the fracture system and possible presence of man-made passageways;

(d) area and height of storage complex;

e) void volume (including porosity distribution) ;

f) Fluid distribution in the reference situation ;

(g) any other relevant characteristics.

The uncertainty associated with each of the parameters used to build the model is evaluated by developing a series of scenarios for each parameter, and calculating the appropriate confidence intervals. Any uncertainty associated with the model itself is also evaluated.

Step 3: characterization of the dynamic behavior of the storage, characterization of the sensitivity, risk assessment

The characterizations and evaluation are based on dynamic modeling involving simulations of CO_2 injection into the storage site with different time steps using the static three-dimensional geologic model(s) provided by the computer-based storage complex simulator developed in Step 2.

Step 3.1: characterization of the dynamic behavior in the storage

At a minimum, the following factors are considered:

a) possible injection rates and properties of the CO_2 streams;

(b) effectiveness of coupled process modeling (how the various effects reproduced by the simulator(s) interact);

(c) reactive processes (how the reactions of $_2$injected CO with in situ minerals are incorporated into the model);

d) tank simulator used (several simulations may be necessary to validate some observations);

(e) short- and long-term simulations (to determine the fate of CO_2 and the behavior of the reservoir over centuries and millennia, as well as the rate of CO_2 dissolution in water).

Dynamic modeling provides information on:

(a) pressure and temperature of the storage formation as a function of injection rate and cumulative injection quantity over time;

(b) the area and height of the CO_2 diffusion zone as a function of time;

(c) the nature of the CO_2 flow in the reservoir, as well as the behavior of the injected phases;

(d) CO trapping mechanisms and rates $_2$(including leakage points and lateral and vertical tight formations);

(e) secondary containment systems within the overall storage complex;

(f) storage capacity and pressure gradients of the storage site ;

(g) the risk of fracturing of storage formations and cap rock;

(h) the risk of CO_2 penetration into the overburden;

(i) the risk of leakage from the storage site (e.g., through abandoned or improperly sealed wells);

j) Migration speed;

(k) fracture sealing rates;

(l) changes in fluid chemistry and subsequent reactions in formations (e.g., pH changes, mineral formation) and the incorporation of reactive modeling to assess the effects;

m) the displacement of fluids present in the formations;

(n) increased seismicity and surface elevation.

Step 3.2: Characterization of the sensitivity

Multiple simulations are performed to determine the sensitivity of the assessment to the assumptions made about certain parameters. The simulations are performed by varying the parameters in the static geological model(s) and by changing the flow functions and assumptions in the dynamic modeling. Significant sensitivity is incorporated into the risk assessment.

Step 3.3: Risk assessment

The risk assessment includes the following components:

3.3.1. Hazard characterization

The hazard characterization consists of describing the risk of leakage from the storage complex as established by the dynamic modeling and safety characterization described above. For this purpose, the following aspects are considered in particular:

(a) potential escape routes;

(b) the potential magnitude of leakage for the identified leakage paths (flow rates) ;

(c) parameters critical to the risk of leakage (e.g., maximum reservoir pressure, maximum injection rate, temperature, sensitivity of the static geological model(s) to various assumptions) ;

(d) secondary effects of CO_2 storage, including displacement of formation fluids and new substances created by CO_2 storage;

(e) any other factors that may pose a hazard to human health or the environment (e.g., physical structures associated with the project).

The hazard characterization covers all possible operating conditions to test the safety of the storage complex.

3.3.2. Exposure assessment based on the characteristics of the environment and the distribution and activities of the human population at the storage complex, as well as the behavior and potential fate of CO_2 escaping through the leakage pathways identified in Step 3.3.1.

3.3.3. Effects Assessment - based on the sensitivity of particular species, communities or habitats to the potential leakage considered in Step 3.3.1. Where appropriate, the effects of exposure to elevated CO_2 concentrations in the biosphere (including soils, marine sediments and benthic waters (asphyxiation, hypercapnia) and reduced pH in these environments due to CO_2 leakage) should be considered. The assessment also considers the effects of other substances that may be present in the escaping CO_2 streams (impurities in the injection stream or new substances created by CO storage$_2$).

These effects are considered for different temporal and spatial scales, and are associated with leakage of varying magnitude.

3.3.4. Risk Characterization which includes an assessment of short and long-term site safety and integrity, and an assessment of the risk of leakage under the proposed conditions of use, and the health and environmental consequences under the worst-case scenario. The risk characterization is based on the assessment of hazards, exposure and effects. It includes an assessment of the sources of uncertainty identified during the characterization and assessment stages of the storage site and, if circumstances permit, a description of opportunities for reducing uncertainty.

