

## Overview of DHC Legislative Framework

Country

France

### Legislative Framework

Rules for DHC are implemented through various types of regulations:

- Laws regulating contract rules
- Laws regulating technical standards (thermal regulation)
- Laws regulating taxes
- Laws regulating city planning
- Laws regulating energy management

Many national provisions are in the process of being revised or created, mainly:

- Definition of a DHCS for the purpose of VAT rules (creation)
- Fuel mix calculation method for the purpose of VAT rules (creation)
- Carbon tax (creation)
- Environmental planning (creation and revision)
- Metering (creation and revision)
- White certificates system (creation and revision)
- Pipelines setting up and proximity between the networks (creation and revision)
- Carbon footprint calculation method (revision)
- Thermal regulation (revision)
- GHG emission rules (revision)
- Contractual rules (revision)
- DHCS classification rules (revision to come – Grenelle II)
- Carbon balance (creation to come – Grenelle II)
- Energy precariousness (reflexion/discussion about revision)

These creations and revisions are mostly induced by the Grenelle works that started in France during the 4<sup>th</sup> quarter of 2008. At the moment, these works have led to:

- The “Grenelle I” Law (#2009-967 dated Aug. 03<sup>rd</sup> 2009) that sets principles to be declined in a series of other texts.
- The “Grenelle II” Bill (currently debated in Parliament) which is the first level of implementation of Grenelle I.

The main pieces of national legislation applying to DHC are as follows:

## Contract regulation

#	Name and reference of measure	Type of measure	Responsible organ	Existing or planned?
	“Sapin” Law n°93-122 dated Jan. 29 <sup>th</sup> 1993	Law	Parliament	Existing
	Ministerial circular concerning delegation contracts dated Nov. 23 <sup>rd</sup> 1982	Ministerial circular	Government	Existing + being revised

## Purpose of the Legislation

- 1-3. The subject of the regulation is to give a frame to the contracts that local authorities (DHCS' owners, usually) are likely to conclude with private operators.
4. It provides rules (either mandatory rules or guidance rules) about:
  - What should be done prior to concluding the contract, for instance : making sure the choice made by the local authorities, in terms of who the operator will be, respects free competition;
  - What should be done, once the contract is concluded : who is responsible for what, what information are to be given to whom and when ...
5. The aim of the regulation is to ensure good contractual relationships between the parties and prevent malfunctions and legal actions.
6. The law is not being revised at the moment, but the revision of the ministerial circular is in progress, in order to include new provisions that are led to by regulations taken after 1982 (energy saving certificates, reduced VAT, ETS rules ...)
7. The DHC industry closely follows this revision work in order to make sure that the balance is preserved between the legitimate need for information and feedback of the local authorities and the contractual (economical, ...) risks taken by the operators.

## Technical standards regulation

#	Name and reference of measure	Type of measure	Responsible organ	Existing or planned?
	2005 Thermal regulation. Decree dated May 24 <sup>th</sup> 2006 ...	Law + Decrees	Parliament + government	Existing + being revised for 2012
	Metering regulation: - Decrees under revision - New regulation in the Grenelle II Works	Law + Decrees	Parliament + government	Being created and/or revised
	Pipelines setting up and proximity between the networks - Regulation under revision - New regulation in Grenelle II - Professional tool under construction	Law + Decrees	Parliament + government + DHC industry (SNCU)	Existing+ being created or revised

### Purpose of the Legislation

- 1-3. The subject of the regulation is to give a frame to technical requirements in existing and/or new buildings, in setting up or extending a DHCS, in measuring the energy (heat) consumption ...
4. It provides (revises or plans) rules about:
  - Minimum standards to be reached during the building or makeover process in terms of insulation, energy consumptions... Quality labels are based on it.
  - The acceptable distance between networks and the ways the roadwork should be managed and conducted. It addresses topics such as information and security.
  - How metering devices should be certified, installed or periodically controlled and how such devices should be imposed on all buildings (apartments?)
5. The aim of the regulation is to insure proper information and coordination and to reinforce security (when a gas network is embedded closeby, for instance) in setting up DHCS. It is also aimed at imposing standards in order to lead to energy savings.
6. Most of those rules are currently under revision or creation.
7. The DHC industry believes indeed that some of the rules need to be changed; the most unfavourable of these rules, at the moment, probably being the calculation tool included in the 2005 thermal regulation, whose results decide if a building is, or is not, liable to the quality labels (in particular the “high energy efficiency” or “very high energy efficiency” labels). The calculation tool is designed in such a way that a R&RE DHS cannot access the label while a gas local plant will.

