# Draft Regulations

## Draft Regulation

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

**Recovery and reclamation of products by enterprises**

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 recovery and reclamation of products by enterprises, appearing below, may be made by the Government on the expiry of 60 days following this publication.

The purpose of the draft Regulation is to reduce the quantities of residual materials to be eliminated by giving responsibility to enterprises as to the recovery and reclamation of some of the products they market. Those products are electronic products, batteries, mercury lamps, paints and paint containers, as well as used oils, coolants, antifreeze and their filters and containers.

The draft Regulation provides that enterprises must, within the time allowed, implement a recovery and reclamation program for the products they market that complies with the requirements of the Regulation, and send the information related to the program to the Minister. Enterprises must set up collection points, in the number and of the types required by the Regulation, where all types of products similar to those they market may be deposited for recovery, or must, in certain cases, offer a collection service for those products.

In addition, enterprises will have to send the Minister an annual report assessing the performance of their program. The program must make it possible to attain the annual rates of recovery provided for in the Regulation for the products concerned. Failing that, enterprises will have to pay into the Green Fund an amount corresponding to the difference between the prescribed rate and the rate attained.

Further information may be obtained by contacting Mario Bérubé, Service Head, Service des matières résiduelles, Direction des politiques en milieu terrestre, Ministère du Développement durable, de l'Environnement et des Parcs; telephone: 418 521-3950, extension 4970; e-mail: mario.berube3@mddep.gouv.qc.ca; fax: 418 644-3386.

Any person wishing to comment on the draft Regulation is requested to submit written comments within the 60-day period to Mario Bérubé, Service Head, Service des matières résiduelles, Direction des politiques en milieu terrestre, Ministère du Développement durable, de l'Environnement et des Parcs, édifice Marie-Guyart, 675, boulevard René-Lévesque Est, 9e étage, boîte 71, Québec (Québec) G1R 5V7.

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

## Regulation respecting the recovery and reclamation of products by enterprises

Environment Quality Act
(R.S.Q., c. Q-2, ss. 31, 53.30, 70.19, 1st par., subpar. 15, and 109.1)

**CHAPTER I**
PURPOSE

**1.** The purpose of this Regulation is to reduce the quantities of residual materials to be eliminated by giving enterprises responsibility for the recovery and reclamation of the products referred to in Chapter VI and marketed by them and by promoting the design of products more respectful of the environment.

**CHAPTER II**
RECOVERY AND RECLAMATION PROGRAM

**2.** Every enterprise that markets a new product referred to in this Regulation under a brand, a name or a distinguishing guise owned or used by the enterprise must recover and reclaim, or cause to be recovered and reclaimed, by means of a recovery and reclamation program developed in accordance with section 5, any product of the same type as the product marketed by the enterprise and that is deposited at one of its collection points or for which the enterprise offers, if applicable, a collection service.

If a product is marketed under more than one brand, name or distinguishing guise, the obligation provided for in the first paragraph falls on the enterprise responsible for the product's design.

Despite the first and second paragraphs, that obligation falls on the enterprise that acts as the first supplier of that product in Québec, whether or not the enterprise is the importer, in the following cases:

(1) the enterprise referred to in the first or second paragraph has no domicile or establishment in Québec;

(2) the enterprise that markets the product acquires the product outside Québec, regardless of whether the enterprise owning or using the brand, name or distinguishing guise has a domicile or establishment in Québec; or

(3) a product does not bear any brand, name or distinguishing guise.

Where enterprises referred to in this section are part of the same chain, franchise or banner, they may form a group to develop, in accordance with section 5, a common recovery and reclamation program pertaining to the products referred to in this Regulation and marketed by them under the same brand, name or distinguishing guise, or for which they act as first supplier. The group is then considered as an enterprise for the purposes of this Regulation.

**3.** The provisions of this Regulation apply, with the necessary modifications, to an enterprise that markets a product a component of which is a product covered by this Regulation, whether the main product is covered or not.

However, if the component is indissociable from the main product in such a way as it is normally discarded with the main product, the enterprise is required to recover only the components contained in products of the same type as the main product marketed by the enterprise.

This section does not apply to an enterprise that is a small supplier within the meaning of the Act respecting the Québec sales tax (R.S.Q., c. T-0.1).

**4.** An enterprise referred to in section 2, 3 or 8 is exempt from the requirements of this Regulation, subject to the requirement in section 12, if the enterprise, to ensure the recovery and reclamation of a product referred to in this Regulation and marketed by it, is a member of an organization

(1) the function or one of the functions of which is to implement or to contribute financially towards the implementation of a recovery and reclamation system for discarded products, in accordance with the conditions determined in an agreement entered into under subparagraph 7 of the first paragraph of section 53.30 of the Environment Quality Act (R.S.Q., c. Q-2); and

(2) the name of which appears on a list published in the *Gazette officielle du Québec* in accordance with subparagraph 7 of the first paragraph of section 53.30 of the Environment Quality Act.

