

Draft Regulations

Draft Regulation

Environment Quality Act
(chapter Q-2)

Act respecting certain measures enabling
the enforcement of environmental
and dam safety legislation
(chapter M-11.6)

Charges payable for the use of water — Amendment

Notice is hereby given, in accordance with sections 10 and 11 of the Regulations Act (chapter R-18.1), that the Regulation to amend the Regulation respecting the charges payable for the use of water, appearing below, may be made by the Government on the expiry of 45 days following this publication.

The draft Regulation amends the Regulation respecting the charges payable for the use of water (chapter Q-2, r. 42.1) to increase the basic rate of the charges by \$2.5 per million litres (\$/ML) to \$35/ML on 1 January 2024, and to increase it annually by 3%. The draft Regulation also increases the rate applicable to activities that incorporate water to a product from \$70/ML to \$150/ML on 1 January 2024, and to increase it annually by 3%.

The draft Regulation adds additional charges of \$350/ML as of 1 January 2024, for the activities for the production of water in bottles or other containers, and for the activities for the transportation of water by volume, whether or not the water is intended for human consumption. It does not set any increase or adjustment for that rate.

The draft Regulation also replaces, as of 1 January 2024, the threshold criterion to the charges for the use of water, currently based on daily average volumes (calculated on a monthly basis), by a criterion based on the maximum daily volume. It also reduces to 50,000 litres, as of 1 January 2026, the maximum daily volume from which an industry covered by the Regulation respecting the charges payable for the use of water is subject to the water charges.

In addition, the draft Regulation introduces a provision specifying that as soon as the volume of water used in a day is equal to or greater than 50,000 litres, the person

whose activity results in that use of water is subject to charges for that year and any other subsequent year, regardless of the volume.

It sets at \$250, plus adjustment, the amount under which no charges for the use of water are payable, as of 1 January 2024. The threshold is equal to the average cost for processing a file for the public administration.

The draft Regulation also provides that persons subject to charges for the use of water are required to determine each year, in addition to the volume of water they use, the volume of water they discharge.

It also determines, among the information provided for in the annual declaration to be sent to the Minister by the persons subject to the charges who are not withdrawers referred to in the Regulation respecting the declaration of water withdrawals (chapter Q-2, r. 14), the information that is public and that the Minister publishes on the Minister's department's website.

The draft Regulation provides that if a person subject to charges for the use of water holds an authorization from the Minister for its withdrawal and does not send to the Minister the declaration provided for in the Regulation respecting the declaration of water withdrawals, the payable charges will be set according to the maximum daily water volume that the authorization allows to be withdrawn. In the absence of an authorization to withdraw, the draft Regulation provides that if a person subject to charges does not send to the Minister, depending on the case applicable to the person, the declaration provided for in the Regulation respecting the declaration of water withdrawals or the information provided for in the Regulation respecting the charges payable for the use of water, the charges will be calculated according to the maximum effective capacity of the withdrawal facility or equipment.

Lastly, amendments are proposed to simplify the interpretation and application of certain sections.

The amendments proposed by the draft Regulation will result in certain costs for the persons subject to the Regulation, who will have to pay additional charges of \$195.9 million over the 2025-2031 period. The increases represent on average 0.4% of the enterprises' projected revenues in 2031. The increases would be financed mainly by the enterprises in the primary metal manufacturing, mining and paper manufacturing sectors. The paper

manufacturing sector should in particular pay an additional \$83.0 million in charges over seven years. Since the charges will apply to smaller withdrawers, because of the lowering of the threshold to 50,000 litres of water per day as of 2026, more small and medium-sized businesses will be subject to the charges. The addition of a threshold under which no charges for the use of water are payable will allow small withdrawers to not be billed under the threshold and save around \$15,000 over the 2025-2031 period. Enterprises newly subject to the charges as of 2026 will pay costs of \$0.1 million until 2031. Overall, the sectors of activities covered will be able to absorb the additional costs created by the draft Regulation. Certain enterprises could either transfer part of the cost increase to consumers or compensate for the increase by making their industrial processes more water efficient. Other enterprises that are already in financial difficulty could require support.

Further information on the draft Regulation may be obtained by contacting Simon Guay, Director, Direction de l'eau potable et des eaux souterraines, Direction principale de la protection des eaux, Ministère de l'Environnement, de la Lutte contre les changements climatiques, de la Faune et des Parcs, 675, boulevard René-Lévesque Est, 8^e étage; telephone: 418 521-3885, extension 4938; email: simon.guay2@environnement.gouv.qc.ca.

Any person wishing to comment on the draft Regulation is requested to submit written comments within the 45-day period to Simon Guay at the above contact information.