APPENDIX 2. CRITERIA FOR ESTABLISHING AND UPDATING THE MONITORING PLAN AND FOR POST-CLOSURE MONITORING OF THE CARBON DIOXIDE GEOLOGICAL STORAGE SITE

1. Establishment and updating of the monitoring plan

The monitoring plan referred to in Article D.XII.23, § 2, shall be established based on the risk assessment analysis performed in Step 3 of Appendix 1re, and updated to meet the monitoring requirements set forth in Article D.XII.23, § 1, based on the following criteria:

1.1 Establishment of the plan

The monitoring plan details the monitoring to be implemented at key stages of the project, including baseline monitoring, operational monitoring, and post-closure monitoring. The following elements are specified for each phase:

(a) parameters being monitored ;

(b) monitoring techniques employed and the rationale for their selection;

(c) monitoring locations and rationale for spatial sampling;

d) frequency of application and justification of time sampling.

The parameters monitored are selected to meet the monitoring objectives. However, the plan always includes continuous or intermittent monitoring of the following:

(e) fugitive CO_2 emissions at the injection facility ;

(f) CO_2 volume flow rate at the injection wellheads ;

(g) CO_2 pressure and temperature at the injection wellheads (to determine mass flow rate) ;

(h) chemical analysis of injected materials;

i) reservoir temperature and pressure (to determine the behavior and phase state of CO_2).

The choice of monitoring techniques is based on the best available techniques at the time of design. The following solutions are considered and, where appropriate, selected;

(j) techniques to detect the presence, location and migration pathways of CO_2 in subsurface and surface formations ;

(k) techniques providing information on the pressure-volume behavior and vertical and horizontal distribution of the CO_2 diffusion zone to fit the 3D numerical simulation to the 3D geologic models of the storage formation designed in accordance with Article D.XII.3 and Appendix 1re;

(l) techniques for obtaining broad surface coverage to gather information on possible previously unidentified leakage paths throughout the storage complex and surrounding area in the event of significant irregularities or migration of CO_2 out of the storage complex.

1.2 Updating the plan

The data collected during monitoring are collated and interpreted. The observed results are compared to the behavior predicted by the 3D dynamic simulation of pressure-volume and saturation behavior undertaken as part of the safety characterization in accordance with Article D.XII.3 and Appendix 1re, Step 3.

If there is a significant discrepancy between the observed and predicted behavior, the 3D model is recalibrated to reflect the observed behavior. The recalibration is based on the observations made from the monitoring plan, as well as on additional data obtained if necessary to improve the reliability of the recalibration assumptions.

Steps 2 and 3 of Appendix 1re are repeated with the recalibrated 3D model(s) to obtain new hazard scenarios and flows and to revise and update the risk assessment.

In the event that historical correlation and model recalibration identify new CO sources $_2$and leakage paths and flows or significant deviations from previous assessments, the monitoring plan is updated accordingly.

2. Post-closure monitoring

Post-closure monitoring is based on information gathered and modeled during the implementation of the monitoring plan referred to in Article D.XII.23, § 2, and Section 1.2 of this Annex. In particular, it serves to provide the information necessary for the purposes of Article D.XII.28, § 1er.f "

CHAPTER II. AMENDING, REPEALING AND FINAL PROVISIONS

SECTION 1RE. AMENDING PROVISIONS

Subsection 1re: Judicial Code

Sec. 2. In Article 591, paragraph 1er, of the Judicial Code, as amended by the decree of July 10, 2013, 10° is repealed.

Subsection 2. Civil Code - law on farm leases

Sec. 3. In Article 6, § 3, of Section 3 ("Special rules for farm leases") of Book III, Title VIII, Chapter II, of the Civil Code, as replaced by the Act of November 7, 1998, and amended by the Decree of July 10, 2013, the words "in Article 22 of the Decree of July 10, 2013, on the geological storage of carbon dioxide" are replaced by the words "in Article D.XII.21 of the Subsoil Resources Management Code".

Subsection 3. Law of July 12, 1973 on nature conservation

Art. 4 In article 1biser, 28°, of the law of 12 July 1973 on nature conservation, inserted by the decree of 6 December 2001, c., e. and f. are repealed.

