

Draft Regulations

Draft Regulation

Professional Code
(chapter C-26)

Geologists — Practice within a partnership or a joint-stock company

Notice is hereby given, in accordance with sections 10 and 11 of the Regulations Act (chapter R-18.1), that the Regulation respecting the practice of the profession of geologist within a partnership or a joint-stock company, made by the board of directors of the Ordre des géologues du Québec, may be submitted to the Government which may approve it, with or without amendment, on the expiry of 45 days following this publication.

The draft Regulation contains the terms and conditions for authorization of the carrying on by geologists of professional activities within a partnership or a joint-stock company, in particular as regards the administration of the partnership or joint-stock company and the holding of company shares or partnership units.

The conditions also include the requirement to take out insurance to cover liability which may arise from fault or negligence on the part of geologists in the practice of the profession within the partnership or joint-stock company and provide the Order with the required information on the partnership or joint-stock company and maintain the information up to date.

The draft Regulation has no impact on enterprises, including small and medium-sized businesses.

Further information may be obtained by contacting Alain Liard, Director General and Secretary, Ordre des géologues du Québec, 500, rue Sherbrooke Ouest, bureau 900, Montréal (Québec) H3A 3C6; telephone: 514 278-6220 or 1 800 377-7708; fax: 514 844-7556; email: dirgen@ogq.qc.ca

Any person wishing to comment on the draft Regulation may submit written comments to the Chair of the Office des professions du Québec, 800, place D'Youville, 10^e étage, Québec (Québec) G1R 5Z3, within the 45-day period. The comments will be sent by the Office to the Minister of

Justice. They may also be sent to the professional order that made the Regulation and to interested persons, departments and bodies.

JEAN PAUL DUTRISAC,
Chair of the Office des professions du Québec

Regulation respecting the practice of the profession of geologist within a partnership or a joint-stock company

Professional Code
(chapter C-26, s. 93, pars. *g* and *h*, and s. 94, par. *p*)

DIVISION I GENERAL

1. Geologists are authorized to carry on professional activities within a limited liability partnership or a joint-stock company within the meaning of Chapter VI.3 of the Professional Code (chapter C-26) subject to the conditions set out in this Regulation.

A geologist who becomes aware that a condition set out in Chapter VI.3 of the Professional Code is no longer being complied with must, within 15 days, take the necessary measures to ensure compliance, failing which the geologist ceases to be authorized to carry on professional activities within the partnership or joint-stock company.

2. A geologist who is struck off the roll for more than three months or whose permit has been revoked may not, during the period of the striking off or revocation, directly or indirectly hold any share in the partnership or joint-stock company.

The geologist may also not be a director, officer or representative of the partnership or joint-stock company during that period.

DIVISION II TERMS AND CONDITIONS OF PRACTICE

3. A geologist may carry on professional activities within a limited liability partnership or a joint-stock company if

(1) more than 50% of the voting rights attached to the shares or units of the partnership or joint-stock company are held by

(a) members of a professional order governed by the Professional Code or by persons subject to similar rules;

(b) legal persons, trusts or other enterprises whose voting rights attached to the shares or units, ownership interests or other rights are held entirely by one or more persons referred to in subparagraph *a*; or

(c) a combination of persons, trusts or enterprises referred to in subparagraphs *a* and *b*;

(2) the members of the board of directors of the joint-stock company, the partners or, where applicable, the directors appointed by the partners to manage the affairs of the limited liability partnership are a majority of the persons referred to in subparagraph *a* of subparagraph 1 of the first paragraph who constitute the majority of the quorum of the board of directors or internal management board, as the case may be; and

(3) at least one geologist carrying on professional activities within the partnership or company holds a voting share or unit.

A geologist must ensure that the conditions are stipulated in the contract constituting the limited liability partnership or appear in the articles of constitution of the joint-stock company, the unanimous shareholders' agreement or in any other document related to the constitution and operation of the partnership or company. A geologist must also ensure that it is provided that the partnership or joint-stock company is constituted for the purpose of the carrying on of professional activities.

