

Regulations and other acts

Gouvernement du Québec

O.C. 1049-2004, 9 November 2004

Environment Quality Act
(R.S.Q., c. Q-2)

Recovery and reclamation of residual materials — Compensation for municipal services provided

Regulation respecting compensation for municipal services provided to recover and reclaim residual materials

WHEREAS, under sections 53.31.2, 53.31.4 and 53.31.12 of the Environment Quality Act (R.S.Q., c. Q-2), the Government may make regulations on the matters set out therein;

WHEREAS, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1) and section 124 of the Environment Quality Act, a draft of the Regulation respecting compensation for municipal services provided to recover and reclaim residual materials was published in Part 2 of the *Gazette officielle du Québec* of 24 March 2004 with a notice that the Regulation could be made by the Government on the expiry of 60 days following that publication;

WHEREAS it is expedient to make the Regulation with amendments to reflect the comments that were received following the publication in the *Gazette officielle du Québec*;

IT IS ORDERED, therefore, on the recommendation of the Minister of the Environment:

THAT the Regulation respecting compensation for municipal services provided to recover and reclaim residual materials, attached to this Order in Council, be made.

ANDRÉ DICAIRE,
Clerk of the Conseil exécutif

Regulation respecting compensation for municipal services provided to recover and reclaim residual materials

Environment Quality Act
(R.S.Q., c. Q-2, ss. 53.31.2, 53.31.4 and 53.31.12)

DIVISION I PURPOSE

1. This Regulation determines certain parameters of the compensation regime under subdivision 4.1 of Division VII of Chapter I of the Environment Quality Act (R.S.Q., c. Q-2) whose purpose, together with other legislative measures ensuring residual materials management, is to prevent and reduce the impact of residual materials on the environment.

More specifically, this Regulation designates the materials or classes of materials to which the compensation regime applies.

The Regulation also provides a minimum framework for the schedule of contributions that must be established pursuant to section 53.31.14 of the Act by establishing exemptions for certain persons in respect of certain materials and by targeting the persons that alone may be required to pay contributions in respect of certain materials.

The Regulation also determines the maximum compensatory contribution limits and related payment terms and conditions.

DIVISION II CLASSES OF MATERIALS SUBJECT TO A CONTRIBUTION

2. The compensation regime under subdivision 4.1 of Division VII of Chapter I of the Environment Quality Act applies to the following classes of materials:

(1) containers and packaging: this class includes all types of flexible or rigid material, including paper, carton, plastic, glass or metal, used alone or in combination with other materials to contain, protect, wrap or present a product or a set of products at any stage in the movement of the product or set of products from the producer to the ultimate user or consumer.

This class does not include tertiary or transport packaging, namely containers and packaging designed to facilitate the handling and transport of a number of sales units or grouped packagings, such as wood pallets and transport containers, in order to prevent physical handling and transport damage. However, containers and packaging such as paper, carton, polystyrene protectors or plastic film that may be used not only for that transport but also for the movement of products to the ultimate consumer or recipient are included in this class.

Containers and packaging in the other classes of materials are also excluded from this class;

(2) written media: this class includes paper and other cellulosic fibres used as a medium for newspapers, magazines, periodicals or any other similar written matter

(a) sold or available free of charge;

(b) published at fixed intervals and at least once a year; and

(c) published mainly to deliver opinions, news or comments on current affairs or on a particular subject or theme.

This class also includes containers and packaging used to deliver written media directly to ultimate consumers or recipients;

(3) printed matter: this class includes paper and other cellulosic fibres, whether or not they are used as a medium for text or images, except books and materials in the written media class of materials.

This class does not include materials in the containers and packaging class, but it does include containers and packaging used to deliver printed matter directly to ultimate consumers or recipients.

DIVISION III RULES REGARDING THE PAYMENT OF CONTRIBUTIONS

§1. Containers and packaging class

3. Only the owner of a brand, a name or a distinguishing guise may be required to pay a contribution pursuant to a schedule of contributions established under section 53.31.14 of the Act in respect of

(1) containers and packaging used in the commercialization or marketing in Québec of a product or a service under that brand, name or distinguishing guise; and

(2) containers and packaging identified by that brand, name or distinguishing guise.

If the owner referred to in the first paragraph has no domicile or establishment in Québec, the first supplier in Québec of the products or of the containers and packaging, other than the manufacturer, may be required to pay the contribution, whether or not that supplier is the importer.

