

Regulation to amend the Regulation respecting hot mix asphalt plants

Environment Quality Act
(chapter Q-2, s. 95.1; 2017, chapter 4)

1. The Regulation respecting hot mix asphalt plants (chapter Q-2, r. 48) is amended by revoking Division II.
2. Section 6 is revoked.
3. This Regulation comes into force on the fifteenth day following the date of its publication in the *Gazette officielle du Québec*.

103325

Draft Regulation

Environment Quality Act
(chapter Q-2; 2017, chapter 4)

Private waterworks and sewer services

Notice is hereby given, in accordance with sections 10 and 12 of the Regulations Act (chapter R-18.1) and section 124 of the Environment Quality Act (chapter Q-2), that the Regulation respecting private waterworks and sewer services, appearing below, may be made by the Government on the expiry of 15 days following this publication.

The draft Regulation replaces the Regulation respecting waterworks and sewer services (chapter Q-2, r. 21), given the coming into force of the amendments to the Environment Quality Act made by the Act to amend the Environment Quality Act to modernize the environmental authorization scheme and to amend other legislative provisions, in particular to reform the governance of the Green Fund (2017, chapter 4).

The purpose of the draft Regulation is mainly to provide a new plan for setting rates that the person in charge of a private waterworks or sewer system may now collect from persons served by the system without the approval of the Minister. It also proposes provisions to regulate the contestation of the rate by the persons served, and the inquiry process leading ultimately to the imposition of the rate by the Minister where, after a refusal on the part of the person served, there is no agreement between the person in charge of the system and the latter, and a request for an inquiry is submitted to the Minister. The draft Regulation

also proposes the introduction of new terms to regulate the service quality, the interruption and suspension of the service and illicit connections.

In accordance with sections 12 and 13 of the Regulations Act, the draft Regulation may be made on the expiry of a period shorter than the 60-day period required by section 124 of the Environment Quality Act so that the Regulation may come into force on the same date as the provisions relating to water management and treatment of the Act to amend the Environment Quality Act to modernize the environmental authorization scheme and to amend other legislative provisions, in particular to reform the governance of the Green Fund, on 23 March 2018.

Further information on the draft Regulation may be obtained by contacting Caroline Robert, Director, Direction de l'eau potable et des eaux souterraines, Direction générale des politiques de l'eau, Ministère du Développement durable, de l'Environnement et de la Lutte contre les Changements Climatiques, Édifice Marie- Guyart, 8^e étage, 675, boulevard René-Lévesque Est, Québec (Québec) G1R 5V7; telephone: 418 521-3885, extension 4938; fax: 418 643-0252 or email: caroline.robert@mddelcc.gouv.qc.ca

Any person wishing to comment on the draft Regulation is requested to submit written comments within the 15-day period to Caroline Robert at the above address.

ISABELLE MELANÇON,
*Minister of Sustainable Development,
the Environment and the
Fight Against Climate Change*

Regulation respecting private waterworks and sewer services

Environment Quality Act

(chapter Q-2, ss. 32, 39, 46, 95.1, 115.27 and 115.34; 2017, chapter 4)

CHAPTER I

GENERAL

DIVISION I

DEFINITIONS

1. For the purposes of this Regulation,

“owner of a waterworks or sewer system” means a person who owns a waterworks or sewer system, or, if it is undetermined, a person who owns the lot from which water is taken, in the case of a waterworks system, or is discharged, in the case of a sewer system; (*propriétaire d'un système d'aqueduc ou d'égout*)

“person in charge” means the operator or owner of a waterworks or sewer system; (*responsable*)

“person served” means the owner of a building, including a mobile home or a trailer, served by a waterworks or sewer system or, where one system serves another, the owner of the waterworks or sewer system served.

The owner of land served by a waterworks or sewer system on which there is no building, including a mobile home or a trailer, is also a person served within the meaning of this Regulation. (*personne desservie*)

“sewer system” means any works used to collect, store, transport or process domestic wastewater before being discharged into the environment or into another sewer system. Any works situated within the limit of the property of a person served is however excluded; (*système d'égout*)

“waterworks system” means a distribution system within the meaning of section 1 of the Regulation respecting the quality of drinking water (chapter Q-2, r. 40). (*système d'aqueduc*)

DIVISION II

SCOPE

2. The provisions of this Regulation regulate the services provided to the persons served by a waterworks or sewer system that is the responsibility of a person or a group of persons. The same applies for the services provided to the persons served by a waterworks or sewer system that is under the responsibility of a municipality but, in that case, only to the extent where the property served is situated outside the limits of the territory of that municipality.

