

(2) to file with the Minister, not later than 31 August of each year, an annual report containing the information and data prescribed by the first paragraph of section 21 or to have the information certified and signed by an independent third person in accordance with the second paragraph of that section;

(3) to comply with the conditions of form or transmission of the report provided for in the third paragraph of section 21;

(4) to keep on the conditions and for the period provided for in section 22 the supporting documents and the records referred to in that section.

22.2. A monetary administrative penalty of \$500 in the case of a natural person or \$2,500 in other cases may be imposed on any person who

(1) sells or trades a credit obtained pursuant to this Regulation otherwise than for the purposes referred to in the second paragraph of section 14;

(2) fails to pay the Minister, not later than 31 August of the fifth year following the model year, the fees payable for vehicles of a given model year in accordance with section 19.”

2. The heading of Chapter IV before section 23 is replaced by “PENAL SANCTIONS AND FINAL AND TRANSITIONAL”.

3. Section 23 is replaced by the following:

“**23.** Every person who contravenes the first paragraph of section 14, section 21 or 22 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.

23.1. Every person who contravenes the second paragraph of section 14 or section 19 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.

23.2. Every 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.”

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

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Gouvernement du Québec

O.C. 665-2013, 19 June 2013

Environment Quality Act
(chapter Q-2)

**Burial of contaminated soils
— Amendment**

Regulation to amend the Regulation respecting the burial of contaminated soils

WHEREAS, under section 70 of the Environment Quality Act (chapter Q-2), the Government may make regulations to regulate the elimination of residual materials;

WHEREAS, under section 115.27 of the Act, the Government may, by regulation, specify that a failure to comply with the regulation may give rise to a monetary administrative penalty and determine the amount of such penalty;

WHEREAS, under section 115.34 of the Act, the Government may, by regulation, determine the regulatory provisions whose contravention constitutes an offence and renders the offender liable to a fine, a term of imprisonment, or both the fine and imprisonment;

WHEREAS the Government made the Regulation respecting the burial of contaminated soils (chapter Q-2, r. 18);

WHEREAS, in accordance with sections 10 and 11 of the Regulations Act (chapter R-18.1) and section 124 of the Environment Quality Act, a draft of the Regulation to amend the Regulation respecting the burial of contaminated soils was published in Part 2 of the *Gazette officielle du Québec* of 27 March 2013 with a notice that it could be made by the Government on the expiry of 60 days following that publication;

WHEREAS it is expedient to make the Regulation with amendments;

IT IS ORDERED, therefore, on the recommendation of the Minister of Sustainable Development, Environment, Wildlife and Parks:

THAT the Regulation to amend the Regulation respecting the burial of contaminated soils, attached to this Order in Council, be made.

JEAN ST-GELAIS,
Le greffier du Conseil exécutif

Regulation to amend the Regulation respecting the burial of contaminated soils

Environment Quality Act
(chapter Q-2, ss. 70, 115.27 and 115.34)

1. The Regulation respecting the burial of contaminated soils (chapter Q-2, r. 18) is amended by replacing section 37 by the following:

“**37.** The operator must have the carrying out of development and final cover work of contaminated soil burial sites supervised by a certified and independent professional who must, in particular, verify the compliance of the material and equipment used.

The operator must provide the Minister, as soon as the site is completely laid out, with a report of the professional’s activities in which the professional attests the compliance of the facility with the applicable standards or, if applicable, indicates the elements that do not comply with the standards and the corrective measures to be taken.”.

2. The following is inserted after section 57:

“CHAPTER IV.1 MONETARY ADMINISTRATIVE PENALTIES

57.1. 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

(1) to ask or to record in an annual operation register the information prescribed by the first paragraph of section 15 or to attach to the register the analysis report provided for in the second paragraph of that section or the data referred to in the third paragraph;

(2) to keep the operation registers and their schedules, in accordance with the fourth paragraph of section 15;

(3) to equip the entrance of a contaminated soil burial site with a sign that complies with paragraph 1 of section 19 or 42;

(4) to prepare the report provided for in section 21 or to provide it to the Minister according to the conditions provided for in that section;

(5) to keep the analysis report referred to in section 34 or 35 for the period provided for therein;

(6) to forward to the Minister a closing statement that complies with section 41 within the time provided for in that section;

(7) to forward to the Minister a report containing the information prescribed by section 44 in accordance with that section;

(8) to forward to the Minister the re-evaluation of the follow-up and monitoring program in accordance with section 45;

(9) to forward to the Minister the assessment of the burial site prescribed by section 47 within the time provided for in that section.

