

Gouvernement du Québec

O.C. 1065-2015, 2 December 2015

Mining Act
(chapter M-13.1)

**Mineral substances other than petroleum,
natural gas and brine
— Amendment**

Regulation to amend the Regulation respecting mineral substances other than petroleum, natural gas and brine

WHEREAS, under section 306 of the Mining Act (chapter M-13.1), the Government may in particular, by regulation, prescribe the standards related to mineral substances other than petroleum, natural gas and brine;

WHEREAS the Government made the Regulation respecting mineral substances other than petroleum, natural gas and brine (chapter M-13.1, r. 2);

WHEREAS it is expedient to amend certain provisions of the Regulation to follow up on the amendments made to the Mining Act by the Act to amend the Mining Act (2013, chapter 32);

WHEREAS, in accordance with sections 10 and 11 of the Regulations Act (chapter R-18.1), a draft of the Regulation to amend the Regulation respecting mineral substances other than petroleum, natural gas and brine was published in Part 2 of the *Gazette officielle du Québec* of 6 May 2015 with a notice that the Regulation could be made by the Government on the expiry of 45 days following that publication;

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 Minister of Energy and Natural Resources and the Minister for Mines:

THAT the Regulation to amend the Regulation respecting mineral substances other than petroleum, natural gas and brine, attached to this Order in Council, be made.

JUAN ROBERTO IGLESIAS,
Clerk of the Conseil exécutif

**Regulation to amend the Regulation
respecting mineral substances other than
petroleum, natural gas and brine**

Mining Act
(chapter M-13.1, s. 306)

1. The Regulation respecting mineral substances other than petroleum, natural gas and brine (chapter M-13.1, r. 2) is amended in section 1 by replacing “of Natural Resources and Wildlife” by “responsible for the administration of the Mining Act (chapter M-13.1)”.

2. Section 5 is amended by adding the following after paragraph 5:

“(6) a declaration from the applicant attesting to the accuracy of the information provided.”.

3. Section 6 is amended

(1) by replacing “1 and 2” in paragraph 1 by “1, 2 and 6”;

(2) by striking out paragraph 5.

4. Section 8 is amended

(1) by replacing “obtained otherwise than under section 92 of the Act shall be fixed” in the part preceding subparagraph 1 of the first paragraph by “shall be fixed”;

(2) by striking out the fourth paragraph.

5. The following is inserted after section 8:

“**8.1.** The notice required under the third paragraph of section 65 of the Act is given by means of the document that the Minister makes available to that effect.

The claim holder may, as he or she elects, send that notice to the persons and the municipality concerned or publish the notice in a daily or a weekly newspaper circulated in the region of the claim. In the latter case, a map locating the mining right and enabling to properly situate it must be published with the notice.”.

6. Section 9 is amended by replacing paragraph 3 by the following:

“(3) for each of the claims, its expiry date and, where applicable, the alphanumeric code identifying the claim on which the applicant, in accordance with section 76 of the Act, wishes to perform any work in excess and, in the latter case, the amounts spent for work carried out, in respect of the claim, that the applicant wishes to apply to the claim the renewal of which is applied for;”.

7. Section 12 is revoked.

8. Section 13 is amended by replacing “\$104” by “\$25 per claim up to a maximum of \$250 per report”.

9. Section 16 is amended by striking out “, made in accordance with the provisions of section 83.2 or 83.6 of the Act,” in the third paragraph.

10. Section 17 is amended by striking out subparagraphs 5 and 6 of the first paragraph and the second paragraph.

11. Section 18 is amended by striking out “referred to in section 83.2 of the Act and the licence to explore for surface mineral substances referred to in section 83.6 of the Act in a territory referred to in section 83.2 of the Act” in the part preceding subparagraph 1 of the first paragraph.

12. Section 20 is replaced by the following:

“**20.** The average unexpired portion of the terms of all the claims to be converted for the purpose of determining the expiry date of claims converted into map designated claims following the filing of an application for conversion is calculated by adding, for each of the claims whose conversion is required, the number of days to elapse until its expiry date and by dividing the total amount obtained by the number of claims.”

13. The first paragraph of section 21 is replaced by the following:

“**21.** Any excess amount disbursed, per term, to perform work on all the lands that are subject to the claims to be converted is calculated by totaling the excess amounts disbursed to perform work for each term of the claims converted into map designated claims. That excess amount is apportioned among all the claims converted into map designated claims in proportion to their area.”

14. Section 22 is amended

(1) by striking out “, in the case of an application for conversion referred to in sections 83.2 and 83.6 of the Act,” in the part preceding subparagraph 1 of the first paragraph;

(2) by striking out “or licences to explore for surface mineral substances” in subparagraph 1 of the first paragraph;

(3) by striking out “in the case of a claim,” in subparagraph 2 of the first paragraph;

(4) by striking out “or licences to explore for surface mineral substances” and “or licences” in subparagraph 3 of the first paragraph.

