

Regulation to amend the Water Withdrawal and Protection Regulation

Environment Quality Act
(chapter Q-2, s. 46, pars. 15 and 16, s. 95.1, par. 7, and ss. 115.27 and 115.34; 2017, chapter 4)

1. The Water Withdrawal and Protection Regulation (chapter Q-2, r. 35.2) is amended in section 2

(1) by replacing “Regulation respecting the application of section 32 of the Environment Quality Act (chapter Q-2, r. 2)” in the definition of “temporary industrial camp” by “Regulation respecting the application of the Environment Quality Act (*insert the reference to the CLRQ*)”;

(2) by inserting the following definition in the first paragraph after the definition of “ditch”:

“drilling site” means the zone grouping the drilling well or wells used to explore for or produce petroleum, natural gas or brine, or to explore for or operate an underground reservoir and the land laid out in the immediate vicinity of the well or wells to receive the equipment and infrastructures necessary for the interventions performed on the well or wells, such as storage areas, soil mound and waste water storage or treatment basins; (*site de forage*)”;

(3) by inserting the following definition in the first paragraph after the definition of “raising facility”:

“stratigraphic survey” means an operation to collect data on a geological formation, using samples and their analysis and technical surveys, conducted as part of preliminary investigations to eventually locate, design and construct a drilling site for the exploration or production of petroleum, natural gas or brine, or for the exploration for or operation of an underground reservoir and the well or wells which will be present on the site; (*sondage stratigraphique*)”.

2. Sections 5 to 10 are revoked.

3. Section 17 is amended

(1) by replacing “, excavated or driven well must rise at least 30 cm above the ground level existing before the work begins” in subparagraph 4 of the first paragraph by “or excavated well must rise at least 30 cm above the ground level as it is after the earthwork”;

- (2) by replacing the second paragraph by the following:

“The distances provided for in subparagraphs 1, 2 and 3 of the first paragraph do not apply to the construction of a groundwater withdrawal facility made necessary by the termination of a water supply from a facility located on a neighbouring immovable whose owner is different from the owner to whom the immovable on which a facility must be constructed belongs.

In such a case, a professional must certify, in a document bearing his or her signature, that the construction of the facility is made necessary by the termination of water supply referred to in the second paragraph. In the same document, the professional must also justify the choice of the location for the facility and must provide for the design measures preferred by him or her. The professional must prepare the plans and specifications for the facility and supervise the construction work on the facility. The professional must, in the performance of the tasks incumbent on him or her, minimize any risks that may affect the quality of the groundwater withdrawn.

The document and plans and specifications referred to in the third paragraph are sent to the person responsible for the facility and to the municipality concerned within 30 days of their signing. Copy thereof is also sent to the Minister for information within the same time. The information recorded therein is public information.”.

4. Section 18 is amended by replacing subparagraph 3 of the first paragraph by the following:

“(3) its location must be visibly locatable from a distance of 30 m;”.

5. Section 19 is amended by replacing subparagraph 1 of the first paragraph by the following:

“(1) the sealing may not be excavated and must be drilled;

(1.1) the well must have an annular space of at least 10 cm;”.

6. Section 20 is replaced by the following:

“**20.** The plugging of a groundwater withdrawal facility dug by drilling must be carried out on the following conditions:

(1) a material not likely to degrade the quality of the groundwater must be used;

(2) the well casing must be exposed to a depth of at least 1 m below the surface of the ground;

(3) the well casing must be cut off at the bottom of the excavation;

(4) the portion of the well open to the aquifer must be filled with clean sand;

(5) the remaining portion of the casing must be filled with bentonite or a cement bentonite mix;

(6) a concrete slab must be placed over the end of the casing;

(7) the excavation must be filled by using the soil initially excavated or by using clean sand.

The plugging of an excavated or driven groundwater withdrawal facility must be carried out using one of the following methods:

(1) by completely removing the casing and then filling it with clean sand; or

(2) if the casing is not removed completely,

(a) by complying with the conditions referred to in subparagraphs 2 and 3 of the first paragraph; and

(b) by filling the casing and excavation with the soil initially excavated or with clean sand.”.

7. Section 21 is replaced by the following:

“**21.** The person who performed the construction work for a groundwater withdrawal facility must prepare and sign a report containing the information listed in Schedule I certifying that the work complies with the standards set out in this Regulation. The professional who supervised the work must also sign the report.