Despite the foregoing, subject to the second paragraph of section 21, the provisions of this Regulation do not apply in the cases where the person served by the waterworks or sewer system

(1) is a director, an officer or a shareholder or is otherwise a member of the legal person or group of persons responsible for the system;

(2) is part of the tourist clientele of a tourist establishment, within the meaning of section 1 of the Regulation respecting the quality of drinking water (chapter Q-2, r. 40), that is responsible for the system by which it is served.

CHAPTER II

WATERWORKS OR SEWER SERVICE

3. The person in charge of a waterworks or sewer system must provide the persons served with a continuous service and maintain the system in good working order.

4. Where a temporary interruption of service is necessary for repair, maintenance or improvement purposes of a waterworks or sewer system, the person in charge must send a notice of interruption to the persons served at least 10 days before interrupting the service.

If an interruption of service must be made urgently due to unforeseeable circumstances, the person in charge may proceed immediately by sending of a notice of interruption of service to the persons served, as soon as possible.

The person in charge must, in the notice of interruption, specify the nature of the work, the estimated time for the interruption of service and the measures that will be set up to ensure the sanitation of the premises and, as the case may be, access to alternate services during the work.

The person in charge must again notify the persons served as soon as the person in charge is aware that the duration of the interruption of service will be longer than the time estimated in the notice of interruption. The measures set up to ensure the sanitation of the premises and, as the case may be, access to alternate services must be maintained until the end of the work.

5. The person in charge may suspend the waterworks or sewer service to a person served 30 days after that person has received a notice of suspension, where that person

(1) fails to pay the rate in effect in accordance with section 9;

(2) allows the installations to deteriorate, adversely affects their maintenance or makes use of the system in a way that is likely to compromise the service; or

(3) adversely affects the service in any other manner.

The notice of suspension must state the grounds invoked to suspend the service.

6. The person in charge may not suspend the service before the expiry of the 30-day period provided for in section 5 or if the ground for suspension no longer prevails within that period.

Where the service is suspended, the person in charge must restore it as soon as the ground for suspension no longer prevails.

7. No person may carry out a connection to a waterworks or sewer system covered by this Regulation without having previously obtained written authorization from the person in charge of the system.

The connection to a waterworks or sewer system that was authorized by the person in charge must be done at the expense of the person served.

The person in charge of a waterworks or sewer system who is aware of a connection that he or she did not authorize may cut the service to the person, without prior notice.

8. Where a sewer service is suspended under section 5 or cut under section 7, the person in charge must send, on the same day or on the next working day, a notice to the Minister and to the clerk of the local municipality in which the property concerned is situated.

The notice must contain

- (1) the name and contact information of the person concerned;
- (2) the address of the property concerned;
- (3) the name and contact information of the person in charge of the waterworks or sewer service; and
- (4) the date of effect of the suspension or cut and the grounds justifying it.

CHAPTER III

RATE FOR THE USE OF A SERVICE

DIVISION I

SETTING THE RATE

9. The rate in effect for the use of a waterworks or sewer service is the rate set by the person in charge in accordance with this Division or, as the case may be, the rate imposed by the Minister under section 39 of the Environment Quality Act (chapter Q-2) or the rate ordered by the Minister under section 45.3.1 or 45.3.2 of the Act.

10. The person in charge may collect a tax, a fee or a charge from the persons served by his or her waterworks or sewer system.

In order to set the rate to be collected, the person in charge must calculate the sum of the expenses incurred in the preceding year of operation. The person in charge then sets a rate corresponding to the proportion of the sum of the expenses paid by each person served by the system, which are apportioned in accordance with Division IV.

Despite the foregoing, in the case of a new waterworks or sewer system, the first rate is set according to the sum of the anticipated expenses for the year to come.

11. For the purpose of calculating the expenses incurred or anticipated, the costs for the provision of the waterworks or sewer service that are related to the following are taken into account:

- (1) buildings and land;
- (2) the usual maintenance and repair of the installations or pipes of the system;
- (3) the treatments and sampling of water and laboratory analyses;
- (4) administration;
- (5) other related expenses.

The capital costs and other expenses related to the provision of a waterworks or sewer service that may be apportioned over several years and that are related to the following are also taken into account:

- (1) the purchase, construction, replacement or major repairs of installations or components of the system;
- (2) any study or any application for authorization or for a permit when required;
- (3) other related expenses.