Subsection 4. Decree of July 7, 1988 of the mines

Art. 5 Sections 1 erto 4, 6 and 7, 9 to 12, 13, as amended by the Decree of May 31, 2007, 15 and 16, 24 to 35, 36, as amended by the Decree of July 20, 2016, 37 to 46, 47, as amended by the Decree of March 1er, 2018, 48 to ~~55~~56 61, replaced by the Decree of June 5, 2008, 63, replaced by the Decree of June 5, 2008, 65, 67 to 73, of the Decree of July 7, 1988 are repealed.

Subsection 5. Decree of March 11, 1999, on environmental permits

Sec. 6. In Article 13 of the Decree of March 11, 1999, on environmental permits, as amended by the Decrees of December 18, 2008, July 10, 2013, and July 20, 2016, paragraph 2 is replaced by the following:

"Notwithstanding paragraph 1er, the technical officer is competent to hear declarations and applications for environmental permits relating to:

(1) to mobile establishments;

(2) to establishments located on the territory of several municipalities;

(3) any facility that is a mining waste management facility as defined by the Government;

(4) activities and installations relating to the implementation of an exclusive exploration or exploitation permit for subsoil resources;

5° to carbon dioxide (CO_2) capture and geological storage facilities, as well as to drilling facilities and well equipment intended for exploration and injection for the purpose of geological storage of CO_2 ;

(6) for applications for environmental permits that involve minor modifications to permits issued by the Government referred to in paragraph 4."

Sec. 7. In Article 50, § 1er, of the same Decree, as last amended by ~~les décrets~~the Decree of May ~~4 juillet 2002 et du 23 juin 2016~~24, 2018, the following amendments are made:

(1) the paragraph ~~2~~3 is replaced by the following:

"The permit for activities and facilities related to the exclusive permits for exploration and exploitation of subsoil resources referred to in the Code of Subsoil Resources Management is issued for a period up to the expiry of the exclusive permit to which it relates;

2° a paragraph is added 4 worded as follows:

"Environmental permits authorizing activities and facilities necessary for the post management provided for in the exclusive permits for exploration and exploitation of subsoil resources referred to in the Code of Subsoil Resource Management may be issued beyond the expiration of the exclusive permit, without being able to exceed twenty years."

Art. 8. In Article 81, § 2, paragraph 3, of the same decree, as last amended by the decree of May ~~1er mars 2018~~2, 2019, the words "as well as to any establishment constituting a facility for the management of mining waste as defined by the Government and to all installations and activities necessary or useful for the research and exploitation of subsoil resources, including wells, galleries, are replaced by the words "as well as to any establishment constituting a facility required within the framework of an exclusive permit for exploration or exploitation of subsoil resources referred to in the Code of Subsoil Resources Management and to the facilities for the management of mining waste as defined by the Government".

Subsection6 . Book Ier of the Environmental Code

Art.9 In Article D.29-1, of Book Ier of the Environmental Code, inserted by the Decree of May 31, 2007, and last amended by the Decree of November ~~5 février 2001~~22, 2018, the following amendments are made:

(1) the paragraph is 3supplemented by a new paragraph (9) to read as follows:

"9° exclusive permits for exploration and exploitation of subsoil resources referred to in the Code of Management of Subsoil Resources" ;

(2) paragraph 4, a, is supplemented by an 11° to read as follows:

"11° decisions relating to the classification of historic slag heaps provided for in Article D.VI.9. of the Subsoil Resources Management Code" ;

(3) paragraph 4, a, is supplemented by a 12° to read as follows:

"12° declarations of public utility for the establishment of facilities or works for the exploitation of subsoil resources provided for in Article D. VII.2. of the Code of Subsoil Resources Management" ;

(4) in paragraph 4, b, the second to fourth degrees are repealed;

5° in paragraph 4, b, the fifth degree is replaced by the following

"5° the granting of rights of occupation and exploitation of other people's lands provided for in the Code of Management of Subsoil Resources;

6In paragraph 4, b. 7°, the words "in Articles 2, 11° and 5, § 1er, paragraph 2, of the Decree of July 10, 2013 on the geological storage of carbon dioxide" are replaced by the words "in the Code on the management of subsoil resources".

Art. 10 In Article D.49, of Book Ier of the same Code, replaced by the Decree of May 31, 2007, and last amended by the Decree of March~~10 juillet 2013~~1er 2018, the following amendments are made:

(1) c. is repealed;

(2) in f. the words "Decree of July 10, 2013, on the geological storage of carbon dioxide" are replaced by the words "Code of Subsoil Resource Management".~~**Art. 11.** A l'article 26, alinéa 1er du décret du xx/xx/xxxx relatif à la délinquance environnementale, les 1°, 3° et 7° sont abrogés.~~

Art. ~~12~~11. In Appendix 1re, item 12, of Book Ier of the same Code, inserted by the Decree of November 22, 2007, as amended by the Decree of July 10, 2013, the words "Decree of July 10, 2013, on the geological storage of carbon dioxide" are replaced by the words "Subsoil Resources Management Code".

