WHEREAS it is expedient to amend the Regulation;

WHEREAS, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), a draft of the Regulation to amend the Regulation respecting construction contracts of public bodies was published in Part 2 of the *Gazette officielle du Québec* of 22 January 2011 with a notice that it could be made by the Government on the expiry of 45 days following its publication;

WHEREAS, in accordance with the first paragraph of section 23 of the Act respecting contracting by public bodies, the Minister of Education, Recreation and Sports and the Minister of Health and Social Services were consulted on the draft Regulation and the Conseil du trésor recommends that it be made;

WHEREAS the 45-day period has expired;

WHEREAS it is expedient to make the Regulation with amendments;

IT IS ORDERED, therefore, on the recommendation of the Chair of the Conseil du trésor and Minister responsible for Government Administration:

THAT the Regulation to amend the Regulation respecting construction contracts of public bodies, attached to this Order in Council, be made.

GÉRARD BIBEAU, Clerk of the Conseil exécutif

Regulation to amend the Regulation respecting construction contracts of public bodies

An Act respecting contracting by public bodies (R.S.Q., c. C-65.1, s. 23, 1st par., subpar. 1)

- **1.** The Regulation respecting construction contracts of public bodies (R.R.Q., c. C-65.1, r. 5) is amended in section 4 by replacing subparagraph 5 of the second paragraph by the following:
 - "(5) the place where information may be obtained;
- (5.1) a mention that the tender documents may only be obtained through the electronic tendering system;".
- **2.** Section 9 is amended by replacing "by sending an addendum" in the first paragraph by "by means of an addendum sent".

- **3.** The following section is inserted after section 9:
- **"9.1.** Tender documents and, if applicable, any addendum amending them may only be obtained through the electronic tendering system.".
- **4.** This Regulation comes into force on 1 September 2011.

1534

Gouvernement du Québec

O.C. 685-2011, 22 June 2011

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

Declaration of water withdrawals — Amendment

Regulation to amend the Regulation respecting the declaration of water withdrawals

WHEREAS section 31.104 and subparagraphs 2.3, 2.5 and 4 of paragraph *s* of section 46 of the Environment Quality Act (R.S.Q., c. Q-2), as introduced and amended by sections 19 and 22 of chapter 21 of the Statutes of 2009, and section 109.1 of the Environment Quality Act empower the Government to make regulations on the matters set forth 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 to amend the Regulation respecting the declaration of water withdrawals was published in the *Gazette officielle du Québec* of 26 January 2011 with a notice that it could be made by the Government on the expiry of 60 days following that publication;

WHEREAS, having considered the comments received following the publication of the draft Regulation, it is expedient to make the Regulation with amendments;

IT IS ORDERED, therefore, on the recommendation of the Minister of Sustainable Development, Environment and Parks:

THAT the Regulation to amend the Regulation respecting the declaration of water withdrawals, attached to this Order in Council, be made.

GÉRARD BIBEAU, Clerk of the Conseil exécutif

Regulation to amend the Regulation respecting the declaration of water withdrawals*

Environment Quality Act (R.S.Q., c. Q-2, s. 31.104, s. 46, par. s, subpars. 2.3, 2.5 and 4, and s. 109.1)

1. The Regulation respecting the declaration of water withdrawals is amended by inserting the following after the title of the Regulation:

"TITLE I GENERAL".

2. Section 1 is amended by inserting the following after the first paragraph:

"In addition, this Regulation, with a view to ensuring a better protection of the St. Lawrence River Basin water resources, provides for the implementation in Québec of the Great Lakes–St. Lawrence River Basin Sustainable Water Resources Agreement, referred to in section 31.88 of the Environment Quality Act (R.S.Q., c. Q-2)."