The report must then be sent to the person responsible for the facility and to the municipality concerned by either of the persons referred to in the first paragraph, within 30 days after the work is completed. A copy of the report is also sent to the Minister for information within the same time.

The information recorded in the report is public information.”.

8. Section 23 is amended by replacing “ASTM A-409” in subparagraph 1 of the first paragraph by “ASTM A-312”.

9. Section 30 is replaced by the following:

“30. The person who installed the ground-source geothermal system that does not withdraw water must prepare and sign a report a report containing the information and documents listed in the second paragraph and certifying that the work complies with the standards set out in this Regulation. The professional who supervised the work must also sign the report.

The report referred to in the first paragraph contains

- (1) the information listed in Schedule I
- (2) a plan showing the location of the system, including the location of all underground components;
- (3) the dimensions of the geothermal loops and the composition of the fluids used in the system;
- (4) the results of the pressure tests conducted on the system.

The report must then be sent to the person responsible for the facility and to the municipality concerned by either of the persons referred to in the first paragraph, within 30 days after the work is completed. A copy of the information listed in Schedule I is also sent to the Minister for information within the same time.

The information recorded in the report is public information.”.

10. Section 31 is amended by striking out subparagraphs 3 and 4 of the first paragraph.

11. Section 38 is amended by replacing “aquatic ecosystems associated to a watercourse” in the part preceding subparagraph a of subparagraph 8 of the first paragraph by “wetlands and bodies of water”.

12. Section 42 is amended by replacing paragraph 2 by the following:

“(2) a substance that is

(a) determined as persistent and bioaccumulative within the meaning of the Persistence and Bioaccumulation Regulations (SOR/2000-107); and

(b) identified as toxic under Schedule 1 to the Canadian Environmental Protection Act (S. C. 1999, c. 33).”.

13. Section 50 is amended by inserting “, except in the case of a withdrawal made through a facility used for emergency or civil security purposes” after “purposes”.

14. Section 51 is amended

(1) by replacing “a municipal waterworks system supplying” in paragraph 1 and in subparagraph *a* of paragraph 2 by “one municipal waterworks system or more where the system or systems supply in total”;

(2) by replacing “21 or more persons and at least 1 residence” in subparagraph *b* of paragraph 2 by “more than 20 persons and more than one residence”;

(3) by adding “excluding a system used exclusively to irrigate a crop parcel or to water animals” at the end of subparagraph *a* of paragraph 3.

15. The heading of Subdivision 3 of Division II of Chapter VI is replaced by the following:

“§ 3. — *Intermediate protection zones*”.

16. Section 57 is amended by replacing the part preceding subparagraph 1 of the first paragraph by the following:

“**57.** Two intermediate protection zones are delimited for all groundwater withdrawals. The limits of the zones are set as follows:”.

17. Section 58 is amended in the first paragraph

(1) by replacing “intermediate virological protection zone” by “intermediate protection zones”;

(2) by replacing “with a water vulnerability rating” by “with water vulnerability ratings”.

18. Section 59 is amended

(1) by replacing “virological protection zone” in paragraph 2 by “intermediate protection zones”;

(2) in paragraph 3

(a) by inserting “intermédiaire” after “de l'aire de protection” in the French version;

(b) by adding the following at the end: “, unless the animal waste comes from a raising site whose annual phosphorous (P₂O₅) production is equal to or less than 100 kg, calculated in accordance with the Agricultural Operations Regulation (chapter Q-2, r. 26)”.

19. Section 60 is amended by inserting “intermediate” before “bacteriological” in paragraph 1.

20. Section 61 is amended

(1) by inserting “or fertilizers” in the part preceding subparagraph 1 of the first paragraph after “animal waste”;

(2) by inserting “intermediate” in subparagraph 1 of the first paragraph before “bacteriological”;

(3) by replacing the second paragraph by the following:

This section does not apply to an aquacultural operation on land or to municipal waste water treatment works.”.

21. Section 63 is amended

(1) by replacing “virological protection zone” in subparagraph 2 of the first paragraph by “intermediate protection zones”;

(2) by replacing “virological protection zone” in the second paragraph by “intermediate protection zones”.

22. Section 64 is amended

(1) by replacing “intermediate virological protection zone” in subparagraph 2 of the first paragraph by “intermediate protection zones”;

(2) by replacing “intermediate virological protection zone” in the second paragraph by “intermediate protection zones”.