57.2. A monetary administrative penalty of \$500 in the case of a natural person or \$2,500 in other cases may be imposed on any person who fails

(1) to comply with the conditions relating to the final cover of the contaminated soil burial site prescribed by section 9;

(2) to equip a contaminated soil burial site with a surface water collection system that complies with the requirements of section 14;

(3) to confirm the nature and the concentration values of substances present in the soils by means of an analysis report that complies with the requirements of the second paragraph of section 15 or to have the report certified by a laboratory accredited by the Minister;

(4) to have the required samples analyzed to validate an analysis report in accordance with the third paragraph of section 15;

(5) to meet the conditions relating to the operation of a contaminated soil burial site prescribed by section 16 or 17;

(6) to take the necessary measures to prevent the dispersal of dust in accordance with section 20;

(7) to restrict access to leachate treatment facilities in accordance with the requirements of section 23;

(8) to determine the quality of groundwater on the land in accordance with section 25;

(9) to measure, in accordance with section 28, the concentration and flow of gas at the outlet of the gas collection system of a contaminated soil burial site according to the frequency determined at the time the certificate of authorization is issued;

(10) to take a leachate sample or to analyze it or measure it in accordance with section 30;

(11) to take samples of the surface water collection system or to analyze them in accordance with section 32;

(12) to take a groundwater sample in each of the monitoring wells in accordance with section 33;

(13) to have samples analyzed by a laboratory accredited by the Minister in accordance with section 34;

(14) to verify the effectiveness of a collection system or leachate treatment system and to leak test it in accordance with section 35;

(15) to have the carrying out of the work referred to in the first paragraph of section 37 supervised by a certified and independent professional or to provide the Minister with a report of the professional's activities in accordance with the second paragraph of that section;

(16) to repair holes, fissures or subsidence in accordance with section 39;

(17) to have a closing statement that complies with section 41 prepared by a certified and independent professional, within the time provided for in that section;

(18) to be responsible for the carrying out of the sampling, analysis and measuring programs provided for in subparagraph 3 of the second paragraph of section 43;

(19) to record in a report a complete evaluation of the follow-up and monitoring data or to include in that report a summary of the evaluation and an up-to-date follow-up and monitoring program in accordance with section 44;

(20) to carry out the re-evaluation of the follow-up and monitoring program in accordance with section 45;

(21) to include, in the follow-up and monitoring program, the analysis referred to in section 46 in accordance with that section;

(22) to provide security, in accordance with section 48, or to provide the amounts of that security, in accordance with section 49, at the time or according to the frequency provided for therein.

57.3. A monetary administrative penalty of \$750 in the case of a natural person or \$3,500 in other cases may be imposed on any person who fails

(1) to provide a buffer zone that complies with the conditions prescribed by section 10 on the periphery of a contaminated soil burial site;

(2) to equip the zone on which the contaminated soils will be deposited with an impermeabilization system that complies with the conditions prescribed by the second paragraph of section 11;

(3) to lay out the natural layer and impermeable membranes in accordance with the conditions prescribed by the third paragraph of section 11;

(4) to equip a contaminated soil burial site with a leachate collection system that complies with the conditions prescribed by section 12;

(5) to equip a contaminated soil burial site with a system enabling all gas present in the soil to be collected and sampled in accordance with section 13;

(6) to keep, at all times, a system referred to in section 18 in working order or to carry out the tests or maintenance or cleaning work depending on the frequency agreed upon when the certificate of authorization is issued;

(7) to ensure that the components of the leachate treatment system are leakproof in accordance with section 18;

(8) to equip the entrance of a contaminated soil burial site with a gate or any other device that prevents access to the site in accordance with paragraph 2 of section 19 or 42;

(9) to carry out every discharge into the hydrographic surface network or a storm sewer network in the manner provided for in the second paragraph of section 22;

(10) to lay out a monitoring network in accordance with the requirements of section 26;

(11) to take a sample of water or to have it analyzed in accordance with section 31;

(12) to take a groundwater sample where contaminants are detected or to have them analyzed in accordance with section 33;

(13) to comply with the conditions of final cover of a contaminated soil burial site prescribed by section 38;

(14) to close a burial site within the time provided for in section 40;

(15) to maintain the integrity of the final cover of contaminated soils in accordance with subparagraph 1 of the second paragraph of section 43;

(16) to monitor or to maintain the equipment and system referred to in subparagraph 2 of the second paragraph of section 43;

(17) to have a certified and independent professional prepare an assessment provided for in the first paragraph of section 47, within the time provided for in that section.