- **3.** Section 2 is replaced by the following:
- **"2.** Unless indicated otherwise in the provisions of Title II of this Regulation, the following definitions apply to all the provisions of this Regulation:

"existing withdrawal" means a withdrawal that was authorized on or before 1 September 2011 or, if not authorized, was lawfully commenced on or before that date; (prélèvement existant)

"measuring equipment" means a water meter or other device designed to continuously measure and record a volume of water; (équipement de mesure)

"new withdrawal" means a withdrawal that was authorized after 1 September 2011; (nouveau prélèvement)

"professional" means a professional within the meaning of section 1 of the Professional Code (R.S.Q., c. C-26) whose professional order governs the exercise of a professional activity referred to in this Regulation. This definition also includes any person legally authorized to practise that activity in Québec; (professionnel)

"St. Lawrence River Basin" means the drainage basin whose territory is described in section 31.89 of the Environment Quality Act; (Bassin du fleuve Saint-Laurent)

"transfer" means the transporting of bulk water from the St. Lawrence River Basin to another basin by any means, including a waterworks system, a pipeline, a conduit or any other main, and any type of tank truck. Diverting the direction of a watercourse flow is deemed to be a transfer. Packaging water for commercial purposes in containers having a capacity exceeding 20 litres is also deemed to be a transfer; (transfert)

"water withdrawal" or "withdrawal" means a water withdrawal within the meaning of section 31.74 of the Environment Quality Act; (prélèvement d'eau) (prélèvement)

"waterworks system" or "distribution system" means mains, a system of mains or a facility or equipment used to collect, store or supply water intended for human consumption; (système d'aqueduc)

"withdrawal site" means a location where water enters into man-made works designed to withdraw water; (site de prélèvement)

"withdrawer" means a person or municipality, within the meaning of section 1 of the Environment Quality Act, that operates a withdrawal site. (*préleveur*)

- **2.1.** Where a provision of this Regulation requires that the volumes of water to be recorded or declared be expressed in litres, they may also be expressed in cubic metres.".
- **4.** Section 3 is replaced by the following:
- **"3.** This Regulation applies to any water withdrawal. Unless indicated otherwise, it immediately applies to existing withdrawals and to new withdrawals.

This Regulation does not apply to

- (1) withdrawals that total an average volume of less than 75,000 litres per day for all the withdrawal sites of one establishment or waterworks system. That average daily volume is calculated on the basis of the monthly quantity of water withdrawn, divided by the number of withdrawal days in the month concerned;
- (2) withdrawals intended for domestic use, namely withdrawals using a personal well or a surface water intake for the use of one household only;

^{*} The Regulation respecting the declaration of water withdrawals, made by Order in Council 875-2009 dated 12 August 2009 (2009, G.O. 2, 3147), has not been amended since it was made.

- (3) 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;
- (4) withdrawals exclusively for firefighting purposes, in particular to supply an aircraft or tank vehicle;
 - (5) withdrawals from a waterworks system;
- (6) withdrawals for the purposes of a temporary industrial camp intended to house not more than 80 persons simultaneously for a period not exceeding 6 months per year and that is located in one of the following territories:
- the territory not organized into a local municipality, including the unorganized territory amalgamated with one of the municipalities of Rouyn-Noranda, La Tuque or Senneterre, as it was delimited the day before the amalgamation;
- the James Bay territory as described in the schedule to the James Bay Region Development and Municipal Organization Act (R.S.Q., c. D-8.2);
 - the territory situated north of the 55th parallel;
- the territories of the municipalities of Blanc-Sablon, Bonne-Espérance, Côte-Nord-du-Golfe-du-Saint-Laurent, Gros-Mécatina and Saint-Augustin and the territory of any other municipality constituted under the Act respecting the municipal reorganization of the territory of Municipalité de Côte-Nord-du-Golfe-du-Saint-Laurent (1988, c. 55; 1996, c. 2);
- the territories that are not accessible at all times by road vehicles;
- (7) withdrawals for the purposes of a temporary industrial camp set up for timber salvage following a forest fire, regardless of the number of persons housed in the camp;
- (8) withdrawals using a drain or a drainage ditch that is not connected to an active pumping system, that are not intended to transport water to a site where the water is used or that are not used to fill a water supply reservoir for subsequent use;
- (9) non-recurring water withdrawals whose duration does not exceed 6 months, carried out as part of civil engineering work;
- (10) non-recurring groundwater withdrawals whose duration does not exceed 30 days, carried out to analyze the performance of the withdrawal facility or to establish the properties of a geological aquifer;

(11) temporary and non-recurring water withdrawals as part of mining exploration activities, other than those made for petroleum or gas prospection, except if the withdrawals are made for the purposes of dewatering mine shafts, access ramps to a mine or mine workings, or keeping them dry.