23. The following is inserted after section 64:

“**64.1.** In addition to the prohibition provided for in section 32, the construction of a drilling site used to explore for or produce petroleum, natural gas or brine, or to explore for or operate an underground reservoir and the conduct of a stratigraphic survey are prohibited in the intermediate protection zones of a category 1 or 2 groundwater withdrawal.”.

24. Section 68 is amended

(1) by striking out “signed by a professional” in the part preceding subparagraph 1 of the first paragraph;

(2) by replacing subparagraph 3 of the first paragraph by the following:

“(3) the vulnerability level of the waters assessed in accordance with section 53 for each of the protection zones;”;

(3) by inserting the following after the first paragraph:

“The report must be signed by a professional or a representative of the watershed body or regional advisory panel concerned duly mandated by the person responsible for the withdrawal.”

25. Section 71 is amended in subparagraph 4 of the first paragraph

(1) by inserting “a lake or” after “discharge in”;

(2) by inserting “a lake or” after “except”.

26. Section 75 is amended

(1) by striking out “, every 5 years,” and “signed by a professional” in the part preceding subparagraph 1 of the first paragraph;

(2) by inserting the following paragraph after the first paragraph:

“The report must be signed by a professional or a representative of the watershed body or regional advisory panel concerned, duly mandated by the person responsible for the withdrawal. The first report is sent to the Minister 6 years after the beginning of water withdrawal operations. Subsequent reports are sent every 5 years.”

27. Section 79 is amended by striking out “for human consumption or for food production or processing” in the first paragraph.

28. Section 80 is amended by striking out “for human consumption or for food production or processing”.

29. Section 84 is amended by inserting the following after paragraph 4:

“(4.1) fails to conduct a fracturing operation and its monitoring under the supervision of a professional;”.

30. Section 86 is amended by inserting “, 64.1” in paragraph 1 after “63”.

31. Section 91 is amended by inserting the following after paragraph 4:

“(4.1) fails to conduct a fracturing operation and its monitoring under the supervision of a professional;”.

32. Section 93 is amended by inserting “, 64.1” in paragraph 1 after “63”.

33. Section 95 is amended

(1) by replacing “in a hydrological study” in subparagraph 1 of the first paragraph by “in a document bearing his or her signature”;

(2) by replacing the second paragraph by the following:

“In the same document as the one referred to in the first paragraph, the professional must justify the choice of the location for the water withdrawal facility and must provide for the design measures preferred by him or her. The professional must include in the document the plans and specifications required by the replacement or modification of the facility and supervise the construction work on the facility. In addition, the professional must, in the performance of the tasks incumbent on him or her, minimize any risks that may affect the quality of the groundwater withdrawn.

The document and plans and specifications referred to in the first and second paragraphs are sent to the person responsible for the facility and to the municipality concerned within 30 days of their signing. Copy thereof is also sent to the Minister for information within the same time. The information recorded therein is public information.”

34. The following is inserted after section 95:

“**95.1.** The distance provided for in subparagraph 2 of the first paragraph of section 17 does not apply either to the substantial modification of a groundwater withdrawal facility constructed between 15 June 2003 and 2 March 2015 if its annular space was sealed in accordance with section 10 of the Groundwater Catchment Regulation (chapter Q-2, r. 6). The applicable distance then corresponds to 15 m or more of a non-watertight waste water treatment system.

95.2. Any person who fails to meet the requirements of section 95 or 95.1 in the construction of its facility

(1) is liable to a monetary administrative penalty of \$750 in the case of a natural person or \$3,500 in the other cases;

(2) commits an offence and is liable to a fine of \$4,000 to \$250,000 in the case of a natural person or \$12,000 to \$1,500,000 in the other cases.”

35. The following is inserted before section 97:

“**96.1.** The prohibition to store animal waste on the ground within the first 100 meters of the intermediate virological protection zone of a category 3 groundwater withdrawal on a neighbouring property provided for in paragraph 3 of section 59 does not apply to a person who, on 14 August 2014, stored the animal waste from the person’s raising site on the ground.”

36. Section 97 is amended

(1) by inserting “or fertilizer” in the first paragraph after “animal waste”;

(2) by adding the following paragraph at the end:

“This section does not apply to municipal waste water treatment works.”.

37. Schedule II is amended by replacing subparagraph *aa* of paragraph 1 of section 2 by the following:

“(aa) radium (Ra) 226;”.

38. This Regulation comes into force on the fifteenth day following the date of its publication in the *Gazette officielle du Québec*.