**5.** A recovery and reclamation program must

(1) provide for the management of recovered products to ensure their reclamation as a priority, by focusing on reuse, recycling, biological reclamation and energetic reclamation, or ultimately their elimination, in that order, subject to the following cases:

*(a)* an analysis of the life cycle, complying with the applicable ISO standards and taking into account the perenniality of resources and the externalities of management methods, shows that a method is more advantageous than another in environmental terms;

*(b)* the existing technology in the field of residual material management does not allow for the use of a management method in the prescribed order;

(2) ensure that the management of recovered products, including the transportation, storage, sorting, consolidation and treatment of the recovered products, is carried out by the enterprise or service provider referred to in paragraph 9 of section 6 in accordance with the best practices and accepted standards;

(3) provide for operating rules, criteria and requirements to be complied with by a service provider selected for the management of recovered products and provide for measures to ensure compliance;

(4) make possible the follow-up of the products and materials, from their recovery to the final reclamation destination;

(5) favour the local or regional management of residual materials;

(6) provide for collection points and, if applicable, collection services in accordance with Chapter V;

(7) provide for the management of containers and other packages not covered by this Regulation and used to bring the products to the collection points, by focusing on recycling, biological reclamation, energetic reclamation and elimination;

(8) provide for information, awareness and education activities to inform the clientele using the products of the environmental benefits of their recovery and reclamation, and of the available collection points and services so as to favour their participation;

(9) include a research and development aspect pertaining to the recovery and reclamation techniques for the recovered products and materials and the development of markets for those products and materials;

(10) determine the actual costs related to the recovery and reclamation of each product subcategory and, not later than 3 years after the implementation of a program, adjust those costs for each product on the basis of characteristics such as toxicity, recyclability, recycled material content, lifespan or impact on the environment and on the reclamation process;

(11) provide for measures to verify the effectiveness of the program;

(12) provide for the audit, by a person holding a university degree in environmental audit issued by an educational institution at the university level within the meaning of the Act respecting educational institutions at the university level (R.S.Q., c. E-14.1) or issued by a university of another province or a territory, of the management of recovered products and the operating rules, criteria and requirements referred to in paragraph 3.

**6.** Not later than 3 months before the implementation of its recovery and reclamation program, an enterprise referred to in section 2 or 3 must submit the following information and documents to the Minister:

(1) in the case of an enterprise implementing an individual recovery and reclamation program:

*(a)* its name and address, telephone and fax numbers and e-mail address;

*(b)* the business number assigned under the Act respecting the legal publicity of sole proprietorships, partnerships and legal persons (R.S.Q., c. P-45); and

*(c)* in the case of a legal person, partnership, association or organization, the name and contact information of its representative;

(2) in the case of a group of enterprises implementing a common recovery and reclamation program:

*(a)* the information referred to in subparagraph 1 concerning the group and each enterprise in the group; and

*(b)* a resolution from each enterprise attesting to its participation in the group;

(3) the name and contact information of the person in charge of the program;

(4) each type of product marketed by the enterprise and the brand, name or distinguishing guise owned or used by the enterprise or, as the case may be, that information concerning a product for which the enterprise acts as first supplier;

(5) the estimated quantity of each type of product marketed during a year;

(6) the regional municipality or territory referred to in sections 16 and 17 where each type of product is marketed and the type of marketing used, such as wholesale, retail sale, distance selling or house-to-house selling;

(7) a list of the collection points, including their number, type, address and business days and hours, the types of products accepted and, if applicable, their maximum threshold for a deposit by industrial, commercial and institutional clients, and a description of the other types of collection services offered and for whom they are intended;

(8) a description of the residual material management methods used for each type of product, including the conditions of transportation, storage, sorting, consolidation and treatment of the recovered products.

Where a management method referred to in paragraph 1 of section 5 may not be used for one of the reasons provided for in subparagraphs *a* and *b* of paragraph 1 of that section, an analysis of the life cycle or a demonstration to the effect that the existing technology does not allow for the use of a management method in the prescribed order must be provided to the Minister;

(9) the names and contact information of the providers whose services have been retained for the management of residual materials, the operating rules, criteria and requirements they must comply with under the program;

(10) a description of the measures to verify the effectiveness of the program;

(11) a description of the measures proposed for the environmental audit of the management of recovered products and the operating rules, criteria and requirements referred to in paragraph 9;

(12) a description of the means proposed for the management of containers and other packages not covered by this Regulation and that were used to bring products to collection points;

(13) the planned destination for the final reclamation of the recovered products and materials, including the names and addresses of the addressees and, if a type of product or material is to be eliminated, the elimination method and site for each type and the name and contact information of the person in charge of that site; and

(14) a description and a schedule of the proposed information, awareness and education activities and research and development activities.

**7.** The cost related to the implementation of a recovery and reclamation program for a type of product may be attributed only to that type of product and must be incorporated in the price charged for the product.

**8.** An enterprise, including a municipality, that acquires products covered by this Regulation directly from an enterprise having no establishment in Québec or that manufactures such products for its own use must recover and reclaim, or cause to be recovered and reclaimed, those products after use.

That enterprise must provide for the management of recovered products in accordance with paragraph 1 of section 5.

Where a management method referred to in paragraph 1 of section 5 may not be used for one of the reasons provided for in subparagraphs *a* and *b* of paragraph 1 of section 5, one of the documents referred to in the second paragraph of paragraph 8 of section 6 must be provided to the Minister.

**CHAPTER III**
ANNUAL REPORT, MASS BALANCE AND REGISTER

**9.** Not later than 31 March of each year, an enterprise referred to in section 2 or 3 must submit to the Minister a report assessing the performance of its recovery and reclamation program for the preceding calendar year and including the following information and documents:

(1) for each product subcategory, the quantity of each type of product marketed and, if applicable, according to their brand, name or distinguishing guise;

(2) the quantities and types of toxic materials within the meaning of the Regulation respecting hazardous materials and amending various regulatory provisions, made by Order in Council 1310-97 dated 8 October 1997, contained in all the marketed products of each product subcategory;

(3) for each product subcategory, the quantity of products recovered, the rate of recovery in percentage calculated in accordance with Chapter VI and the quantity and proportions of those products that have been reused, recycled, otherwise reclaimed or eliminated in accordance with the program.