In addition, this Regulation does not apply to the following withdrawals insofar as they are wholly made outside the St. Lawrence River Basin:

- (1) withdrawals intended for agricultural or fishbreeding purposes;
- (2) withdrawals intended to produce hydroelectric power.

For the purposes of this section, "temporary industrial camp" means a group of facilities and their dependencies, that an employer temporarily sets up to house, for not more than 6 months during the 12-month period following the setting-up, the employer's employees who carry out forest management, mining exploration, mining operation, transport infrastructure and water retaining work or any other work.

3.1. To determine if a water withdrawal capacity or if a water withdrawal reaches the volume from which the withdrawer is required, under a provision of this Regulation, to declare the volumes of water it withdraws or may withdraw, all the volumes of water withdrawn from each withdrawal site must be added up each time that more than one withdrawal site is connected to a single establishment or waterworks system. Establishments whose activities are related or complementary to one another and are under the responsibility of one withdrawer are considered to be part of the same establishment.".

5. Section 5 is amended

- (1) by replacing "section 9" in the first paragraph by "sections 9, 18.4 and 18.7";
 - (2) by striking out the third paragraph.
- **6.** The following is inserted after section 5:
- "5.1. Despite the provisions of the second paragraph of section 5, where a new withdrawal is authorized for the purposes of a transfer out of the St. Lawrence River Basin, the withdrawer so authorized must install the appropriate measuring equipment at the points where water is withdrawn, transferred and, where applicable, returned to the Basin."

- **7.** Section 7 is amended by replacing "cubic metres" in the second paragraph by "litres".
- **8.** The heading of Chapter III is amended by adding "ANNUAL" before "DECLARATION".
- **9.** Section 9 is amended
 - (1) by replacing the first paragraph by the following:

"Every withdrawer whose water withdrawals total an average daily volume of 75,000 litres or more per day, calculated on the basis of the monthly quantity of water withdrawn, divided by the number of withdrawal days in the month concerned, is required to send to the Minister of Sustainable Development, Environment and Parks an annual declaration describing the withdrawal activities by specifying the monthly volumes of water withdrawn.

The declaration must be transmitted electronically, using the form available online on the Ministère du Développement durable, de l'Environnement et des Parcs website. All the sections relevant to the information that the withdrawer is required to declare must be filled out. Where at least 2 of sections 9, 18.4 and 18.7 of this Regulation apply to the withdrawer, only one declaration containing all the information prescribed by those sections must be transmitted.

Where a withdrawer is a natural person, or a legal person that has its seat in the territory of a local municipality or in a territory not organized as a municipality where no Internet service provider offers access to the Internet, the data to be transmitted to the Minister pursuant to section 9, 18.4 or 18.7 may be transmitted, despite those provisions, using the form provided by the Minister on a medium other than a technology-based medium. In such case, the declaration must be dated and signed by the person who wrote it and must attest to the accuracy of the information contained therein and specify the reason justifying the use of that medium.";

- (2) by adding "and the addresses of the withdrawer's establishments" at the end of subparagraph 1 of the third paragraph;
- (3) by striking out "and the dates" in subparagraph b of subparagraph 3 of the third paragraph;
- (4) by replacing the words "cubic metres" wherever they appear in subparagraphs e, f and i of subparagraph 3 of the third paragraph by "litres".
- **10.** Section 10 is amended by replacing "cubic metres" in subparagraph 4 of the first paragraph by "litres".

11. Section 11 is amended by striking out the following at the end of paragraph 3:

"if the location is still not readily accessible, the equipment must have a remote reader;".

- **12.** Section 15 is replaced by the following:
- "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 withdrawer must indicate, as the volumes of water withdrawn in the period concerned, the volumes of water withdrawn during the corresponding period in the previous year as declared pursuant to section 9 or 18.7. If no water was withdrawn during the latter period, or if the volumes of water withdrawn were lower than the declaration threshold provided for in section 9, the withdrawer must have the volumes of water withdrawn in the period concerned estimated by a professional, in accordance with the provisions of Chapter V.