12. The person in charge must send to the persons served a notice of rate collection. That notice indicates the rate set and its effective date. Subject to the decision that the Minister could make under Division III, that date constitutes the anniversary date of the effective date of the rate and the latter will be recalculated, in accordance with section 13, each year for 1 year from that date.

The notice also indicates each of the amounts related to the elements referred to in the first and second paragraphs of section 11 that were considered in the calculation of the rate.

13. Each year, within 60 days following the anniversary date of the taking of effect of the rate, the person in charge must send the persons served a new notice of rate collection.

The rate may also be reduced, maintained or increased, according to the sum of the expenses, calculated in accordance with sections 10 and 11.

DIVISION II

REFUSAL OF RATE

14. The person served may refuse the rate that the person in charge intends to collect by sending the person in charge a notice stating his or her reasons, within 30 days following the reception of the notice of rate collection referred to in section 12 or 13.

15. The person in charge who receives a notice of refusal must, within 10 days following its reception, communicate with the person served.

On request of the person served, the person in charge must provide further explanations to the person served, in particular details of the expenses incurred or the supporting documents on which the person in charge relied to calculate the rate.

16. If the person in charge and the person served cannot agree, the person served may submit a request for an inquiry to the Minister, in accordance with Division III.

If no agreement has been reached and no request for an inquiry has been sent to the Minister within 60 days following receipt of the notice of refusal by the person in charge, the rate in force is then deemed to be the rate indicated in the notice of rate collection.

DIVISION III

MINISTER'S INQUIRY

17. If there is no agreement at least 30 days but not later than 60 days after the person in charge has received a notice of refusal in accordance with section 14, the person served may send the Minister a request for an inquiry so that the Minister may decide on the rate applicable and the time of its taking of effect.

The request must be sent in writing and contain

- (1) the name and contact information of the person served;
- (2) the address of the property served by the system;
- (3) the name and contact information of the person in charge of the waterworks or sewer system that serves the person; and

- (4) the specific reasons supporting the refusal.

A copy of the notice of rate collection received and a copy of the notice of refusal sent to the person in charge must also accompany the request.

18. After giving the parties an opportunity to submit their observations and produce any documents to complete the record, the Minister renders a decision on the record unless the Minister deems it necessary to proceed in some other manner.

19. In the Minister's decision, the Minister takes into account the criteria provided for in sections 10 and 11 and the fact that it is a public service.

DIVISION IV **RATE COLLECTION**

20. The persons served may be grouped in categories according to the use and type of property that the waterworks or sewer system serves.

In the case of a waterworks system, the persons served may also be categorized according to their real consumption, calculated with water meters.

21. To set the rate to be collected, the sum of the expenses must be apportioned equally among each person served or according to proportions that may vary based on the categories of persons served.

The person in charge must, in apportioning the sum of the expenses to set the rate to be collected, consider any other person benefiting from the waterworks or sewer service, although the provisions of this Regulation do not apply to that person under section 2.

22. The sum of the expenses among various categories of persons served must be apportioned fairly. Within a single category, the rate must be identical for each person served.

23. The capital costs related to the extension of a waterworks or sewer system carried out to serve a new person are paid by that person. The costs are added to the rate that the person in charge may then collect from the new person served, that corresponds to the rate in effect, at the time of the connection, for other persons served or, as the case may be, for other persons served of the category to which the person belongs.

The person in charge must, for the purposes of the second paragraph of section 13, take into account the sums collected from the new person served in the calculation of the new rate.

24. Failing agreement between the person in charge and the person served regarding the terms of payment of the set rate, the rate is to be collected on a quarterly basis.

25. Despite a notice of rate collection that was the subject of a notice of refusal in accordance with section 14, the person in charge may continue to collect the rate in effect until an agreement is reached between the person in charge and the person served or until the new rate has been set in accordance with Division III, according to the terms established.

Where applicable, the necessary adjustments are made to the payments remaining for each of the persons served for the current year, once the new rate is in effect.

DIVISION V

NOTICE

26. All the notices to be sent under this Regulation must be sent in writing and by a means allowing to prove its reception.

