

## Draft Regulations

### Draft Regulation

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

#### Mandatory declaration of water withdrawals

Notice is hereby given, 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 (R.S.Q., c. Q-2), that the Regulation respecting the mandatory declaration of water withdrawals, appearing below, may be made by the Government on the expiry of 60 days following this publication.

The draft Regulation requires the main water withdrawers in Québec, such as industries, businesses, institutions that are not supplied by water supply works, and municipalities, to send to the Minister of Sustainable Development, Environment and Parks a declaration on their withdrawal activities, in particular to know the number of withdrawal sites they operate and their location, the nature of the withdrawals and the uses they are intended for and whether or not measuring equipment is used to measure the volumes of water withdrawn.

Under the draft Regulation, withdrawers that withdraw water on a repeated or regular basis will have to measure the volumes of water they withdraw. The measurement will be made in accordance with either the measuring equipment method, which must comply with the requirements set out in the Regulation, or the estimation method, by obtaining a certified estimate from a recognized professional. For withdrawers holding a certificate of authorization, when the abovementioned methods are not used, the quantities of water authorized by the Government or the Minister, as the case may be, for each withdrawal site are to be used to evaluate the volumes withdrawn. The withdrawers that have measuring equipment must also keep a register on their measuring equipment and they must, where the evaluation method used is the measuring equipment method, comply with the standards established for the installation, maintenance or repair of their equipment, and for the taking of measurements with such equipment.

The draft Regulation also revokes, for harmonization purposes, the obligation to notify the Minister of any change in a notice relating to groundwater catchment, provided for in sections 58 and 59 of the Groundwater Catchment Regulation, made by Order in Council 696-2002 dated 12 June 2002.

The impact on enterprises and small and medium-sized businesses in particular will be the requirement for them to send information on their water withdrawals. In addition, under the draft Regulation, they will have to maintain and repair the measuring equipment they already have or, if they do not have measuring equipment, to pay a professional to obtain a certified estimate of the volumes of water withdrawn.

Further information on the draft Regulation may be obtained by contacting Yvon Maranda, Direction des politiques de l'eau, ministère du Développement durable, de l'Environnement et des Parcs, édifice Marie-Guyart, 8<sup>e</sup> étage, 675, boulevard René-Lévesque Est, Québec (Québec) G1R 5V7; telephone: 418 521-3885, extension 4117; fax: 418 643-0252; e-mail: yvonmaranda@mddep.gouv.qc.ca

Any person wishing to comment on the draft Regulation is requested to submit written comments to Yvon Maranda using the abovementioned contact information, within the 60-day period.

LINE BEAUCHAMP,  
*Minister of Sustainable Development  
Environment and Parks*

### Regulation respecting the mandatory declaration of water withdrawals

Environment Quality Act  
(R.S.Q., c. Q-2, s. 31, 1st par., subpar. e, s. 46, pars. d, o and s and ss. 109.1 and 124.1)

#### CHAPTER I PURPOSE, DEFINITIONS AND SCOPE

**1.** The purpose of this Regulation is to ensure a better protection of the environment and an improvement of its quality by allowing the Government to know, through the mandatory declaration of water withdrawals, the impact of the withdrawals on water resources and aquatic ecosystems, and to establish measures to prevent conflicting uses of water resources.

This Regulation also seeks to achieve more responsible water use through withdrawal accountability mechanisms by making all water withdrawers in Québec more acutely aware of

- (1) the intrinsic value of water resources; and

(2) the responsibility each person has to preserve the quality of water and sufficient quantity of it to meet the needs of current and future generations.