15. Section 23 is amended

(1) by striking out “and the licences to explore for surface mineral substances” in the part preceding subparagraph 1 of the first paragraph;

(2) by replacing “section 61 or 134” in subparagraph 3 of the first paragraph by “section 61”;

(3) by replacing “entered in the public register of real and immovable mining rights” in subparagraph 5 of the first paragraph by “notified to the Minister”;

(4) by striking out “or licence”, “of those mining rights” and “of those rights” in the second paragraph;

(5) by striking out “or licence” in the third paragraph;

(6) by striking out the words “or licence” wherever they appear.

16. Section 25 is replaced by the following:

“**25.** The promises to purchase entered in the public register of real and immovable mining rights, related to the claims obtained by staking are, where those claims are converted into map designated claims, re-entered free of charge in that register, with reference to the claims converted into map designated claims.”

17. Sections 26 to 29 are revoked.

18. Section 29.1 is amended by replacing “17, 19 to 24 and 26 to 29” by “17 and 19 to 24”.

19. Section 29.2 is amended by striking out “and 26 to 29”.

20. Division VIII of Chapter II and Chapter III, comprising sections 30 to 37, are revoked.

21. The following is inserted after the heading of Chapter IV:

“**DIVISION I**
OBTENTION AND RENEWAL”.

22. The following is inserted after section 39:

“**39.1.** The public consultation required under section 101.0.1 of the Act, which includes the holding of a public meeting, is to be announced by means of a notice containing the following information:

- (1) a description of the project;
- (2) a map showing the location of the project site;
- (3) the location and the website where the detailed documentation concerning the project as a whole may be consulted. The documentation includes, in particular, the proposed infrastructures and access roads, a description of the various stages of the project and the planned duration of each stage, the expected benefits and disadvantages of the project, the proposed mitigation measures and a description of the other uses of the territory near the project site;
- (4) the means to be used and the time limits to submit comments;
- (5) the time and place where a public meeting will take place, which must facilitate the participation of the public;
- (6) the possibility for any person to send written comments not later than 30 days following the holding of the public meeting.

The notice must be published in a daily newspaper or a weekly newspaper circulated in the region of the project at least 30 days before the public meeting is held. A copy of the notice must be sent to the Minister, to the Minister of Sustainable Development, the Environment and the Fight Against Climate Change, to the municipalities concerned and to the Native communities consulted by the Government in respect of the project, where applicable.

39.2. During the public meeting, the project is presented and persons wishing to express themselves are heard. The interventions made at the public meeting must be recorded.

39.3. A report on the consultation must be sent to the Minister and to the Minister of Sustainable Development, the Environment and the Fight Against Climate Change within 31 to 90 days of the holding of the public meeting. The report states in particular the requests made by the population and the Native communities concerned, where applicable, and the promoter's proposals regarding those requests.

The report is accompanied by a copy of all the comments received by the promoter during the consultation.

The promoter publishes the report on a website not later than 15 days after sending it to the ministers.”

23. Section 42 is revoked.

24. The following is inserted before the heading of Chapter V:

**“DIVISION II
MONITORING COMMITTEE TO FOSTER THE
INVOLVEMENT OF THE LOCAL COMMUNITY
IN THE PROJECT AS A WHOLE**

42.1. A member of the monitoring committee to foster the involvement of the local community in the project as a whole is deemed not to be independent

(1) if the member has direct or indirect relations or interests of a financial or commercial nature with the lessee;

(2) if the member is employed by the Ministère de l'Énergie et des Ressources naturelles or by the Ministère du Développement durable, de l'Environnement et de la Lutte contre les changements climatiques;

(3) if the member is or was, during the 2 years preceding the date of appointment, employed by the lessee or by one of the lessee's wholly-owned subsidiaries or if the member is related to a person holding such employment.

For the purposes of this section, «related person» means persons connected by blood relationship, marriage, civil union, *de facto* union or adoption.

42.2. The committee must meet at least once a year.

Not later than 15 days after each meeting, the committee sends a report of the meeting to the lessee. The lessee publishes the report on a website within 2 working days following its receipt.

42.3. To prevent a potential dispute between the members of the committee regarding its operation, the committee must, at its first meeting, choose private dispute prevention and resolution processes.

At the same time, the lessee and the committee must choose, by mutual agreement, private dispute prevention and resolution processes for potential disputes between them, regarding in particular,

(1) information and documents requested from the lessee;

(2) the committee's expenses; and

(3) the technical support needed by the committee.

42.4. Every request for information or documents by the committee to the lessee must be made in writing and must concern the data needed to fulfill the committee's mandate.