BENOIT CHARETTE
Minister of the Environment, the Fight Against Climate Change, Wildlife and Parks

Regulation to amend the Regulation respecting the charges payable for the use of water

Environment Quality Act
(chapter Q-2, s. 46, par. 16, and s. 95.1, 1st par., subpars. 11, 12, 20, 21 and 21.1)

Act respecting certain measures enabling the enforcement of environmental and dam safety legislation
(chapter M-11.6, ss. 30 and 45)

1. The Regulation respecting the charges payable for the use of water (chapter Q-2, r. 42.1) is amended in section 3 by replacing ““North American Industry Classification System (NAICS) Canada 2007” published by Statistics Canada (Catalog no.12-501-XIF, 1998,

ISBN 0-662-72948-X)” in the second paragraph by ““North American Industry Classification System (NAICS) Canada””.

2. Section 4 is amended by replacing the first paragraph by the following:

“Every person whose activity results in the use of a daily volume of water equal to or greater than 50,000 litres, at least 1 day in a calendar year, is subject to charges for the use of water for that year and remains so for any subsequent year in which the same activity results in the use of water, regardless of the volume. The daily volume is determined, with the necessary modifications, according to the conditions set out in section 3.1 of the Regulation respecting the declaration of water withdrawals (chapter Q-2, r. 14).”.

3. Section 5 is replaced by the following:

5. The rate of the charges is set at \$35 per 1,000,000 litres of water used, except the water used for the activities referred to in the second paragraph.

The rate of the charges is set at \$150 per 1,000,000 litres of water used where the water is used for the following activities:

(1) the production of water in bottles or other containers, whether or not the water is intended for human consumption;

(1.1) the transportation of water by volume, regardless of the means used and whether or not the water is intended for human consumption;

(2) beverage manufacturing (NAICS 3121);

(3) non-metallic mineral product manufacturing (NAICS 327), when water is incorporated into the product;

(4) pesticide, fertilizer and other agricultural chemical manufacturing (NAICS 3253), when water is incorporated into the product;

(5) other basic inorganic chemical manufacturing (NAICS 32518), when water is incorporated into the product;

(6) oil and gas extraction (NAICS 211).

Where the water is used for the production of water in bottles or other containers, or for the transportation of water by volume whatever the means used, whether or not the water is intended for human consumption, additional charges of \$350 per 1,000,000 litres of water used is added to the charges provided for in the second paragraph.”.

4. The following is inserted after section 5:

“**5.1.** Despite section 5, no charges for the use of water are payable where the amount is less than \$250.”

5. Section 6 is replaced by the following:

“**6.** Every person subject to charges for the use of water is required to determine the volume of water the person uses and discharges annually by direct measurement taken by measuring equipment installed as close as possible to a withdrawal site and each discharge point for water and the installation, operation, monitoring and measurement of which meet the requirements of Chapter IV of the Regulation respecting the declaration of water withdrawals (chapter Q-2, r. 14).”

6. Section 8 is replaced by the following:

“**8.** Persons subject to charges for the use of water must, when they are withdrawers referred to in the Regulation respecting the declaration of water withdrawals (chapter Q-2, r. 14), indicate in the annual declaration to be sent to the Minister under section 9 of that Regulation, the amount of the charges paid to the Minister of Finance.

The persons must also indicate the monthly volumes and the annual volume of water used and discharged, in litres, and, in the case of several activities, the volumes broken down for each activity.

If they are not withdrawers referred to in the Regulation respecting the declaration of water withdrawals, the persons subject to charges for the use of water must declare to the Minister each year, not later than 31 March of the year following the year that is the subject of the declaration or, if they have ceased using the water in one year, within 60 days after the cessation, the following information:

(1) their name, address, telephone number, email address and, where applicable, the Québec business number and those of their representatives and their establishments;

(2) the distribution system from which comes the water used;

(3) the number of days during which water was taken from that system;

(4) the activity for which the water is used, identified by its NAICS code;

(5) the monthly volumes and the annual volume of water used and discharged, in litres, and, in the case of several activities, the volumes broken down for each activity;

(6) the type of measuring equipment installed and any malfunction, breakdown, abnormality or other defect that affected the operation of the equipment, and the number of days during which the volumes could not be measured in a reliable and accurate manner or, if an estimation method is used, the name of the professional who estimated the volumes of water used and his or her profession and a description of the estimation method used.

The declaration is completed and sent electronically, using the form on the website of the Ministère du Développement durable, de l'Environnement et des Parcs. The person preparing the declaration must certify that the information it contains is accurate. Documents in support of the declaration must be kept on the premises of the establishment concerned for a period of 5 years and be sent to the Minister within 20 days after a request to that effect.