In the case of a change in a management method for one of the reasons provided for in subparagraphs *a* and *b* of paragraph 1 of section 5, the enterprise must also provide one of the documents mentioned in the second paragraph of paragraph 8 of section 6;

(4) if applicable, the total quantity of stored products or materials and, where the stored quantity is 10% or more greater than the quantity stored in the previous year, the reasons for that situation;

(5) if applicable, the quantity of indissociable components forming a product covered by this Regulation and that have been recovered, and the quantity of components that have been reused, recycled, otherwise reclaimed, stored or eliminated;

(6) all types of products considered, a mass balance stating the quantity and nature of materials that were recovered, according to whether they were reused, recycled, otherwise reclaimed, stored or eliminated, and identifying the matters forming more than 3% of those materials and a description of the methodology used to carry out the mass balance;

(7) the final reclamation destination of the recovered products and materials, including the names and addresses of the addressees and, if a type of product or material is to be eliminated, the elimination site for each type and the name and contact information of the person in charge of that site;

(8) a description of the information, awareness and education activities and research and development activities that took place during the year and those planned for the following year;

(9) the costs related to the implementation of the recovery and reclamation program, specifying the costs associated with

*(a)* the recovery, reuse, recycling, any other reclamation or the elimination of all the products covered by a program and the costs broken down into each type of product;

*(b)* the information, awareness-raising and education of the clientele;

*(c)* research and development; and

*(d)* program management;

(10) the adjusted costs for each product in accordance with paragraph 10 of section 5 and the characteristics retained for that adjustment;

(11) a description of the measures implemented during the year to verify the effectiveness of the program;

(12) a description of the environmental audit carried out for the year in accordance with paragraph 12 of section 5, including the names, addresses and qualifications of the persons whose services were retained, the findings and, if applicable, the adjustments to be made; and

(13) any amendment to the recovery and reclamation program and to the information referred to in section 6.

The information referred to in the first paragraph must be verified by a chartered accountant, a certified management accountant or a certified general accountant who certifies its truthfulness, if applicable.

**10.** An enterprise referred to in section 2 or 3 must also, every 5 years and on the basis of the information referred to in section 9, attach to the annual report an assessment of the implementation and effectiveness of the recovery and reclamation program for the 5 preceding years that also specifies the orientations and priorities for the 5 following years.

**11.** Not later than 31 March of each year, an enterprise referred to in section 8 must send the Minister a report containing the following information for the preceding calendar year:

(1) the quantity of products acquired outside Québec or made for the enterprise's own use;

(2) the management methods used in accordance with section 8 for the management of recovered products and materials and, if applicable, the names and addresses of the service providers retained;

(3) the quantity of products recovered and the quantity of those products that have been reused, recycled, otherwise reclaimed or eliminated;

(4) if applicable, the total quantity of stored products or materials, the duration of the storage and, where the stored quantity is 10% or more greater than the quantity stored in the previous year, the reasons for that situation;

(5) the final reclamation destination of the recovered products and materials.

In the case of a change in a management method for one of the reasons provided for in subparagraphs *a* and *b* of paragraph 1 of section 5, the enterprise must also provide the Minister with one of the documents referred to in the second paragraph of paragraph 8 of section 6.

**12.** An enterprise referred to in section 2 or 3 or an enterprise forming part of a group must enter every month in a register the marketed quantities of each type of products covered by this Regulation and, upon request from the Minister, send the Minister a copy of any information entered in the register.

The register must be kept for 5 years from the date of the last entry.

**CHAPTER IV**
PAYMENT TO THE GREEN FUND

**13.** Should it fail to attain the minimum rate of recovery provided for in Chapter VI for the subcategory of products corresponding to the products it markets, an enterprise referred to in section 2 or 3 must pay the Minister an amount calculated according to the following formula:

Payment to the Green Fund= ((A-B) xC) x D

A = minimum rate of recovery provided for in Chapter VI according to the subcategory of products;

B = rate of recovery attained for the subcategory of products;

C = as the case may be,

(1) quantity of products marketed during the reference year for that subcategory of products; or

(2) quantity of products considered available for recovery under Chapter VI during the reference year for that subcategory of products; if the quantities of products considered available for recovery vary according to the types of products in a single subcategory, the value used for all those products must be weighted according to each type of product marketed;

D = calculation value provided for in Chapter VI according to the subcategory of product.

**14.** Payment of the amount payable for a year must be made not later than 31 March of the following year and be attached to the annual report referred to in section 9.

Amounts not paid within the time allowed bear interest from the date of default at the rate determined in accordance with the first paragraph of section 28 of the Act respecting the Ministère du Revenu (R.S.Q., c. M-31).

If the delay exceeds 60 days, 15% of the unpaid amount is added to any amount due, in addition to interest.

The amounts thus obtained are paid into the Green Fund in accordance with paragraph 5 of section 15.4 of the Act respecting the Ministère du Développement durable, de l'Environnement et des Parcs (R.S.Q., c. M-30.001).

**CHAPTER V**
COLLECTION POINTS AND SERVICES

**15.** A collection point is permanent or seasonal.

A permanent collection point is fixed and accessible all year long, on a regular weekly basis, including at least a weekend day per month.

A seasonal collection point is fixed or mobile and accessible from time to time during each season for at least one week day and one weekend day at a same place.