Within 15 days following the receipt of the request, the lessee must provide the information and documents or give reasons for refusal to do so.

42.5. All expenses related to the operation of the committee, including the expenses related to the steps taken to prevent or resolve a dispute, are assumed by the lessee.

At the request of the committee and on presentation of vouchers, the lessee reimburses the costs related to travel and accommodation of the committee members.

The lessee also provides the technical support needed by the committee, including the recourse to external expertise where required.

42.6. The lessee must publish an annual report of the committee's activities and expenses on a website within 90 days following the end of the lessee's fiscal year.

The committee must draw up the portion of the report concerning its activities and send it to the lessee at least 2 working days before the deadline for publishing the report.

The lessee must produce the other portion of the report concerning the committee's expenses."

25. Chapter V, comprising sections 43 to 45, is revoked.

26. Section 55 is amended by inserting "a copy of the certificate of authorization issued under the Environment Quality Act (chapter Q-2) and" in the second paragraph after "shall include".

27. The following is inserted after section 56:

"§3. Public consultation

56.1. Sections 39.1 and 39.2 apply, with the necessary modifications, to the public consultation required under section 140.1 of the Act.

DIVISION I.1
PROTECTION OF IMPROVEMENTS ON LAND
IN THE DOMAIN OF THE STATE

56.2. Improvements referred to in subparagraph 1 of the first paragraph of section 144 of the Act are those listed in section 14."

28. Section 59 is amended by replacing the second paragraph by the following:

"Despite the foregoing, the Minister may, in accordance with the second paragraph of section 155 of the Act, allow that a single annual report be sent to the Minister on the date fixed by the Minister

(1) where the holder of a lease to mine surface mineral substances, the operator or the person referred to in section 223.1 of the Act is, under the third paragraph of section 155 of the Act, exempt from payment of the royalty;

(2) where the holder of a lease to mine surface mineral substances holds an outfitter's licence under the Act respecting the conservation and development of wildlife (chapter C-61.1) and uses the surface mineral substances for the development and maintenance of the outfitting operation."

29. Section 64 is replaced by the following:

64. In the absence of boundary markers, the holder of an exclusive lease to mine surface mineral substances must mark on the parcel of land subject thereto, the perimeter of the parcel of land and its apex by posts. The lines between the posts must be marked on the land in such a way that they may be easily followed from one post to the next.

Posts must be driven with a precision equal to or greater than a metre."

30. Section 66 is amended by replacing the first paragraph by the following:

66. In this Chapter, "qualified professional" means a geologist who is a member of the Ordre des géologues du Québec, an engineer who is a member of the Ordre des ingénieurs du Québec or, in the case of peat moss, an agrologist who is a member of the Order des agronomes du Québec or a holder of a bachelor's degree in biology."

31. Section 68 is amended by replacing "sections 72, 94, 119 and 137" in the first paragraph by "section 72".

32. Section 69 is amended

(1) by striking out " , of a mining exploration licence, of a mining concession referred to in section 119 of the Act, or of a licence to explore surface mineral substances" in the part preceding subparagraph 1 of the first paragraph;

(2) by inserting "peat-bogs," in subparagraph 2 of the first paragraph after "examination of";

(3) by inserting the following subparagraphs after subparagraph 9 of the first paragraph:

“(9.1) characterization work on a peat-bog carried out as part of an environmental assessment study;

(9.2) drainage work preparatory to the operation of a peat-bog;

(9.3) work for the progressive rehabilitation of a peat-bog;

(9.4) survey, inventory and wildlife and flora research work under the supervision of a qualified professional for the purposes of characterization on a peat-bog;

(9.5) hydrogeological studies under the supervision of a qualified professional, including survey work;”;

(4) by striking out subparagraph 10 of the first paragraph;

(5) by inserting “carried out under the supervision of a qualified professional” in subparagraph 11 of the first paragraph after the first occurrence of “restoration work”;

(6) by replacing “2, 4, 5 or 10” and “section 74, 97, 120 or 138” in subparagraph 11 of the first paragraph by “2, 4 or 5” and “section 74”, respectively.

33. Section 71 is amended by replacing “section 15, 36, 42 or 44” in the first paragraph by “section 15”.

34. Section 72 is amended

(1) by adding “or the knowledge of the wetland ecosystem in the case of a peat-bog” at the end of subparagraph 2 of the first paragraph;

(2) by adding “or the wildlife and flora information in the case of a peat-bog” at the end of the second paragraph.

35. Section 89 is revoked.

36. Section 90 is amended by striking out “the North American Datum 1927 (NAD27), and its system of geodesic coordinates, or according to” in subparagraph *a* of subparagraph 5 of the second paragraph.

37. Section 92 is amended by replacing paragraph 1 by the following:

“(1) in the case of a claim, examine all the documents related to the staking, map designation, conversion, amalgamation and substitution, as the case may be;”.