4. A geologist who wishes to carry on professional activities within a partnership or joint-stock company must first provide the Order with the following documents:

(1) a sworn declaration that meets the requirements of section 5, accompanied by the fees prescribed by the board of directors of the Order;

(2) written confirmation from the competent authority that the partnership or joint-stock company complies with the professional liability coverage requirements of Division III;

(3) in the case of a joint-stock company, a written document issued by the competent authority certifying the existence of the joint-stock company;

(4) where applicable, a certified true copy of the declaration issued by a competent authority indicating that the general partnership has become a limited liability partnership;

(5) written confirmation from the competent authority that the partnership or joint-stock company is registered in Québec;

(6) written confirmation from the competent authority that the partnership or joint-stock company maintains an establishment in Québec; and

(7) irrevocable written authorization from the partnership or joint-stock company within which the geologist carries on professional activities entitling a person, a committee, a disciplinary body or a tribunal referred to in section 192 of the Professional Code to require any partner or shareholder to produce and to obtain a document referred to in section 12, or a copy of such a document.

5. The sworn declaration required by paragraph 1 of section 4 must be made on the form provided for that purpose by the Order and contain

(1) the geologist's name, domicile address, status and professional activities carried on by the geologist within the partnership or joint-stock company;

(2) the name of the partnership or joint-stock company and any other names used in Québec and its business number assigned by the competent authority;

(3) the legal form of the partnership or joint-stock company;

(4) in the case of a joint-stock company, the address of its head office and establishments in Québec, the name of all shareholders and their domicile address, the percentage of voting and non-voting shares they hold, the name of the directors and officers and their domicile address and the professional order or equivalent to which they belong, if any;

(5) in the case of a limited liability partnership, the address of its establishments in Québec, indicating its principal establishment, the name of all partners and their domicile address, and, where applicable, the name and domicile address of the directors appointed by the partners to manage the partnership, domiciled or not in Québec, and the professional order or equivalent to which they belong, if any;

(6) where applicable, the date on which the general partnership became a limited liability partnership or a joint-stock company; and

(7) an indication that the holding of shares or units and the rules governing the administration of the partnership or joint-stock company comply with the conditions set out in this Regulation.

6. To maintain the right to carry on professional activities within a partnership or joint-stock company, a geologist must

(1) update and submit, before 31 March of each year, the documents referred to in paragraphs 1, 2, 3 and 5 of section 4 and pay the fees prescribed by the board of directors; and

(2) inform the secretary of the Order without delay of any change in or cancellation of the coverage under Division III, of the striking off, dissolution, assignment of assets, bankruptcy, voluntary or forced liquidation of the partnership or joint-stock company or of any other cause likely to prevent the partnership or joint-stock company from pursuing its activities, as well as of any change in the information provided in the declaration that may affect compliance with the conditions set out in section 3.

7. If more than one geologist carries on professional activities within the same partnership or joint-stock company, a representative must be designated who is to act on behalf of all the geologists in the partnership or joint-stock company to meet the requirements of sections 4 to 6. The representative must reply for all the geologists to requests made by the syndic, an inspector, an investigator or any other representative of the Order and submit, as applicable, the documents and information that the geologists are required to submit.

The representative must be a geologist and carry on professional activities in Québec within the partnership or joint-stock company and be a partner or shareholder of the partnership or joint-stock company with voting rights.

The declaration by the representative is deemed to be the declaration of each of the geologists of the partnership or joint-stock company. Except for paragraph 1 of section 6, the representative must ensure the accuracy of the information given in the declaration.

DIVISION III PROFESSIONAL LIABILITY COVERAGE

8. A geologist who carries on professional activities within a partnership or joint-stock company must furnish and maintain for that partnership or joint-stock company, either by an insurance or suretyship contract or by participation in group insurance contracted by the Order, or by contributing to a professional liability insurance fund established in accordance with section 86.1 of the Professional Code, security against professional liability that the partnership or joint-stock company may incur as the result of fault or negligence on the part of geologists committed while carrying on professional activities within the partnership or joint-stock company.