**16.** Subject to sections 17, 19, 21 and 22, an enterprise referred to in section 2 or 3 must set up collection points whose number, type and location correspond to one of the following options:

(1) for each business or other place where that enterprise's products are marketed, a permanent collection point at the business or place or at any other location less than 5 kilometres from the business or place by roads usable by motor vehicles year round;

(2) for any regional municipality, other than those referred to in section 17, in the territory of which the products of that enterprise are marketed:

*(a)* where the population is less than 15,000 inhabitants, at least 1 seasonal collection point, unless the territory of the regional municipality is more than 3,000 $km^2$, in which case there must be at least 2 seasonal collection points;

*(b)* where the population is at least 15,000 inhabitants but less than 25,000 inhabitants, at least 1 permanent collection point and 1 seasonal collection point; if the territory of the regional municipality is more than 3,000 $km^2$, there must be an additional permanent or seasonal collection point;

*(c)* where the population is at least 25,000 inhabitants but less than 100,000 inhabitants, at least 1 permanent collection point for each of the first 2 full groups of 25,000 inhabitants and 1 seasonal collection point for each additional group of not more than 15,000 inhabitants;

*(d)* where the population is 100,000 inhabitants or more, at least 3 permanent collection points for the first group of 100,000 inhabitants and 1 permanent collection point for each additional group of not more than 50,000 inhabitants.

Where more than 1 collection point is required in the territory of a regional municipality, the collection points must be spread over the territories of different local municipalities.

For each regional municipality or territory referred to in subparagraph 2 of the first paragraph, there must be at least 1 collection point in operation as soon as the program is implemented. Two-thirds of all the collection points must be in operation as of the first anniversary of the program's implementation and all collection points as of the second anniversary.

For the purposes of this Chapter, the expression "regional municipality" has the meaning assigned by the second paragraph of section 53.5 of the Environment Quality Act.

**17.** In the case of the regional municipalities of La Minganie and Caniapiscau, the territory of the James Bay region, as described in the schedule to the James Bay Regional Development and Municipal Organization Act (R.S.Q., D-8.2), the territory governed by the Kativik Regional Government, as described in paragraph *v* of section 2 of the Act respecting Northern villages and the Kativik Regional Government (R.S.Q., c. V-6.1), as well as any territory not referred to in subparagraph 2 of the first paragraph of section 16 in which the products of an enterprise referred to in section 2 or 3 are marketed, that enterprise may, instead of setting up collection points in accordance with subparagraph 1 of the first paragraph of section 16, set up, for each Native or Innu community in those territories, at least 1 collection point, fixed or mobile, accessible at least 2 days per year, with at least 4 months between each day.

**18.** A fixed collection point must be so located as to limit as much as possible the distance to travel to reach it for most inhabitants of the territory covered by the recovery and reclamation program. Where there is more than one fixed collection point in a territory, they must be so located as to serve as many inhabitants as possible.

In addition, the business days and hours of such a collection point must be posted at an appropriate place on the site of the collection point in a way that makes them visible from the outside.

**19.** An enterprise may fix a maximum threshold for the deposit of products at a collection point where those products come from an industrial, commercial or institutional clientele. In such case, the enterprise must offer that clientele a complementary collection service to collect the products in the same territory as that collection point.

Where an enterprise markets a product by distance selling and elects the option referred to in subparagraph 1 of the first paragraph of section 16 as to its collection points, it must, for the clientele residing in the territory of a regional municipality or in another territory where it has no collection point, offer the clientele a complementary collection service to collect that product in that territory.

**20.** Where a product is usually delivered to the buyer by reason of its size, a collection service must also be offered directly at the buyer's place.

**21.** Sections 16 and 17 do not apply to an enterprise referred to in section 2 or 3 that markets a product exclusively for industrial, commercial or institutional clienteles, for their own consumption, if the enterprise offers for that product a collection service directly at the place of those clienteles.

They do not apply either to an enterprise that offers to any person a collection service on request, at least once a month, directly at the place of that person, or a collection service by return mail.

**22.** Access to and the deposit of products at the collection points referred to in sections 16 and 17 and the collection services referred to in sections 19 to 21 must be free of charge.

**CHAPTER VI**
CATEGORIES OF PRODUCTS COVERED

**DIVISION 1**
ELECTRONIC PRODUCTS

**23.** The products covered by this Division are electronic appliances used to send, receive, display, store, record or save information, images, sounds or waves, and their accessories, except products designed and intended to be used in an industrial, commercial or institutional environment exclusively.

The subcategories of electronic products covered are

(1) desktop computers;

(2) laptop computers;

(3) handheld computers and tablet PCs;

(4) computer screens;

(5) television sets;

(6) printers;

(7) cellular and satellite telephones, wireless and conventional telephones and their hands-free devices, pagers and answering machines;

(8) keyboards, mouses, cables, connectors, remote controls and ink cartridges designed to be used with a product covered by this Division;

(9) scanners, faxes and photocopiers;

(10) video game consoles and their peripherals;

(11) players, recorders, burners, sound, image and wave storage devices, amplifiers, frequency equalizers and digital receivers;

(12) portable digital players, e-book readers, radio receivers, walkie-talkies, digital cameras, digital photo frames, camcorders and global positioning systems;

(13) routers, servers, hard disks, memory cards, USB keys, speakers, webcams, earphones and other wireless devices designed to be used with a product covered by this Division.

For the purposes of this Division, a handheld device one of the functions of which is a telephone is considered to be that type of electronic product.

**24.** For the purposes of this Regulation, every quantity of products referred to in the second paragraph of section 23 must be calculated,

(1) in the case of products referred to in subparagraphs 1, 4 and 5, in units;

(2) in the case of the other products, in units or equivalent weight.

Where a quantity is calculated in weight, it must be accompanied by the conversion factor and the methodology used to establish that factor.

**25.** An enterprise referred to in section 2 that markets products referred to in the second paragraph of section 23 must implement its recovery and reclamation program not later than,

(1) in the case of products referred to in subparagraphs 1 to 8, (*insert the date that occurs 1 year after the coming into force of this Regulation*);

(2) in the case of products referred to in subparagraphs 9 to 13, (*insert the date that occurs 2 years after the coming into force of this Regulation*);

(3) where the marketing of such a product is subsequent to the date referred to in subparagraph 1 or 2, the date of marketing of the product.