**2.** The following definitions apply to this Regulation:

“measuring equipment” means a water meter or other apparatus, equipment or device designed to measure, record or evaluate water volume or flow; (*équipement de mesure*)

“withdrawal” means an action that consists in taking surface water or groundwater using any means whatsoever, except water withdrawn by means of a work intended to divert or impound water or to produce hydroelectric power; (*prélèvement*)

“withdrawal site” means a place where water is withdrawn, identified by geo-reference data or, if such data is not available, by means of a description sufficient to situate the site within the corresponding watershed or watersheds, and by its civic address, if any; (*site de prélèvement*)

“withdrawer” means a person or municipality within the meaning of section 1 of the Environment Quality Act (R.S.Q., c. Q-2) that withdraws water. (*préleveur*)

**3.** This Regulation applies to the following water withdrawals of 75 cubic metres or more per day made by a withdrawer:

(1) withdrawals for industrial, commercial, institutional, recreational or wildlife purposes; and

(2) withdrawals for the purpose of supplying a public or private waterworks or treatment, storage or water supply works, whether the water is to be used by an entire population, industries, businesses or institutions.

This Regulation does not apply to

(1) withdrawals of water intended for domestic use, namely withdrawals using a personal well or a surface water intake for the use of one household only;

(2) water withdrawals to supply vehicles, such as vessels and aircraft, either for the needs of the persons or animals being transported or for ballast, or to meet other needs incidental to the operation of those vehicles;

(3) water withdrawals to supply an aircraft or tank vehicle used as firefighting equipment;

(4) water withdrawals from a waterworks or a water supply works; and

(5) withdrawals of water intended for agricultural or fish-breeding purposes.

**4.** This Regulation applies in a reserved area and an agricultural zone established under the Act respecting the preservation of agricultural land and agricultural activities (R.S.Q., c. P-41.1).

## CHAPTER II EVALUATION OF VOLUMES OF WATER WITHDRAWN

**5.** For the purposes of the mandatory declaration provided for in section 9, every withdrawer is required to evaluate the volumes of water withdrawn on a withdrawal site using either of the following methods:

(1) the estimation method, whereby the volumes of water are calculated according to a professional estimate; or

(2) the measuring equipment method, whereby the volumes of water are calculated according to data obtained from measuring equipment.

Where the withdrawer holds a certificate of authorization issued under the Environment Quality Act and fails to use one of the methods in the first paragraph, the quantities of water authorized by the Government or the Minister, as the case may be, for each withdrawal site are to be used to evaluate the volumes withdrawn.

**6.** A withdrawer electing to use the estimation method must obtain an estimate certified by an engineer who is a member of the Ordre des ingénieurs du Québec or a member of another professional order whose field of practice authorizes the member to make such an evaluation of all volumes of water withdrawn in a year.

The certified estimate must indicate a percentage representing the margin of error in the evaluation.

**7.** A withdrawer electing to use the measuring equipment method must comply with the requirements set out in Chapter IV in respect of the equipment used, the taking of measurements with that equipment and the measurement timetable.

**8.** Every new collection work installed after (*insert the date of coming into force of this section*) must be equipped with measuring equipment that meets the requirements set out in Chapter IV in respect of the equipment used, the taking of measurements with that equipment and the measurement timetable.

### CHAPTER III DECLARATION OF WITHDRAWAL ACTIVITIES AND VOLUMES WITHDRAWN AND KEEPING OF A REGISTER

**9.** Every withdrawer that withdraws water is required to send an annual declaration describing the withdrawal activities by specifying the monthly volumes of water to the Minister of Sustainable Development, Environment and Parks, on the form provided by the Minister.

The declaration must be sent on or before 31 March of the year following the calendar year covered by the declaration or, if the withdrawer ceases to withdraw water, within 60 days after the date on which the withdrawals permanently cease.