9. The security must provide the following minimum terms:

(1) an undertaking by the insurer or the surety to pay in lieu of the partnership or joint-stock company, over and above the amount of the security to be furnished by the geologist pursuant to the Règlement sur l'assurance de la responsabilité professionnelle des membres de l'Ordre des géologues du Québec (chapter G-1.01, r. 2), or of any other coverage taken out by the geologist if it is greater, up to the amount of the security, any sum that the partnership or joint-stock company may be legally bound to pay to a third person on a claim filed during the coverage period and arising from fault or negligence on the part of the geologist committed while carrying on professional activities within the partnership or joint-stock company;

(2) an undertaking by the insurer or the surety to take up the cause of the partnership or joint-stock company and defend it in any action against it and to pay, in addition to the amounts covered by the security, all costs and expenses of proceedings against the partnership or joint-stock company, including the costs of the inquiry and defence and the interest on the amount of the security;

(3) an undertaking to maintain the security against all claims filed during the 5 years following the coverage period during which a geologist of the partnership or joint-stock company dies, leaves the partnership or joint-stock company or ceases to be a member of the Order;

(4) a security amount of at least \$1,000,000 per claim and for all claims filed against the partnership or joint-stock company during a 12-month coverage period;

(5) where a geologist is a sole practitioner, as the unique shareholder of a joint-stock company in which no other geologist is an employee, the coverage must be at least \$250,000 per claim and \$500,000 for all claims filed against the company in a 12-month coverage period; and

(6) an undertaking by the insurer or surety to give 30 days' notice to the secretary of the Order prior to any cancellation or non-renewal of the insurance or suretyship contract or any amendment to the contract if the amendment affects a condition set out in this Regulation.

10. The suretyship contract must be with a bank, savings and credit union or trust company or insurance company domiciled in Canada. The surety must also maintain sufficient property in Québec to satisfy the coverage under this Division.

The surety will provide the coverage in accordance with the conditions of this Division and will pay the sum due by the partnership or joint-stock company, by waiving the benefit of division and discussion, in lieu of the partnership or joint-stock company up to the amount of the suretyship.

DIVISION IV ADDITIONAL INFORMATION

11. On a general partnership being continued as a limited liability partnership, or a joint-stock company being constituted, a geologist must send a notice to clients, on the date of the continuation or constitution, informing them of the nature and effects of the continuation or constitution, including as regards the geologist's professional liability and that of the partnership or joint-stock company.

12. The information and documents that may be required from the partnership or joint-stock company to which paragraph 7 of section 4 refers are the following:

(1) if the geologist carries on professional activities within a joint-stock company,

(a) a complete and up-to-date register of the articles and by-laws of the joint-stock company;

(b) a complete and up-to-date register of the securities of the joint-stock company;

(c) a complete and up-to-date register of the shareholders of the joint-stock company;

(d) a complete and up-to-date register of the directors of the joint-stock company;

(e) any shareholders' agreement or voting agreement and any attendant amendments;

(f) any agreement concerning the granting of share purchase options with voting rights or concerning any other right, even conditional, conferred on a person and allowing that person to be issued such shares;

(g) the registration declaration and the certificate of constitution of the joint-stock company and any update; and

(h) the names and domicile addresses of the principal officers of the joint-stock company;

(2) if the geologist carries on professional activities within a limited liability partnership,

(a) the registration declaration of the partnership and any update;

(b) the partnership agreement and any amendments;

(c) a complete and up-to-date register of partners;

(d) where applicable, a complete and up-to-date register of the directors of the partnership; and

(e) the names and domicile addresses of the principal officers of the partnership.

DIVISION V TRANSITIONAL AND FINAL PROVISIONS

13. A geologist carrying on professional activities within a joint-stock company constituted before the (*insert the date of coming into force of this Regulation*) must comply with the requirements of this Regulation at the latest within one year after that date.

14. 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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Draft Regulation

Sustainable Forest Development Act
(chapter A-18.1)

Method for assessing the annual royalty and method and frequency for assessing the market value of the standing timber purchased by guarantee holders pursuant to their timber supply guarantee

Notice is hereby given, in accordance with sections 10 and 11 of the Regulations Act (chapter R-18.1), that the draft Regulation respecting the method for assessing the annual royalty and the method and frequency for assessing the market value of standing timber purchased by guarantee holders pursuant to their timber supply guarantee, appearing below, may be made by the Government on the expiry of 45 days following this Regulation.

The draft Regulation determines the methods and frequency according to which the timber marketing board will assess the annual royalty and the market value of standing timber to be paid by holders of a timber supply guarantee. The royalty must be paid each year before 1 April 2013, which means that the draft Regulation must be already made at the time the royalty is billed.

Further information on the draft Regulation may be obtained by contacting Jean-Pierre Adam, Direction des évaluations économiques et des opérations forestières,