An enterprise referred to in section 3 that markets a product one component of which is a product referred to in the second paragraph of section 23 must implement its recovery and reclamation program not later than (*insert the date that occurs 2 years after the coming into force of this Regulation*) or, if the date of marketing of the product is subsequent to that date, the date of marketing of the product.

**26.** In addition to what is provided in section 5, the recovery and reclamation program of an enterprise referred to in section 2 or 3 that markets products covered by this Division must include measures aimed at destroying personal and confidential information that may be contained in recovered and reclaimed electronic products.

A description of the measures must be sent to the Minister with the information referred to in section 6.

**27.** In the case of an enterprise referred to in section 2 or 3 that markets products referred to in subparagraphs 4 and 5 of the second paragraph of section 23, the information to be included in the annual report and referred to in subparagraphs 1 and 3 and in subparagraph *a* of subparagraph 9 of the first paragraph of section 9 must be provided per product type and according to size.

In addition, the enterprise's annual report must also describe the measures referred to in the first paragraph of section 26 that have been applied in the year, and specify the average age of the recovered products; the documents supporting the estimation must be attached to the report.

**28.** As of the third complete calendar year following the implementation of a recovery and reclamation program, the minimum rates of recovery that must be attained yearly by an enterprise referred to in section 2 or 3 that markets products referred to in the second paragraph of section 23 must be equal to the following percentages:

(1) in the case of products referred to in subparagraphs 1 to 6 and 9 to 11, the minimum rate for all the products in each subcategory is 40%, which is increased by 5% per year until a 65% rate is attained;

(2) in the case of products referred to in subparagraphs 7 and 12, the minimum rate for all the products in each subcategory is 25%, which is increased by 5% per year until a 65% rate is attained.

The rates are calculated on the basis of the quantity of products marketed in the following reference year:

(1) in the case of products referred to in subparagraph 5, the year preceding by 10 years the year for which the rate is calculated;

(2) in the case of products referred to in subparagraph 7, the year preceding by 3 years the year for which the rate is calculated;

(3) in the case of the other products, the year preceding by 5 years the year for which the rate is calculated.

Where the time elapsed since the date of the first marketing of such products by an enterprise is less than the time prescribed by subparagraphs 1 to 3 of the second paragraph, that date is considered to be the reference year for those products until the time prescribed by those subparagraphs has elapsed.

Where, pursuant to subparagraphs 1 to 3 of the second paragraph, the reference year is prior to the year (*insert the year in which this Regulation comes into force)*, that year is considered to be the reference year until the time prescribed by those subparagraphs has elapsed.

**29.** For the purpose of calculating the amount payable under Chapter IV, the values applicable to the products referred to in the second paragraph of section 23 are the following:

(1) in the case of products referred to in subparagraph 1, $20 per unit;

(2) in the case of products referred to in subparagraphs 2 and 10, $5 per unit or equivalent weight;

(3) in the case of products referred to in subparagraphs 3 and 12, $2 per unit or equivalent weight;

(4) in the case of products referred to in subparagraph 4, $25 per unit;

(5) in the case of products referred to in subparagraph 5, $75 per unit;

(6) in the case of products referred to in subparagraphs 6 and 9, $12 per unit or equivalent weight;

(7) in the case of products referred to in subparagraph 7, $1 per unit or equivalent weight;

(8) in the case of products referred to in subparagraph 11, $8 per unit or equivalent weight.

**DIVISION 2**
BATTERIES

**30.** The subcategories of batteries covered are the following:

(1) rechargeable batteries of any shape and batteries composed of such batteries, except those designed to be used in vehicles or for industrial purposes;

(2) single use button cells and batteries composed of such cells;

(3) single use cylindrical batteries and batteries composed of such batteries.

**31.** For the purposes of this Regulation, every quantity of products referred to in section 30 must be calculated in units or equivalent weight.

Where a quantity is calculated in weight, it must be accompanied by the conversion factor and the methodology used to establish that factor.

**32.** Every enterprise that markets the products referred to in section 30 must implement its recovery and reclamation program not later than,

(1) in the case of an enterprise referred to in section 2, (*insert the date that occurs 1 year after the date of the coming into force of this Regulation*) or the date of marketing of such a product if the date of marketing is subsequent to that date;

(2) in the case of an enterprise referred to in section 3, (*insert the date that occurs 2 years after the date of coming into force of this Regulation*) or the date of marketing of such a product if the date of marketing is subsequent to that date.

**33.** In addition to the information in section 9, an enterprise referred to in section 2 or 3 that markets products referred to in section 30 must indicate in its annual report the average age of the recovered products; the documents supporting the estimation must be attached to the report.

In addition, the mass balance required by subparagraph 6 of the first paragraph of section 9 must specify any quantity of recovered mercury and the quantity of mercury that was reused, recycled, otherwise reclaimed, stored or eliminated.

**34.** As of the third complete calendar year following the implementation of a recovery and reclamation program, an enterprise referred to in section 2 or 3 that markets the products referred to in section 30 must ensure annually, for all the products of each subcategory, a minimum rate of recovery equivalent to 25%, which is increased by 5% per year until a 65% rate is attained.

The rates are calculated on the basis of the quantity of products marketed in the year preceding by 5 years the year for which the rate is calculated.

Where the time elapsed since the date of the first marketing of such products by an enterprise is less than 5 years, the date of marketing is considered to be the reference year for those products until 5 years have elapsed.

Where, pursuant to the second paragraph, the reference year is prior to the year (*insert the year in which this Regulation comes into force)*, that year is considered to be the reference year until 5 years have elapsed.