38. Section 99 is amended by replacing “may” in the first paragraph by “must”.

39. Section 103 is amended by replacing subparagraphs 3 to 7 of the second paragraph by the following:

“(3) the end and corner posts and the posts supporting gates shall be at least 90 mm in diameter in galvanized steel at least 3.175 mm thick; the others shall be at least 60 mm in diameter in galvanized steel at least 2.54 mm thick. They shall not be more than 3 m apart;

(4) the top rail used as a horizontal support shall be a pipe at least 45 mm in diameter in galvanized steel at least 3.556 mm thick;

(5) the end and corner posts and the posts supporting gates shall be fit with braces composed of a galvanized steel pipe at least 45 mm in diameter and at least 2.54 mm thick. The braces must be installed at mid-height between the top rail and the bottom of the netting;

(6) the concrete must have a strength of at least 20 MPa in 28 days, a maximum slump of 100 mm and 5% to 7% of entrained air. The maximum size of coarse aggregate must be 19 mm;

(7) except when posts are inserted in rock, the holes in which posts are inserted shall be 1.20 m deep, at least 300 mm in diameter at the opening and they shall be filled with concrete when the posts are inserted;

(8) in rock, holes used to hold posts shall be at least 500 mm deep and have the necessary diameter to insert posts and concrete therein;

(9) gates shall be of the same height as the fence and be equipped with a device that will prevent them from being stolen;

(10) a 9-gauge tension wire, in galvanized steel, must be installed at the bottom of the fence and affixed to the netting by means of ties made of galvanized steel wire;

(11) damaged galvanized surfaces and welds shall be covered with zinc-rich paint.”.

40. Section 108 is amended by replacing “1,000” in subparagraph *a* of subparagraph 1 of the first paragraph by “5,000”.

41. Sections 111 and 122 are revoked.

42. Section 128 is amended by replacing “paragraph 3” by “paragraphs 3 and 4”.

43. Section 129 is amended by replacing “sections 207 and 207.1” in the first paragraph by “section 207”.

44. The following is added after section 130:

“**130.1.** The following fees are required for any research in the public register of real and immovable mining rights:

(1) research fee at an hourly rate of \$54.50 and for a minimum of 30 minutes;

(2) fee payable for copies of documents at \$0.25 per page;

(3) \$20 fee for the shipping and handling of documents;

(4) \$100 management fee where the information and documents obtained are accessible and may be downloaded free of charge from the register.

130.2. The fees and amounts provided for in sections 1, 2, 3, 7, 8, 128, 129 and 130 of this Regulation as they were fixed on 31 December 2015 are increased by 8% on 1 January 2016 and on 1 January 2017.

The fees provided for in section 130.1 of this Regulation are increased by 8% on 1 January 2017.

The fees, leases and amounts provided for in sections 49, 50, 53, 54 and 57 of this Regulation as they were fixed on 31 December 2015 are increased by 6% on 1 January 2016 and on 1 January 2017.”

45. Division III of Chapter X is revoked.

46. Section 132 is amended by replacing “319”, wherever that number appears, by “314”.

47. Sections 137, 145 and 146 are revoked.

48. Section 147 is amended by replacing “section 111 of the Regulation” in the part preceding subparagraph 1 of the first paragraph by “section 232.4 of the Act”.

49. The following is added after section 138.1:

“**138.2.** Section 15 of this Regulation must, for a 2-year period after (*insert the date of coming into force of this Regulation*), read as follows:

“**15.** The minimum cost of work that the holder of a claim must carry out on the land that is subject thereto, pursuant to section 72 of the Act, is determined in the following tables and varies according to the area of land that is subject thereto, according to the number of terms of the claim and depending on whether the land is located in one of the following areas:

(1) north of the 52nd degree of latitude:

Number of terms of the claim	Area of land subject to a claim		
	Less than 25 ha	25 to 45 ha	More than 45 ha
1	\$31.20	\$78	\$87.75
2	\$104	\$260	\$292.50
3	\$208	\$520	\$585
4	\$312	\$780	\$877.50
5	\$416	\$1,040	\$1,170
6	\$487.50	\$1,170	\$1,170
7 and more	\$650	\$1,625	\$1,625

(2) south of the 52nd degree of latitude:

Number of terms of the claim	Area of land subject to a claim		
	Less than 25 ha	25 to 100 ha	More than 100 ha
1	\$325	\$780	\$1,170
2	\$325	\$780	\$1,170
3	\$325	\$780	\$1,170
4	\$487.50	\$1,170	\$1,755
5	\$487.50	\$1,170	\$1,755
6	\$487.50	\$1,170	\$1,755
7 and more	\$650	\$1,625	\$2,340

50. 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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