For the purposes of this section,

— “brand” means a mark that is used by a person for the purpose of distinguishing or so as to distinguish products or services manufactured, sold, leased, hired or performed by the person from those manufactured, sold, leased, hired or performed by others, but does not include a certification mark within the meaning of section 2 of the Trade-marks Act (R.S.C., 1985, c. T-13);

— “distinguishing guise” means the shaping of containers or packaging, the appearance of which is used by a person for the purpose of distinguishing or so as to distinguish products manufactured, sold, leased, hired or performed by the person from those manufactured, sold, leased, hired or performed by others;

— “name” means the name under which any business is carried on, whether or not it is the name of a legal person, a partnership or an individual.

4. The following special rules apply in respect of containers or packaging added at retail outlets, whether or not the containers or packaging are included in section 3:

(1) payment of a contribution may not be required from the manufacturer of those containers or packaging or of a person having added containers or packaging at a retail outlet, subject to paragraph 2; and

(2) where a retail outlet is supplied or operated as a franchise or a chain, under a banner name, or as part of another similar form of affiliation or group of businesses or establishments, the contribution for containers or packaging added at the retail outlet is payable by the franchisor, owner of the chain, banner or group, as the case may be, or if the franchisor, owner of the chain, banner or group has no domicile or establishment in Québec, by their representative in Québec, or where there is no representative, by the retailer.

5. The following are exempt from paying a contribution in respect of the containers and packaging in relation to which they are already required to take recovery or reclamation measures:

(1) persons who are already required under a regulation made under the Environment Quality Act to take measures or contribute financially towards measures to recover or reclaim containers or packaging;

(2) persons already required under a consignment system recognized under Québec law to take measures or contribute financially towards measures to recover or reclaim containers or packaging, such as beer and soft drink non-refillable containers; and

(3) persons who are able to establish that they participate directly or contribute financially towards another system to recover and reclaim containers or packaging that operates on an established and regular basis in Québec, such as the program for the recovery of refillable beer bottles existing on 24 November 2004.

§2. *Written media and printed matter classes*

6. Only the owner of a brand, a name or a distinguishing guise identifying material included in the written media or printed matter class of materials may be required to pay a contribution pursuant to a schedule of contributions established under section 53.31.14 of the Act in respect of that material.

If the owner has no domicile or establishment in Québec, payment of the contribution may be required from the first supplier in Québec of the written media or printed matter, whether or not that supplier is the importer.

For the purposes of this section, “brand,” “name” and “distinguishing guise” have the meaning given to those terms in section 3, with the necessary modifications.

DIVISION IV MAXIMUM CONTRIBUTION LIMITS AND PAYMENT TERMS AND CONDITIONS

7. The percentage of the total of the net costs of the services provided by municipalities subject to compensation in relation to each class of materials is,

(1) for the containers and packaging class of materials: 50%;

(2) for the written media class of materials: 50%; and

(3) for the printed matter class of materials: 50%.

8. During the first five years a compensatory contribution is payable in relation to written media,

(1) the maximum amount of the compensatory contribution may not exceed \$1.3 million yearly; and

(2) the total amount of the annual compensation may be paid through contributions of goods or services, except for the portion of the amount that the Société québécoise de récupération et de recyclage is entitled to receive under section 53.31.18 of the Environment Quality Act.

DIVISION V FINAL

9. This Regulation comes into force on the first day of the fourth month following the month of its publication in the *Gazette officielle du Québec*.

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Gouvernement du Québec

O.C. 1064-2004, 16 November 2004

Professional Code
(R.S.Q., c. C-26)

Diplomas issued by designated teaching establishments which give access to permits or specialist’s certificates of professional orders — Amendment

Regulation to amend the Regulation respecting the diplomas issued by designated teaching establishments which give access to permits or specialist’s certificates of professional orders

WHEREAS, under the first paragraph of section 184 of the Professional Code (R.S.Q., c. C-26), after obtaining the advice of the Office des professions du Québec in accordance with subparagraph 7 of the third paragraph of section 12 of the Code, and of the order concerned, namely the Ordre des infirmières et infirmiers auxiliaires du Québec, the Government may, by regulation, determine the diplomas issued by the educational institutions it indicates which give access to a permit or specialist’s certificate;

WHEREAS, under subparagraph 7 of the third paragraph of section 12 of the Code, the Office must, before advising the Government, consult, in particular, with the educational institutions and the order concerned, the Conférence des recteurs et des principaux des universités du Québec in the case of university-level diplomas, the Fédération des cégeps in the case of college-level diplomas, and the Minister of Education;