CHAPTER IV

PENALTIES

DIVISION I

MONETARY ADMINISTRATIVE PENALTIES

27. A monetary administrative penalty of \$250 in the case of a natural person or \$1,000 in other cases may be imposed

(1) on the person in charge of a waterworks or sewer system who fails to communicate with the person served from whom the person in charge received a notice of refusal or fails to provide, on request of the person served, further explanations, in accordance with section 15; or

(2) on any person who fails to send, in the manner provided for in section 26, a notice covered by this Regulation.

28. A monetary administrative penalty of \$350 in the case of a natural person or \$1,500 in other cases may be imposed on any person who fails to comply with the deadlines to send any notice provided for in this Regulation or to indicate, in the notices, the information required, except the notice referred to in section 14.

29. A monetary administrative penalty of \$500 in the case of a natural person or \$2,500 in other cases may be imposed on the person in charge of a waterworks or sewer system who fails to comply with the conditions to apportion the rate among the persons served provided for in section 21 or in section 22.

30. A monetary administrative penalty of \$750 in the case of a natural person or \$3,500 in other cases may be imposed on the person in charge of a waterworks or sewer system who fails

(1) to ensure the persons served a continuous service or to maintain its system in good working order, in accordance with section 3;

(2) to set up or maintain, for the entire duration of the work, the measures to ensure the sanitation of the premises and, where applicable, access to alternate services in the cases provided for in section 4; or

(3) to comply with the conditions of suspension or restoration of service provided for in section 6.

DIVISION II

PENAL

31. Any person who contravenes section 15 or section 26 commits an offence and is liable, in the case of a natural person, to a fine of \$1,000 to \$100,000 or, in other cases, to a fine of \$3,000 to \$600,000.

32. Any person who fails to comply with the deadlines to send any notice provided for in this Regulation or to indicate, in the notices, the information required, except the notice provided for in section 14, commits an offence and is liable, in the case of a natural person, to a fine of \$2,000 to \$100,000 or, in other cases, to a fine of \$6,000 to \$600,000.

33. The person in charge of a waterworks or sewer system who contravenes section 21 or section 22 commits an offence and is liable, in the case of a natural person, to a fine of \$2,500 to \$250,000 or, in other cases, to a fine of \$7,500 to \$1,500,000.

34. The person in charge of a waterworks or sewer system who contravenes section 3 or section 6 commits an offence and is liable, in the case of a natural person, to a fine of \$4,000 to \$250,000 or, in other cases, to a fine of \$12,000 to \$1,500,000.

The person in charge of a waterworks or sewer system who fails to set up or maintain, for the entire duration of the work, the measures to ensure the sanitation of the premises and, where applicable, access to alternate services in the cases provided for in section 4 also commits an offence and is liable to the same penalties.

35. Any person who, pursuant to this Regulation, makes a declaration, communicates information or files a document that is false or misleading commits an offence and is liable, in the case of a natural person, to a fine of \$5,000 to \$500,000 or, despite article 231 of the Code of Penal Procedure (chapter C-25.1), to a maximum term of imprisonment of 18 months, or to both the fine and imprisonment, or, in other cases, to a fine of \$15,000 to \$3,000,000.

36. Any person who contravenes any other requirement imposed by this Regulation also commits an offence and is liable, where no other penalty is provided for by this Division or the Act, to a fine of \$1,000 to \$100,000 in the case of a natural person or, in other cases, to a fine of \$3,000 to \$600,000.

CHAPTER V

TRANSITIONAL AND FINAL

37. A rate approved or ordered by the Minister pursuant to the Environment Quality Act (chapter Q-2) before 23 March 2018 is considered, for the purposes of this Regulation, as a rate in effect within the meaning of section 9.

38. The person in charge of a waterworks or sewer system who, on 23 March 2018, imposes a rate approved or ordered by the Minister pursuant to the Environment Quality Act (chapter Q-2), as it read before that date, must send to the persons served by its system a first notice of rate collection in accordance with Division I of Chapter III of this Regulation not later than on 23 March 2019.

39. Applications for approval or amendment of the rate that were sent to the Minister before 23 March 2018 are continued and decided in accordance with subdivision 4 of Division V of Chapter I of the Environment Quality Act, as it read before that date.

The rate thus approved by the Minister will constitute the rate in effect for a year and the rate may be collected in accordance with this Regulation. The date set in the Minister's decision will constitute, for the purposes of this Regulation, the anniversary date of the taking of effect of the rate under section 12.

40. This Regulation replaces the Regulation respecting waterworks and sewer services (chapter Q-2, r. 21).

41. This Regulation comes into force on 23 March 2018.