**35.** For the purpose of calculating the amount payable under Chapter IV, the values applicable to the products referred to in section 30 are the following:

(1) in the case of products referred to in paragraph 1, $0.50 per unit or equivalent weight;

(2) in the case of products referred to in paragraph 2, $0.10 per unit or equivalent weight;

(3) in the case of products referred to in paragraph 3, $0.20 per unit or equivalent weight.

**DIVISION 3**
MERCURY LAMPS

**36.** The subcategories of mercury lamps covered are the following:

(1) fluorescent tubes;

(2) compact fluorescent lamps;

(3) any other type of lamp that contains mercury.

**37.** For the purposes of this Regulation, every quantity of products referred to in section 36 must be calculated,

(1) in the case of products referred to in paragraph 1, in linear feet or equivalent weight;

(2) in the case of products referred to in paragraph 2, in units or equivalent weight;

(3) in the case of products referred to in paragraph 3, in kilograms.

Where a quantity of products referred to in paragraphs 1 and 2 of section 36 is calculated in weight, it must be accompanied by the conversion factor and the methodology used to establish that factor.

**38.** Every enterprise that markets the products referred to in section 36 must implement its recovery and reclamation program not later than,

(1) in the case of an enterprise referred to in section 2, (*insert the date that occurs 1 year after the date of coming into force of this Regulation*) or the date of marketing of such a product if the date of marketing is subsequent to that date;

(2) in the case of an enterprise referred to in section 3, (*insert the date that occurs 2 years after the date of coming into force of this Regulation*) or the date of marketing of such a product if the date of marketing is subsequent to that date.

**39.** The information, awareness and education activities referred to in paragraph 8 of section 5 and provided for in the recovery and reclamation program of an enterprise referred to in section 2 or 3 that markets mercury lamps must include specific activities adapted to various uses and clienteles, such as tanning salons, and showing them, in particular, the manner to clean up and manage mercury debris and releases in case of lamp breakage.

In addition to the information in section 9, the annual report of the enterprise must also specify

(1) any quantity of mercury recovered and the quantity of mercury that was reused, recycled, otherwise reclaimed, stored or eliminated;

(2) the details of the information, awareness and education activities referred to in the first paragraph;

(3) the average age of the recovered products; the documents supporting the estimation must be attached to the report.

**40.** As of the third complete calendar year following the implementation of a program, the minimum rates of recovery that must be ensured annually by an enterprise referred to in section 2 or 3 that markets products referred to in section 36 must be equal to the following percentages:

(1) in the case of products referred to in paragraphs 1 and 3, the minimum rate for all the products in each subcategory is 50%, which is increased by 10% per year until a 70% rate is attained, which is then increased by 5% per year until an 80% rate is attained;

(2) in the case of products referred to in paragraph 2, the minimum rate for all the products in that subcategory is 40%, which is increased by 10% per year until a 70% rate is attained, which is then increased by 5% per year until an 80% rate is attained.

The rates are calculated on the basis of the quantity of products marketed in the following reference year:

(1) in the case of products referred to in paragraphs 1 and 3 of section 36, the year preceding by 3 years the year for which the rate is calculated;

(2) in the case of products referred to in paragraph 2 of section 36, the year preceding by 5 years the year for which the rate is calculated.

Where the time elapsed since the date of the first marketing of such products by an enterprise is less than the time prescribed by subparagraphs 1 and 2 of the second paragraph, the year of marketing is considered to be the reference year for those products until the time prescribed by those subparagraphs has elapsed.

Where, pursuant to subparagraph 2 of the second paragraph, the reference year is prior to the year (*insert the year in which this Regulation comes into force)*, that year is considered to be the reference year until 5 years have elapsed.

**41.** For the purpose of calculating the amount payable under Chapter IV, the values applicable to the products referred to in section 36 are the following:

(1) in the case of products referred to in paragraph 1, $0.20 per linear foot or equivalent weight;

(2) in the case of products referred to in paragraph 2, $0.75 per unit or equivalent weight;

(3) in the case of products referred to in paragraph 3, $2.00 per kilogram.

**DIVISION 4**
PAINT AND PAINT CONTAINERS

**42.** For the purposes of this Division, stains, primers, varnishes, lacquers and wood or masonry treatment or protection products are considered to be paints.

**43.** The products covered by this Division are paint marketed in containers of not less than 100 millilitres and not more than 50 litres and paint containers, except paint designed and intended to be used exclusively for industrial or artistic purposes.

The subcategories of products covered are the following:

(1) latex paint;

(2) alkyd or enamel paint, metal and rust paint, types of paint other than those in paragraphs 1 and 3, stains, primers, varnishes, lacquers, wood or masonry treatment or protections products and any other similar preparation;

(3) spray paint and spray paint containers, as well as all types of containers used for marketing the products referred to in paragraphs 1 and 2.

**44.** For the purposes of this Regulation, every quantity of products referred to in the second paragraph of section 43 must be calculated,

(1) in the case of products referred to in paragraphs 1 and 2, in kilograms or equivalent volume;

(2) in the case of products referred to in paragraph 3, in kilograms and equivalent volume capacity.

Where a quantity is calculated in volume, it must be accompanied by the conversion factor and the methodology used to establish that factor.

**45.** Every enterprise referred to in section 2 that markets the products referred to in the second paragraph of section 43 must implement its recovery and reclamation program as soon as such a product is marketed.

**46.** Every enterprise referred to in section 2 that markets products covered by this Division must attach to the assessment required by section 10 a study assessing the quantities of residual paint available for recovery.

**47.** As of the third complete calendar year following the implementation of a recovery and reclamation program, an enterprise referred to in section 2 that markets products referred to in the second paragraph of section 43 must ensure annually, for all the products in each subcategory, a minimum rate of recovery of 75%, which is increased to 80% as of the fifth complete year following the implementation of the program.