The declaration must contain

(1) the withdrawer's name, address and telephone number;

(2) the withdrawal sites involved; and

(3) for each of the withdrawal sites,

(a) the name or number of the watershed or watersheds from which the water was withdrawn, referenced using the cartography on the website of the Ministère du Développement durable, de l'Environnement et des Parcs;

(b) the number of days and the dates on which water was withdrawn;

(c) whether the water withdrawn was from surface water or groundwater;

(d) whether or not measuring equipment is used to measure the volumes of water withdrawn;

(e) if the volumes of water withdrawn are not measured using measuring equipment that meets the requirements of this Regulation, the name of the professional who evaluated the total volumes of water withdrawn in the year and a copy of the certified estimate issued by the professional to that effect;

(f) if the volumes of water are measured using measuring equipment that meets the requirements of this Regulation, the total volumes of water withdrawn, expressed in litres;

(g) if measuring equipment that meets the requirements of this Regulation is used, a description of any malfunction, breakdown, abnormality or other defect that affected the operation of the equipment, including the number of days on which the data could not be properly measured by the equipment;

(h) the use to be made of the withdrawals; and

(i) where the withdrawals are for multiple uses, the volumes of water, in percentage or litres, broken down per use.

The declaration must be dated and signed by the person making it and attest to the accuracy of the information it contains.

Documents in support of the declaration must be kept and made available to the Minister for a minimum of 5 years.

**10.** Every withdrawer must keep a register containing the following information:

(1) a brief description of the various withdrawal devices, works or facilities, and measuring equipment, if any;

(2) the results and dates of the measurement of the volumes of water withdrawn where measuring equipment is used;

(3) the volumes of water withdrawn estimated by an engineer or a member of another professional order whose field of practice authorizes the member to make such an evaluation where the estimation method is used;

(4) a description and the date of any malfunction, breakdown, abnormality or other defect that affected the measuring equipment;

(5) the dates and nature of repairs, adjustments and other modifications to the measuring equipment, where applicable; and

(6) the dates and names of the persons who tested the measuring equipment for accuracy and good working order, and maintained the equipment, where applicable.

The register is to be kept by the withdrawer and made available to the Minister for a minimum of 5 years after the date of the last entry.

## CHAPTER IV MEASURING EQUIPMENT

### DIVISION I MEASURING EQUIPMENT REQUIREMENTS

**11.** Unless an authorization or a permit issued by the Government or the Minister, as the case may be, for water withdrawal allows otherwise, measuring equipment must

(1) be installed as close as possible to a withdrawal site so that only one measuring equipment unit is installed per withdrawal site. In the case of multiple withdrawal sites using the same source for the benefit of the same user or in the case of withdrawals made by means of only one collection system, only one measuring equipment unit may be used;

(2) be installed so that no other equipment, device or conduit affects or alters the measuring or is installed between the withdrawal site and the measuring equipment;

(3) be installed in an accessible and appropriate location so as to facilitate to the extent feasible its operation, maintenance, repair, replacement, monitoring or control by any person who needs to have access to the equipment to perform work; if the location is still not readily accessible, the equipment must have a remote reader;

(4) be installed to avoid any danger of damage or distortion of the mechanisms by freezing, fire, vandalism or other acts and incidents; and

(5) be maintained in proper working order and be promptly adjusted, repaired or replaced in the event of malfunction, breakdown or other failure.

**12.** To maintain measuring equipment in proper working order, the withdrawer must ensure, among other things,

(1) that the measuring equipment is maintained on a regular basis and tested for the accuracy of its readings at least once a year, in accordance with the instructions provided by the equipment manufacturer and installer, where applicable; and

(2) that the measuring equipment functions adequately at all times for the water withdrawals being measured, by replacing the equipment as needed by other equipment or equipment of a different nature if there is a change in the level of withdrawal activities or in the water level or flow.

For the purposes of this section, when the operation of the equipment is tested for accuracy, or during calibration, equipment that under normal operating conditions records a discrepancy that does not exceed 10% is not considered to be defective equipment.

### DIVISION II MEASUREMENT REQUIREMENTS

**13.** The measuring equipment must give a reading that shows the volume of water withdrawn.

In case of discrepancy between the data from any remote reader and those from the measuring equipment itself, only the data from the measuring equipment is to be considered.