The persons referred to in the third paragraph must also keep a register in accordance with section 10 of the Regulation respecting the declaration of water withdrawals, which applies with the necessary modifications.

The information on the use of water referred to in the second and third paragraphs, except the information referred to in subparagraph 6 of the third paragraph and personal information, is public and the Minister publishes the information of the Minister's department's website, in keeping with the principle of transparency stated in section 7 of the Act to affirm the collective nature of water resources and to promote better governance of water and associated environments (chapter C-6.2).”

7. The following is inserted after section 8:

“**8.1.** Where a person subject to charges for the use of water is a withdrawer referred to in the Regulation respecting the declaration of water withdrawals (chapter Q-2, r. 14) and has not sent to the Minister, within the period prescribed, the annual declaration provided for in section 9 of that Regulation or the information provided for in the second paragraph of section 8 of this Regulation, the charges payable are established,

(1) if the water withdrawal is authorized by the Minister under section 22 of the Act, according to the maximum daily water volume that the authorization allows to be withdrawn for the current year; and

(2) in the other cases, according to the maximum effective capacity of the withdrawal facility or equipment, as indicated in the specifications of the builder or manufacturer of the works.

Where a person subject to charges for the use of water is not a withdrawer referred to in the Regulation respecting the declaration of water withdrawals and has not sent to the Minister, within the period prescribed, the information provided for in the third paragraph of section 8 of this Regulation, the charges payable are established according to the maximum effective capacity of the withdrawal facility or equipment, as indicated in the specifications of the builder or manufacturer of the works.

Before imposing the charges established under this section, the Minister must give prior notice to the person concerned and grant the person at least 30 days to submit observations.”

8. Section 9 is replaced by the following:

“**9.** The rates of the charges set in the first and second paragraphs of section 5 are increased by operation of law on 1 January of each year, according to an annual rate of 3%.

The amount set in section 5.1 is adjusted in the manner provided for in section 83.3 of the Financial Administration Act (chapter A-6.001).”

9. Until 31 December 2025 and despite section 4 of the Regulation, as amended by section 2 of this Regulation, the daily volume of water applicable for the purposes of section 4 of the Regulation is established at 75,000 litres.

10. This Regulation comes into force on 1 January 2024.

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Draft Regulation

Environment Quality Act
(chapter Q-2)

Act respecting certain measures enabling the enforcement of environmental and dam safety legislation
(chapter M-11.6)

Declaration of water withdrawals — Amendment

Notice is hereby given, in accordance with sections 10 and 11 of the Regulations Act (chapter R-18.1), that the Regulation to amend the Regulation respecting the declaration of water withdrawals, appearing below, may be made by the Government on the expiry of 45 days following this publication.

The draft Regulation amends the Regulation respecting the declaration of water withdrawals (chapter Q-2, r. 14) to replace, as of 1 January 2024, the threshold criterion for the annual declaration of withdrawal activities and volumes of water withdrawn, currently based on the average daily volumes (calculated on a monthly basis), by a criterion based on a maximum daily volume.

The draft Regulation also reduces to 50,000 litres, as of 1 January 2025, the maximum daily volume from which a withdrawer must declare withdrawal activities and volumes of water withdrawn.

The draft Regulation introduces a provision specifying that as soon as the volume of water withdrawn in a day is equal to or greater than 50,000 litres, a declaration is required for that year and for any subsequent year, regardless of the volume.

The draft Regulation determines, in addition, the information related to the volumes of water declared that is public and that the Minister publishes on the Minister’s department’s website.

The draft Regulation introduces a provision requiring every withdrawer who does not reach the threshold for the annual declaration of withdrawal activities and volumes of water withdrawn to record in a document and update information on the withdrawal, unless the withdrawal is for the purposes of human consumption for 20 persons or less, or is taken out of the St. Lawrence River Basin for agricultural purposes or for the operation of a fishing pond site or an aquaculture site. A monetary administrative penalty and an offence related to the provision are also included in the Regulation.

Lastly, amendments are made to the Regulation to simplify the interpretation and application of certain sections, including as regards definitions.

The impact analysis shows that the reduction to 50,000 litres, as of 1 January 2025, of the maximum daily volume from which a withdrawer must declare withdrawal activities and volumes of water withdrawn would result in an increase in the parties subject to the declaration and the costs related to administrative formalities, corresponding to \$12,000 for enterprises for the 2026-2031 period. Since the requirement to make a declaration will apply to smaller withdrawers, more small and medium-sized businesses will be subject to the requirement.

Further information on the draft Regulation may be obtained by contacting Simon Guay, Director, Direction de l’eau potable et des eaux souterraines, Direction principale de la protection des eaux, Ministère de l’Environnement, de la Lutte contre les changements climatiques, de la