Despite the first paragraph, in the case of an enterprise that markets products covered by this Division on (*insert the date of coming into force of this Regulation*), the enterprise must ensure the minimum rate of 75% as of the first complete calendar year following the implementation of a recovery and reclamation program developed in accordance with this Regulation.

The rates are calculated on the basis of the quantity considered available for recovery, namely:

(1) in the case of products referred to in subparagraphs 1 and 2 of the second paragraph of section 43, on the basis of 10% of the quantity of paint marketed in the year;

(2) in the case of products referred to in subparagraph 3 of the second paragraph of section 43, on the basis of the total quantity of containers marketed in the year.

**48.** For the purpose of calculating the amount payable under Chapter IV, the values applicable to the products referred to in the second paragraph of section 43 are the following:

(1) in the case of products referred to in subparagraphs 1 and 2, $1.30 per kilogram or equivalent volume;

(2) in the case of products referred to in subparagraph 3, $0.40 per kilogram.

Despite the first paragraph, in the case of an enterprise that markets products covered by the second paragraph of section 43 on (*insert the date of coming into force of this Regulation*), the values applicable to the first and second complete calendar years following the implementation of its recovery and reclamation program are:

(1) in the case of products referred to in subparagraphs 1 and 2 of the second paragraph of section 43, $0.65 per kilogram or equivalent volume;

(2) in the case of products referred to in subparagraph 3 of the second paragraph of section 43, $0.20 per kilogram.

**DIVISION 5**
OILS, COOLANTS, ANTIFREEZE AND THEIR FILTERS AND CONTAINERS

**49.** The subcategories of products covered by this Division are the following:

(1) mineral, synthetic or vegetable oils used for lubrication, heat insulation or transfer in motorized vehicles or equipment, or in the operation of hydraulic or transmission systems, as well as brake fluids, except oils intended to be blended with combustion engine fuel, machine tool slideway lubricants, chainsaw chain oils, drawing, stamping, shaping or form oils, drilling oils, conveyor lubricating oils, dust control oils, penetrating oils and rustproof oils;

(2) containers of 50 litres or less used for marketing the products referred to in paragraph 1, including containers used for marketing oils that are excluded in that paragraph;

(3) oil filters for internal combustion engines, hydraulic systems and transmissions, filters for heating systems using light heating oil and for oil storage tanks, coolant and antifreeze filters and diesel filters that are considered to be oil filters for the purposes of this Regulation;

(4) coolants and antifreeze used in motorized vehicles or equipment, machinery or heat transfer systems, except non-toxic vegetable coolant within the meaning of the Regulation respecting hazardous materials, and coolants and antifreeze used for aircraft de-icing;

(5) containers of 50 litres or less used for marketing the products referred to in paragraph 4.

**50.** For the purposes of this Regulation, every quantity of products referred to in section 49 must be calculated,

(1) in the case of products referred to in paragraph 1, in litres or equivalent weight;

(2) in the case of products referred to in paragraphs 2 and 5, in litres of capacity and equivalent weight;

(3) in the case of products referred to in paragraph 3, in units or equivalent weight;

(4) in the case of products referred to in paragraph 4, in litres according to their equivalence to a ready-to-use diluted product, or in equivalent weight.

Where a quantity is calculated in weight, it must be accompanied by the conversion factor and the methodology used to establish that factor.

**51.** Every enterprise referred to in section 2 or 3 that markets the products referred to in section 49 must implement its recovery and reclamation program,

(1) in the case of products referred to in paragraphs 1 to 3, as soon as they are marketed;

(2) in the case of products referred to in paragraphs 4 and 5, not later than (*insert the date that occurs 1 year after the date of coming into force of this Regulation*) or their date of marketing if the date of marketing is subsequent to that date.

**52.** Every enterprise referred to in section 2 or 3 that markets products referred to in paragraph 4 of section 49 must also attach to the assessment required by section 10 a study assessing the quantities of residual oils, coolants and antifreeze available for recovery.

**53.** As of the third complete calendar year following the implementation of a program, the minimum rates of recovery that must be ensured annually by an enterprise referred to in section 2 or 3 that markets the products referred to in this Division must be equal to the following percentages:

(1) in the case of products referred to in paragraphs 1 to 3 of section 49, the minimum rate for all the products in each subcategory is 75%, which is increased to 80% as of the fifth complete year following the implementation of the program;

(2) in the case of products referred to in paragraph 4 of section 49, the minimum rate for all the products in each subcategory is 50%, which is increased to 60% the following year and then increased by 5% per year until an 80% rate is attained;

(3) in the case of products referred to in paragraph 5 of section 49, the minimum rate is the rate provided for in subparagraph 1 above, unless the products are managed separately from those referred to in paragraph 2 of section 49, in which case the minimum rate is the rate provided for in subparagraph 2 above.

Despite the first paragraph, in the case of an enterprise that markets products referred to in paragraphs 1 to 3 of section 49 on (*insert the date of coming into force of this Regulation*), the enterprise must ensure the minimum rate of 75% as of the first complete calendar year following the implementation of a recovery and reclamation program developed in accordance with this Regulation.

