

6. As of 23 March 2018 and until the date of coming into force of the regulations referred to in subparagraphs 1 to 4, 6 and 7 of the first paragraph and the second paragraph of section 306 as well as section 308 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 (2017, chapter 4) or 14 July 2018, whichever comes first, the amendments made by that Act that involved a change in the structure or numbering must be applied to the interpretation of any Act, regulation or order.

7. As of 23 March 2018 and until the date of coming into force of the regulations referred to in subparagraphs 1 to 4, 6 and 7 of the first paragraph and the second paragraph of section 306 as well as section 308 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 (2017, chapter 4) or 14 July 2018, whichever comes first, in addition to the general modifications provided for in this Regulation and that Act, the Regulation respecting industrial depollution attestations (chapter Q-2, r. 5) applies with the following modifications:

(1) section 17 must be read as follows:

“**17.** In accordance with section 31.16 of the Act, in the case of any event or incident resulting in a contravention of the authorization’s provisions, the authorization holder must so inform the Minister in writing, giving reasons for the contravention, and inform the Minister of the measures referred to in that section that have been taken, specifying any timetable for their implementation, within the following time periods:

(1) without delay if the event or incident constitutes a case of accidental occurrence of a contaminant in the environment;

(2) within 30 days of becoming aware of any other event or accident entailing a contravention of the provisions of the authorization.”;

(2) in section 19, the technical report must be submitted to the Minister by any holder of an authorization for the operation of an industrial establishment who wishes to replace or alter apparatus or equipment intended to treat wastewater or to prevent, reduce or stop the discharge of contaminants into the atmosphere, for which contaminant discharge standards are provided for in the authorization;

(3) section 20 does not apply.

8. As of 23 March 2018 and until the date of coming into force of the regulations referred to in subparagraphs 1 to 4, 6 and 7 of the first paragraph and the second paragraph of section 306 as well as section 308 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 (2017, chapter 4) or 14 July 2018, whichever comes first, in addition to the general modifications provided for in this Regulation and that Act, the Regulation respecting hazardous materials (chapter Q-2, r. 32) applies with the following modifications:

(1) section 9 does not apply;

(2) in subparagraph *b* of paragraph 5 of section 113, the 12-month period is extended to 24 months.

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

103385

Gouvernement du Québec

O.C. 234-2018, 14 March 2018

Environment Quality Act
(chapter Q-2)

Private waterworks and sewer services

WHEREAS 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) was assented to on 23 March 2017;

WHEREAS the Act replaces in particular sections 32, 39, 46 and 95.1 of the Environment Quality Act (chapter Q-2);

WHEREAS, under the second paragraph of section 32 of the Environment Quality Act, as replaced, the Government may, by regulation, define the terms “waterworks system” and “sewer system”;

WHEREAS, under the first paragraph of section 39 of the Act, as replaced, the Government prescribes, by regulation, the cases and manner in which an operator or owner of a waterworks or sewer system may collect a tax, duty or dues from the persons served by it and the terms and conditions according to which the operator or owner sets to that end the applicable rate for using the system;

WHEREAS, under the second paragraph of section 39 of the Act, as replaced, the Government prescribes, by regulation, the terms and conditions according to which a person served may refuse the imposed rate;

WHEREAS, under the fourth paragraph of section 39 of the Act, as replaced, the Government prescribes, by regulation, the criteria according to which the Minister may, after an inquiry, impose the applicable rate and the moment it takes effect;

WHEREAS, under paragraph 12 of section 46 of the Act, as replaced, the Government may, by regulation, establish the duties, rights and obligations of the persons served, the owner and the operators as to the running and operation of a water management or treatment facility that is not operated by a municipality, or is operated by a municipality outside its territorial limits, and prohibit any act detrimental to its running and operation;

WHEREAS, under paragraph 14 of section 46 of the Act, as replaced, the Government may, by regulation, establish classes of persons served and operators;

WHEREAS, under subparagraph 3 of the first paragraph of section 95.1 of the Act, as replaced, the Government may make regulations to prohibit, limit and control sources of contamination and the release into the environment of any class of contaminants for all or part of the territory of Québec;

WHEREAS, under subparagraph 5 of the first paragraph of section 95.1 of the Act, as replaced, the Government may make regulations to establish standards for the installation and use of any type of apparatus, device, equipment or process designed to control the release of contaminants into the environment;

WHEREAS, under subparagraph 21 of the first paragraph of section 95.1 of the Act, as replaced, the Government may, by regulation, prescribe the reports, documents and information that must be provided to the Minister by any person or municipality carrying on an activity governed by the Act or the regulations, determine their form and content and the conditions governing their preservation and sending;

WHEREAS, under the second paragraph of section 95.1 of the Act, as replaced, a regulation made under the section may also prescribe any transitional measure necessary for its implementation;