**14.** If more than one measuring equipment unit is present for withdrawals by the same person, the volumes withdrawn are the sum of the data obtained in the year from all units.

For the purpose of calculating withdrawals, the person responsible for the withdrawals is required to take the reading of volume data from the measuring equipment at least once a month, unless the equipment shows only the maximum instantaneous flow, in which case the annual volume is calculated daily on the basis of that data.

The results of the readings or measurements and their dates must be entered in the register kept by the withdrawer in accordance with this Regulation.

**15.** If the measuring equipment ceases to function or malfunctions, or a discrepancy in a reading is detected in comparison with an earlier reading, the calculation of the volumes of water withdrawn in the period involved must be estimated on the basis of a 5-day average of the most recent withdrawals that are similar.

In every case where the measuring equipment cannot reasonably be restored to proper working order or replaced within one month, the volumes of water withdrawn during the period involved are to be calculated in proportion to the volumes withdrawn outside that period or, if that is not feasible, to the volumes withdrawn during the same period in the preceding year.

## CHAPTER V OFFENCE PROVISION

**16.** A withdrawer is liable to the fines in the second paragraph if the withdrawer

(1) fails to evaluate the volumes of water withdrawn, in contravention of the provisions of this Regulation;

(2) fails to keep or make available to the Minister documents or the register that must be kept up-to-date, in contravention of the provisions of this Regulation;

(3) enters false or inaccurate information in a document or sends a document containing false or inaccurate information, or fails to enter the required data in a document;

(4) uses, to measure the volumes of water withdrawn, measuring equipment that does not meet the requirements of Division I of Chapter IV, where the withdrawer elects to use the measuring equipment method; or

(5) tampers with or alters the proper functioning or reading of the measuring equipment or diverts water or otherwise affects the direction, flow rate or streamflow of water, so as to alter the evaluation required under this Regulation of the volume of withdrawals.

In the case of a natural person, the minimum fine is \$10,000 and the maximum fine is \$25,000 for a first offence and, for a subsequent offence, the minimum fine is \$25,000 and the maximum fine is \$50,000. In the case of a legal person, the minimum fine is \$25,000 and the maximum fine is \$500,000 for a first offence and, for a second offence, the minimum fine is \$250,000 and the maximum fine is \$1,200,000 and, for a subsequent offence, the minimum fine is \$550,000 and the maximum fine is \$1,500,000.

## CHAPTER VI AMENDING, TRANSITORY AND FINAL PROVISIONS

**17.** Sections 58 and 59 of the Groundwater Catchment Regulation, made by Order in Council 609-2002 dated 12 June 2002, are amended by striking out their second sentence.

**18.** Every withdrawer must, not later than 30 September 2009, send the Minister a declaration that contains

(1) the withdrawer's name, address and telephone number;

(2) the withdrawal sites involved; and

(3) for each of the withdrawal sites,

(a) the name or number of the watershed or watersheds from which the water was withdrawn, referenced using the cartography on the website of the Ministère du Développement durable, de l'Environnement et des Parcs;

(b) whether the water withdrawn was from surface water or groundwater;

(c) whether or not measuring equipment is used to measure the volumes of water withdrawn; and

(d) the use to be made of the withdrawals.

The declaration must be dated and signed by the person making it and attest to the accuracy of the information it contains.

**19.** The obligation in section 9 to send the declaration prescribed therein to the Minister applies as of the year 2009 and must be sent not later than 31 March 2010.

**20.** Five years after the coming into force of this Regulation, the Minister of Sustainable Development, Environment and Parks must report to the Government on the implementation of this Regulation, including on the advisability of amending certain provisions to reflect the evolution of scientific knowledge and techniques.

The report is to be made available to the public not later than 15 days after being sent to the Government.

**21.** This Regulation comes into force on the fifteenth day following the date of its publication in the *Gazette officielle du Québec*.

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