Where 3 months, each comprising at least one withdrawal day, have elapsed and the measuring equipment has not been restored to proper working order or replaced, the withdrawer must, for each following month comprising at least one withdrawal day, and for as long as the measuring equipment does not function or malfunctions, cause the volumes of water withdrawn to be estimated, in accordance with the provisions of Chapter V.".

13. Section 16 is amended by adding the following at the end:

"or using another generally recognized method whose accuracy percentage is at least equivalent to the accuracy percentage of the methods referred to in section 18".

14. The following is inserted after section 18:

"TITLE II

SPECIAL PROVISIONS APPLICABLE TO WATER WITHDRAWALS FROM THE ST. LAWRENCE RIVER BASIN

CHAPTER I

INTERPRETATION AND SCOPE

18.1. For the purposes of this Title,

"level 1 drainage basin" means a territory whose waters converge towards a watercourse that flows directly into the St. Lawrence River or James Bay; (bassin versant de niveau 1)

"rated capacity" means the maximum effective capacity, according to the specifications of the builder or manufacturer of the withdrawal works, facility or equipment. (capacité nominale)

18.2. The provisions of this Title apply to any water withdrawal in the St. Lawrence River Basin, including those carried out by means of any of the works referred to in any of paragraphs 1 to 3 of section 31.74 of the Environment Quality Act, regardless of the volumes of water that are withdrawn.

The provisions of this Title do not apply to the following water withdrawals:

- (1) withdrawals used for the production of hydroelectric power by means of run-of-river works or facilities directly connected to the watercourse;
- (2) withdrawals by means of works used for the impounding of water, other than a dam, such as a pond or a basin having no hydraulic interconnection with groundwater, except if the pond or basin is supplied by means of a surface water drainage system.
- 18.3. Where a provision of this Title prescribes that a water withdrawer is required to make a declaration on the basis of the withdrawal rated capacity of the works or facilities used for water withdrawals and it appears that the withdrawal capacity of those works or facilities exceeds the withdrawal volume that the withdrawer was authorized to withdraw, under the provisions of the Environment Quality Act or a regulation thereunder, the authorized withdrawal volume must be considered to be the threshold beyond which declaration is required.

CHAPTER II

INITIAL DECLARATION REQUIRED TO ESTABLISH THE REFERENCE VOLUMES OF WATER FOR THE IMPLEMENTATION OF THE GREAT LAKES–ST. LAWRENCE RIVER BASIN SUSTAINABLE WATER RESOURCES AGREEMENT

18.4. In order to enable the Minister of Sustainable Development, Environment and Parks to determine the reference volumes of water for the implementation of the Great Lakes–St. Lawrence River Basin Sustainable Water Resources Agreement, a withdrawer that withdraws or may withdraw water from the St. Lawrence River Basin from a withdrawal site whose works or facilities have a withdrawal rated capacity equal to or greater than 379,000 litres per day must, not later than 31 March 2012, send the Minister a declaration on existing withdrawals that contains, in addition to the information referred to in subparagraphs 1, 2 and subparagraphs *a*, *c*, *d*, *h* and *i* of subparagraph 3 of the fourth paragraph of section 9, the following information:

- (1) the authorized daily water withdrawal volumes, as they appear on the certificate of authorization, authorization or in the documents that are part of the certificate of authorization or authorization:
- (a) where the certificate of authorization or, as the case may be, the authorization provides for specific withdrawal volumes for the various components of the same works or facility used for withdrawals, the declaration must indicate the highest withdrawal volume of the component and identify the component;
- (b) where the certificate of authorization or, as the case may be, the authorization identifies the components of the works or facility used for withdrawals without specifying the authorized withdrawal volume, the declaration must indicate the highest rated capacity of the component and identify the component;
- (c) where the certificate of authorization or, as the case may be, the authorization concerns both a determined withdrawal volume and the installation of an identified component, such as a pump, whose withdrawal rated capacity is different from the determined withdrawal volume, the declaration must indicate the authorized withdrawal volume only;
- (2) the volumes of water corresponding to the withdrawal rated capacity of the works or facility and for which no certificate of authorization or no authorization was issued under the Environment Quality Act. Where the works or facilities have components whose rated capacities are different from one another, the declaration must indicate the lowest rated capacity and identify the component used to establish the rated capacity;
- (3) the volumes of water consumed within the St. Lawrence River Basin, expressed in litres or in percentage, out of the volumes of water withdrawn from the Basin and declared pursuant to paragraphs 1 and 2;
- (4) the volumes of water transferred out of the St. Lawrence River Basin out of the volumes of water withdrawn from the St. Lawrence River Basin and declared pursuant to paragraph 1 or 2:
- (a) where the volume of water transferred out of the Basin represents only a part of the volume of water withdrawn from the Basin, the declaration must indicate the volume corresponding to the rated capacity of the facility used for the transfer. The declaration must identify the class of industrial or commercial activities for which the withdrawal or, as the case may be, the transfer is intended, using the codes of the North American Industry Classification System (NAICS);

- (b) where the water transferred out of the Basin or a part of the water transferred is returned to the Basin, the declaration must identify, by means of georeferenced data, the locations where the water was returned for each withdrawal site and the volumes of water returned;
- (c) where the water transferred out of the Basin is not returned to the Basin, the declaration must specify, in addition to the volumes discharged, the location where they were discharged, by means of georeferenced data;
- (5) the volumes of water consumed out of the Basin out of the volumes of water declared pursuant to paragraph 4, expressed in litres or in percentage. The declaration must identify the class of activities in all cases where the water transferred out of the Basin is consumed in whole or in part, using the codes of the North American Industry Classification System (NAICS).

Each time that a provision of this section provides that the location of a site must be indicated, the georeferenced data of the site must be provided. In the case of a waterworks system serving all or part of the population of a municipality, the site must be located by referring to the level 1 drainage basins covered by the waterworks system, specifying the name of the watercourse, as officialized by the Commission de toponymie du Québec, into which the water of the territory of the basin flows.

For the purposes of this section, the volumes of water consumed must be either calculated using the direct measurement taken by measuring equipment or estimated. Where the volumes are calculated, no supply of water from outside the withdrawal site may affect or distort the calculation. Where the volumes of water are estimated, the estimate must be made by a professional in accordance with the provisions of sections 16 to 18 of this Regulation. In addition, the declaration must contain the name of the professional who evaluated the volume of water consumed, as well as his or her profession, and a description of the estimation method used. However, where the water is withdrawn to supply a waterworks system serving all or part of the population of a municipality, the person making the declaration may indicate a consumptive use equal to 15% of the person's withdrawals without justifying the percentage.

The provisions of the second paragraph of section 9 apply to the declaration of information provided for by this section, except in the case provided for in section 18.6.

18.5. Where the water is withdrawn using a pond, a basin or other retaining works and having a hydraulic interconnection with groundwater, the declaration provided for in section 18.4 must indicate as withdrawal

volume the rated volume of the pond, basin or works. In such a case, the volume of water withdrawal made out of the pond, basin or works needs not be indicated.

- **18.6.** Despite the provisions of section 18.4, a withdrawer that, for agricultural or fish-breeding purposes, withdraws water from the St. Lawrence River Basin or transfers water out of the Basin is exempted from sending to the Minister of Sustainable Development, Environment and Parks the information provided for in paragraphs 3 and 5 of that section, provided that the declaration sent by the withdrawer to the Minister pursuant to that section contains the following information:
- (1) the number of animals forming the operation's livestock per category and type of animals, including animals whose arrival is expected during the year;
- (2) the area under cultivation, expressed in hectares, per type of culture;
- (3) the area of the watered crops, expressed in hectares, per type of culture;
 - (4) the type of watering equipment used; and
- (5) in the case of fish breeding, the quantity of fish produced per year, expressed in tons.