WHEREAS, under section 115.27 of the Act, the Government may, in a regulation made under the Act, specify that a failure to comply with the regulation may give rise to a monetary administrative penalty and set forth the amounts of the penalty;

WHEREAS, under the first paragraph of section 115.34 of the Act, the Government may determine the regulatory provisions made under the Act whose contravention constitutes an offence and renders the offender liable to a fine the minimum and maximum amounts of which are set by the Government;

WHEREAS, in accordance with sections 10, 12 and 13 of the Regulations Act (chapter R-18.1) and section 124 of the Environment Quality Act, a draft Regulation respecting private waterworks and sewer services was published in Part 2 of the *Gazette officielle du Québec* of 14 February 2018 with a notice that it could be made by the Government on the expiry of 15 days following that publication;

WHEREAS, under section 18 of the Regulations Act, a regulation may come into force between the date of its publication in the *Gazette officielle du Québec* and 15 days after that date where the authority that has made it is of the opinion that the urgency of the situation requires it and the reason justifying such coming into force must be published with the regulation;

WHEREAS the Government is of the opinion that the urgency due to the following circumstances justifies a coming into force on 23 March 2018:

—the new provisions introduced 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 concerning waterworks and sewer system enterprises completely changed the regulatory measures applicable to them. The new Regulation respecting private waterworks and sewer services must therefore be in force at the time of the coming into force of the new provisions to give them full effect;

WHEREAS it is expedient to make the Regulation respecting private waterworks and sewer services with amendments;

IT IS ORDERED, therefore, on the recommendation of the Minister of Sustainable Development, the Environment and the Fight Against Climate Change:

THAT the Regulation respecting private waterworks and sewer services, attached to this Order in Council, be made.

ANDRÉ FORTIER,
Clerk of the Conseil exécutif

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). A distribution system intended only for fire protection is also considered to be a waterworks system. (*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 with the interruption by informing the persons served by any appropriate means. As soon as the person in charge is aware that the duration of the interruption of service will extend to the following day, the person must send a notice of interruption of service to the persons served.

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. Where the interruption of service extends beyond the first day, the notice must specify the measures that will be implemented to ensure 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.

Despite the first to the fourth paragraphs, where the interruption of service concerns a sewer system intended only for fire protection, the person in charge must inform, by any appropriate means, the persons served of the interruption and specify the estimated duration 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 secretary-treasurer or 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.

In the case of a new waterworks or sewer system, a rate may be set for the first year of operation. In that case, the rate is set according to the sum of the expenses incurred for the installation of the system.

11. For the purpose of calculating the expenses incurred, 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, that must correspond to the date on which the notice is sent or a later 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.

The person served may, in the notice of refusal, ask the person in charge to provide him or her with more information, in particular details of the expenses incurred or the supporting documents on which the person in charge relied to calculate the rate.

15. For the purpose of reaching an agreement, the person in charge must, within 10 days after receiving the notice of refusal, communicate with the person served and send to the person, in the manner prescribed in section 26, the required documents.

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, a copy of the notice of refusal sent to the person in charge and a copy of any documents received from the person in charge under section 15 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 collected the preceding year 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, following an agreement or a decision of the Minister, a new rate is set, the person in charge must send, within 15 days after the agreement or the reception of the decision, a notice of corrected rate collection to all the persons served by the system. The notice must specify the terms of adjustment of the rate in relation to the amounts collected up until then.

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.

Notices and proof of their reception must be kept for a period of 5 years as of the date of their filing and be sent to the Minister, at the Minister's request.

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 on the person who fails

(1) to communicate with the person served from whom the person in charge received a notice of refusal or to provide, at the request of the person served, the information and documents requested, in accordance with section 15; or

(2) to comply with the sending method provided for in the first paragraph of section 26 for any notice or document.

28. A monetary administrative penalty of \$350 in the case of a natural person or \$1,500 in other cases may be imposed on the person in charge who fails

(1) to comply with the deadlines to send any notice or document provided for in this Regulation or to indicate, in the notices or documents, the information required;

(2) to inform the persons served of an interruption of service, in accordance with the second or fifth paragraph of section 4; or

(3) to keep a notice or document for the period provided for in the second paragraph of section 26 or to send it to the Minister, at the Minister's requests.

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 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 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. A person in charge who contravenes section 15 or the first paragraph of 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. A person in charge who fails

(1) to comply with the deadlines to send any notice or document provided for in this Regulation or to indicate, in the notices, the information required,

(2) to inform the persons served of an interruption of service, in accordance with the second or the fifth paragraph of section 4,

(3) to keep a notice of document for the period provided for in the second paragraph of section 26 or to send it to the Minister, at the Minister's request,

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 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 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 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 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.

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