Subsection7. Book II of the Environment Code containing the Water Code

Art. ~~13~~12. In section D.170, paragraph 1er, subparagraph 8, as amended by the decree of July 10, 2013, of book II of the Environmental Code containing the Water Code, the words "to the decree of July 10, 2013, relating to the geological storage of carbon dioxide or excluded from the scope of that decree by virtue of article 2, § 2 thereof" are replaced by the words "to the Subsoil Resources Management Code or excluded from the scope of that Code by virtue of article D.VI.12 thereof".

Subsection 8. Decree of November 6, 2008, streamlining the advisory function

Art. ~~14~~13. In section 1er, paragraph 1er, item 3, item (h), of the order of November 6, 2008, streamlining the advisory function, as replaced by the order of February 16, 2017, the words "Regional Quarrying Advisory Commission" are replaced by the words "Subsoil Council".

Art. ~~15~~14. In Article 2/4, § 1er, paragraph 1er, subparagraph 5, of the same Decree, inserted by the Decree of February 16, 2017, the words "the Decree of May 9, 1985, relating to the reclamation of slag heaps" are replaced by the words "the Subsoil Resources Management Code".

Subsection9. Territorial Development Code

Art.~~16.~~ 15 In Article D.IV.4, paragraph 1°, of the Territorial Development Code, a 17° is inserted that reads as follows:

"(17) any modification to a device for securing or locating a secured mining work, shaft or gallery, either directly or as a result of construction encroaching on the said work. The permit is granted only after a favorable opinion from the Industrial, Geological and Mining Risks Directorate. This department establishes and distributes the list and location of secured pits and structures.

In Article D.IV.106, of the same Code, paragraph 1er is replaced by the following:

"The planning permit is issued by the delegated official when it concerns acts and works related to activities and facilities necessary for the exploration and exploitation of subsoil resources referred to in Article D. I. 1., paragraph 2, 1° to 4°, of the Subsoil Resources Management Code".

SECTION 2. REPEAL PROVISIONS

Art. ~~17~~16. The laws on mines and quarries coordinated by the Royal Decree of 15 September 1919, as last amended by the Decree of 4 July 2002, are repealed for the Walloon ~~région~~Region.

Art. ~~18~~17. The Royal Decree of Special Powers n° 83 of November 28, 1939 concerning the research and exploitation of bituminous rocks, oil and combustible gases, confirmed by the law of June 16, 1947, modified by the decree of February 19, 1998, is abrogated for the Walloon Region.

Art. ~~19~~18. The Royal Decree of Special Powers n° 84 of November 28, 1939 concerning the obligation to declare underground explorations, confirmed by the law of June 16, 1947, is abrogated for the Walloon Region.

Art. ~~20~~19. The decree of May 9, 1985, concerning the reclamation of slag heaps, as last amended by the decree of February 16, 2017, is repealed.

Art. ~~21~~20. The decree on quarries of July 4, 2002 and amending certain provisions of the decree of March 11, 1999 on environmental permits; amended by the decree of May 31, 2007, is repealed.

Art. ~~22~~21. The decree of July 10, 2013, relating to the geological storage of carbon dioxide is repealed.

SECTION 3. FINAL PROVISIONS

Art. ~~23~~22. §1er The Government may modify the references contained in the provisions of the laws and decrees that are not subject to the codification referred to in Article 1er, in order to bring them into line with the numbering of Book III of the Environmental Code.

§2. The Government may amend any references to the codified provisions contained in the provisions of the orders amending or repealing the codified provisions that have not become effective at the time this order becomes effective.

The Government may also adapt, coordinate or harmonize the transitional provisions relating to these amendments or repeals, without, however, being able to change their meaning or scope.

§(3) The Government shall amend the references to provisions of laws and decrees that are not subject to the codification referred to in Article 1er and that have not entered into force at the time of the adoption or entry into force of this Decree.

Art. ~~24~~23. This decree shall enter into force on the date determined by the Government, but not later than January 1. er~~2020~~2023.

Namur, the

For the Government,

The Minister-President,

E. DI RUPO

~~Le~~The Minister of the Environment,

~~Carlo DI ANTONIO~~

C. TELLIER

The Minister of Energy,

~~Jean-Luc CRUCKE~~Ph. HENRY