The rates are calculated on the basis of the quantity considered available for recovery, namely:

(1) in the case of products referred to in paragraph 1 of section 49:

*(a)* designed to be used in the internal combustion engines of light motor vehicles, on the basis of 92% of the quantity of that type of oil marketed in the year;

*(b)* designed to be used in the internal combustion engines of heavy vehicles and equipment, on the basis of 75% of the quantity of that type of oil marketed in the year;

*(c)* designed for the operation of hydraulic systems, on the basis of 75% of the quantity of that type of oil marketed in the year;

*(d)* designed for the operation of transmission systems, on the basis of 95% of the quantity of that type of oil marketed in the year;

*(e)* designed to be used in railroad engines, on the basis of 37% of the quantity of that type of oil marketed in the year;

*(f)* designed to be used in marine engines, on the basis of 40% of the quantity of that type of oil marketed in the year;

*(g)* designed to be used in engines fuelled with natural gas, on the basis of 20% of the quantity of that type of oil marketed in the year;

*(h)* designed for any other use that those in subparagraphs *a* to *g*, on the basis of 80% of the quantity of that type of oil marketed in the year;

(2) in the case of products referred to in paragraphs 2, 3 and 5 of section 49, on the basis of the total quantity of products marketed in the year;

(3) in the case of products referred to in paragraph 4 of section 49, on the basis of 90% of the total quantity of products marketed in the year.

**54.** For the purpose of calculating the amount payable under Chapter IV, the values applicable to the products referred to in section 49 are the following:

(1) in the case of products referred to in paragraph 1, $0.14 per litre or equivalent weight;

(2) in the case of products referred to in paragraph 2, $0.20 per litre of capacity or equivalent weight;

(3) in the case of products referred to in paragraph 3, $0.70 per unit or equivalent weight;

(4) in the case of products referred to in paragraph 4, $0.30 per litre or equivalent weight;

(5) in the case of products referred to in paragraph 5, $0.20 per litre of capacity or equivalent weight.

Despite the first paragraph, in the case of an enterprise that markets products referred to in section 49 on (*insert the date of coming into force of this Regulation*), the values applicable for the first and second complete calendar years of the program's implementation are,

(1) in the case of products referred to in paragraph 1, $0.07 per litre or equivalent weight;

(2) in the case of products referred to in paragraph 2, $0.10 per litre of capacity or equivalent weight;

(3) in the case of products referred to in paragraph 3, $0.35 per unit or equivalent weight;

(4) in the case of products referred to in paragraph 4, $0.15 per litre according to their equivalence to a ready-to-use diluted product, or in equivalent weight;

(5) in the case of products referred to in paragraph 5, $0.10 per litre or in equivalent weight.

**CHAPTER VII**
OFFENCES

**55.** Every person who contravenes any of the provisions of sections 2 and 3, 5 and 7, the first and second paragraphs of section 8, sections 12 to 14, 16 to 20, 22, 24 and 25, the first paragraph of section 26, sections 28, 31, 32, 34, 37 and 38, the first paragraph of section 39 and sections 40, 44, 45, 47, 50, 51 and 53 commits an offence and is liable,

(1) in the case of a natural person, to a fine of $2,000 to $25,000;

(2) in the case of a legal person, to a fine of $5,000 to $250,000.

**56.** Every person who fails to communicate to the Minister information whose communication is prescribed by section 6, the third paragraph of section 8, sections 9 to 11, the second paragraph of section 26, sections 27 and 33, the second paragraph of section 39 and sections 46 and 52, or communicates false or inaccurate information is liable,

(1) in the case of a natural person, to a fine of $1,000 to $10,000;

(2) in the case of a legal person, to a fine of $2,000 to $50,000.

**57.** In the case of a subsequent offence, the fines prescribed by sections 55 and 56 are doubled.

**CHAPTER VIII**
TRANSITIONAL AND MISCELLANEOUS

**58.** The Regulation respecting the recovery and reclamation of discarded paint containers and paints, made by Order in Council 655-2000 dated 1 June 2000, and the Regulation respecting the recovery and reclamation of used oils, oil or fluid containers and used filters, made by Order in Council 166-2004 dated 10 March 2004, are revoked.

Despite the foregoing, the provisions of those Regulations continue to apply to enterprises that imple-ment recovery programs under those Regulations until they develop recovery and reclamation programs in accordance with this Regulation.

**59.** Recovery systems implemented under the Regulation respecting the recovery and reclamation of discarded paint containers and paints and the Regulation respecting the recovery and reclamation of used oils, oil or fluid containers and used filters remain in force until they are replaced by recovery and reclamation programs developed in accordance with this Regulation, which must be made not later than (*insert the date that occurs 1 year after the date of coming into force of this Regulation*).

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

9530

## Draft Regulation

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

**Disposal of residual materials — Charges payable**

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 to amend the Regulation respecting the charges payable for the disposal of residual materials, appearing below, may be made by the Government on the expiry of 60 days following this publication.

The purpose of the draft Regulation is to prescribe additional charges for the disposal of residual materials in certain disposal sites for a 5-year period. Those charges are fixed at $9.50 for each tonne of residual materials accepted for disposal and will not be indexed. The disposal sites subject to those charges are, in particular, engineered landfills, construction or demolition waste landfills and residual materials incineration facilities referred to in the Regulation respecting the landfilling and incineration of residual materials, made by Order in Council 451-2005 dated 11 May 2005.

By prescribing additional charges, the draft Regulation further reduces the quantity of residual materials that are sent for disposal in relation to their current level. It will also enable the establishment of funds that will be used to finance the program for the treatment of organic matters by biomethanization and composting.

Lastly, the draft Regulation amends certain due dates for the payment of charges and adds rules respecting the information to be provided.

The draft Regulation will have an impact on municipalities, operators of disposal sites and producers of residual materials.

Further information on the draft Regulation may be obtained by contacting André G. Bernier, Direction des affaires institutionnelles et des services à la clientèle, Ministère du Développement durable, de l'Environnement et des Parcs, édifice Marie-Guyart, 675, boulevard René-Lévesque Est, 29e étage, boîte 97, Québec (Québec) G1R 5V7; telephone: 418 521-3929; e-mail: agbernier@mddep.gouv.qc.ca; fax: 418 644-4598. Any person wishing to comment on the draft Regulation is requested to submit written comments within the 60-day period to André G. Bernier at the above-mentioned address.

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