## Tax regulation

#	Name and reference of measure	Type of measure	Responsible organ	Existing or planned?
	Finance law n°2008-1443 dated Déc. 30 <sup>th</sup> 2008 + ministry circular dated Jan. 22 <sup>nd</sup> 2009 + DHC industry works (tools)	Law + Ministerial circular	Parliament + government + DHC industry (SNCU)	Existing, except for the DHC industry part (waiting for a governmental approval)
	Carbon tax	Law	Government	In creation

## Purpose of the Legislation

- 1-3. The subject of the regulation is to impose taxes, taking into account the share of R&RE used in one's system/industry.
4. It provides (or is in the process of creating) rules about:
  - Applying a reduced VAT rate when the DHCS uses a majority of R&R energy sources in its fuel mix.
  - Imposing a tax on fossil fuel consumptions, designed to change behaviours regarding energy use.
5. The aim of the regulation is to weight down fossil fuel consumption and give an incentive to R&RE use.
6. The VAT regulation is already implemented but needs clarification on two main aspects, in order to insure legal security: 1) the definition of a DHCS, that was never formalized; 2) the fuel mix calculation method (in order to determine what the R&RE ratio is), that needs to be consistently applied to all DHCS. The DHC industry (SNCU) took hold of the subject and carried out tools, in accordance with local authorities' representatives, to overcome these difficulties. SNCU is currently waiting for the government approval.  
The carbon tax measures, first presented to the Parliament at the end of 2009, were overruled by the French Constitutional Council, which declared it did not comply with the French Constitution. New rules are being drafted at this very moment.
7. The DHC industry thinks:
  - Regarding the VAT rules: as stated above, that some clarification is needed (DHCS definition and fuel mix calculation); this is currently being done.
  - Regarding the carbon tax: that, for instance, it should end on Dec. 31<sup>st</sup> 2012 for the ETS sector and be applied with a reduced rate for the DHC sector, to which very ambitious goals are assigned in terms of development and R&R energy use.

## City planning regulation

#	Name and reference of measure	Type of measure	Responsible organ	Existing or planned?
	Environmental planning	Law + Decrees	Parliament + government + local authorities	Existing + being revised
	DHC classification rules. Law n°80-531 dated Jul. 15 <sup>th</sup> 1980	Law	Parliament + government	Existing + being revised (Grenelle II)

### Purpose of the Legislation

- 1-3. The subject of the regulation is to set rules regarding how local authorities get organised, on their territories, in terms of climate-energy planning.
4. It provides (or is in the process of creating) rules about:
  - Setting “climate and energy” territorial plans, through which visibility will be given to local stakeholders by formalizing goals and means to reach them, regarding energy management.
  - Simplifying the existing rules for DHC classification, in particular by allowing a local authority (a city, a city-community...) to determine an area where all new buildings will have to connect to the local DHS, if the DHS uses a ratio of R&RE of at least 50%. Other heating solutions would have to prove their environmental or economical relevance to overrule this principle.
5. The aim of the regulation is to give consistency to resources and energy management at a local level.
6. Those regulations are mostly under reconstruction (Grenelle II works).
7. The 1980 regulation regarding DHS classification has not been applied at all, except for one (only) DHS, because of the complexity and clumsiness of the procedure. The DHC industry believes the procedure needs to be simplified and that the decision level should be that of the local authority.

## Energy management regulations

#	Name and reference of measure	Type of measure	Responsible organ	Existing or planned?
	Energy saving certificates Law n°2005-781 dated Jul. 13 <sup>th</sup> 2005 and various decrees	Law + Decrees	Parliament + Government + DHC industry (SNCU)	Existing + being revised or created
	Energy efficiency diagnosis (carbon footprint calculation) Law n°2005-781 dated Jul. 13 <sup>th</sup> 2005 and various decrees	Law + Decrees	Government	Existing + being revised
	GHG emission rules (emission limits ...)	Decrees	Government	Existing + being revised
	Carbon balance	Law	Parliament	In creation for DHC (Grenelle II)

### Purpose of the Legislation

- 1-3. The subject of the regulation is to set rules to measure and limit green house gas (GHG) emissions, and to revise and expand the “white certificates” system.
4. It provides (or is in the process of revising or creating) rules about:
  - Setting rules for the second period for the “white certificates” (supposedly 2010-2013) in terms of who will be bound by the new rules, how high their obligation will be, what procedures will be set, what actions may newly be taken into account as generating energy savings ...
  - Changing the way the DHC carbon footprint is calculated.
  - Lowering again levels of emissions and reinforce use of best practice in large combustion plants.
  - Imposing a carbon balance process in entities above a certain number of employees (plants, companies) or inhabitants (cities ...).
5. The aim of the regulation is to get a more precise picture of the GHG emissions, reinforce the actions to limit them, and stimulate energy savings.
6. Those regulations are under revision except for the carbon balance, which is in creation.
7. The DHC industry believes that:
  - Regarding the white certificates system: the objectives must be accessible and new actions must be taken into account (DH efficiency, low temperature DH...).
  - Regarding the carbon footprint: the calculation method must not lead to discriminate against DHC vs. other, less sound, heating and cooling solutions.
  - Regarding the emission limits: the new rules must be consistent with the investments already (recently) made by the DHC sector under the previous regulation (2002-2003); they should acknowledge the specificity of additional and spare equipments.
  - Regarding the carbon balance: that it cannot lead to double counting the carbon emissions of recovery energies (such as waste incineration)