CHAPTER III

ANNUAL DECLARATION OF WATER WITHDRAWAL ACTIVITIES IN THE ST. LAWRENCE RIVER BASIN AND OF TRANSFER ACTIVITIES OUT OF THE BASIN

18.7. As of 1 January 2012, a withdrawer that withdraws water from the St. Lawrence River Basin from a withdrawal site whose works or facilities have a withdrawal rated capacity equal to or greater than 379,000 litres per day is required to annually declare to the Minister of Sustainable Development, Environment and Parks, for the year preceding the withdrawer's declaration or, as the case may be, for the year in progress, in addition to the information that must be declared pursuant to section 9, the volumes of water consumed every month in the Basin by indicating, for each site of use of the water withdrawn, the georeferenced data of their location, the volume and the class of industrial or commercial activities for which the withdrawal is intended; the class is identified using the codes of the North American Industry Classification System (NAICS).

Likewise, as of the same date, a withdrawer that transfers water out of the St. Lawrence River Basin, whatever the volume, must provide, in addition to the information that the withdrawer must declare pursuant to section 9, the following additional information for the preceding year:

- (1) the volumes of water transferred out of the St. Lawrence River Basin, expressed in litres, indicating for each withdrawal site concerned, the georeferenced data of the sites where the water so transferred is used. Where the water transferred out of the Basin is intended to supply a waterworks system serving all or part of the population of a municipality, the level 1 drainage basins covered by the waterworks system must be indicated, and the name of the watercourse into which the water of the territory flows must be specified, as that name was officialized by the Commission de toponymie du Québec;
- (2) the volumes of water discharged or returned to the St. Lawrence River Basin, expressed in litres, specifying the georeferenced data of the sites where the water was discharged or, as the case may be, where the water was returned.

As soon as a withdrawer is subject to a provision of this section, the withdrawer becomes, despite the provisions of subparagraph 1 of the second paragraph and subparagraphs 1 and 2 of the third paragraph of section 3 of this Regulation, subject to the provisions of sections 9 and 10 of this Regulation.

The provisions of sections 5 to 8 and 18.5 of this Regulation apply to the determination of the volumes of water to which this section applies, including the determination of the volumes of water transferred out of the St. Lawrence River Basin and the volumes of water discharged or returned to the Basin. The provisions of the third paragraph of section 18.4 apply to the determination of the volumes of water consumed; the provisions of the second and third paragraphs of section 9 apply to the transmission of the declaration provided for in this section.

TITLE III

PENAL AND MISCELLANEOUS".

- **15.** The heading "CHAPTER VI" is replaced by "CHAPTER I".
- **16.** Section 19 is amended by replacing "18" in the introductory sentence of the first paragraph by "18.7".
- **17.** The heading "CHAPTER VII" is replaced by "CHAPTER II".
- **18.** Section 22 is struck out.
- **19.** The annual declaration required by section 18.7, introduced by section 14 of this Regulation, applies as of 1 January 2016 for water withdrawals made for agricultural or fish-breeding purposes during 2015.

20. This Regulation comes into force on 1 September 2011, except paragraph 2 of section 5, which comes into force on 1 January 2012.

1536

Gouvernement du Québec

O.C. 686-2011, 22 June 2011

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

Framework for authorization of certain projects to transfer water out of the St. Lawrence River Basin

Regulation respecting the framework for authorization of certain projects to transfer water out of the St. Lawrence River Basin

WHEREAS section 31.104 and subparagraphs 2.5, 2.6 and 4 of paragraph *s* of section 46 of the Environment Quality Act (R.S.Q., c. Q-2), as introduced and amended by sections 19 and 22 of chapter 21 of the Statutes of 2009, and section 124.1 of the Environment Quality Act empower the Government to make regulations on the matters set forth 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 the framework for authorization of certain projects to transfer water out of the St. Lawrence River Basin was published in the *Gazette officielle du Québec* of 10 November 2010 with a notice that it could be made by the Government on the expiry of 60 days following that publication;

WHEREAS, having considered the comments received following the publication of the draft Regulation, it is expedient to make the Regulation with amendments;

IT IS ORDERED, therefore, on the recommendation of the Minister of Sustainable Development, Environment and Parks:

THAT the Regulation respecting the framework for authorization of certain projects to transfer water out of the St. Lawrence River Basin, attached to this Order in Council, be made.

GÉRARD BIBEAU, Clerk of the Conseil exécutif