57.4. A monetary administrative penalty of \$1,000 in the case of a natural person or \$5,000 in other cases may be imposed on any person who fails to forward to the Minister in writing the notices or information prescribed by section 36 or 40, within the time provided for therein.

57.5. A monetary administrative penalty of \$1,500 in the case of a natural person or \$7,500 in other cases may be imposed on any person who

(1) disposes of or introduces into contaminated soil burial sites prohibited soils pursuant to section 4 or any other material that may not be received therein pursuant to this Regulation;

(2) fails to comply with a location or layout standard of a contaminated soil burial site prescribed by any of section 5, 6, 7 or 8 or the first paragraph of section 11.

57.6. A monetary administrative penalty of \$2,000 in the case of a natural person or \$10,000 in other cases may be imposed on any person who

(1) stores contaminated soils elsewhere than on the land or in a site referred to in section 3;

(2) discharges into the environment leachates or surface water referred to in the first paragraph of section 22 without complying with the values established when the certificate of authorization is issued;

(3) dilutes leachates in contravention of section 24;

(4) discharges into the environment gas referred to in section 27 without complying with the values established at the time the certificate of authorization is issued.”.

3. The heading of Chapter V is amended by replacing “PENAL” before section 58 by “PENAL SANCTIONS”.

4. Sections 58 to 63 are replaced by the following:

“**58.** Every person who contravenes the first or fourth paragraph of section 15, paragraph 1 of section 19, section 21 or paragraph 1 of section 42 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.

Every person who fails

(1) to attach to the operation register the analysis report provided for in the second paragraph of section 15 or the data referred to in the third paragraph of that section,

(2) to keep the analysis report referred to in section 34 or 35 for the period provided for therein,

(3) to forward to the Minister a closing statement in accordance with section 41,

(4) to comply with the period provided for in section 44 to carry out the evaluation referred to in that section or to forward to the Minister the report in which the evaluation is recorded in accordance with that section,

(5) to comply with the period provided for in section 45 to carry out and forward to the Minister the re-evaluation of the follow-up and monitoring program provided for in that section in accordance with that section,

(6) to forward to the Minister the assessment prescribed by section 47 within the time provided for in that section,

also commits an offence and is liable to the same fines.

59. Every person who contravenes section 9, 14, 16, 17, 20, 23, 25, 28, 30, 32, 37 or 39, subparagraph 3 of the second paragraph of section 43 or section 46, 48 or 49 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.

Every person who fails

(1) to confirm the nature and the concentration values of substances present in the soils by means of an analysis report that complies with the requirements of the second paragraph of section 15 or to have the report certified by a laboratory accredited by the Minister,

(2) to have the required samples analyzed to validate an analysis report in accordance with the third paragraph of section 15,

(3) to take a groundwater sample in each of the monitoring wells in accordance with the conditions prescribed by section 33,

(4) to have the samples referred to in section 34 analyzed by a laboratory accredited by the Minister in accordance with that section,

(5) to verify the effectiveness of a collection system or leachate treatment system and to leak test it in accordance with section 35,

(6) to have a closing statement that complies with section 41 prepared by a certified and independent professional, within the time provided for in that section,

(7) to record in a report a complete evaluation of the follow-up and monitoring data or to include a summary of the evaluation and an up-to-date follow-up and monitoring program in accordance with section 44,

(8) to carry out the re-evaluation of the follow-up and monitoring program referred to in section 45,

also commits an offence and is liable to the same fines.

60. Every person who contravenes section 10, the second or third paragraph of section 11, section 12 or 13, paragraph 2 of section 19, the second paragraph of section 22, section 26, 31 or 38, paragraph 2 of section 42 or subparagraph 1 or 2 of the second paragraph of section 43 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.

Every person who fails

(1) to keep, at all times, a system referred to in section 18 in working order or to carry out the tests or maintenance or cleaning work depending on the frequency agreed upon when the certificate of authorization is issued,

(2) to ensure that the components of the leachate treatment system are leakproof in accordance with section 18,

(3) to take a groundwater sample if contaminants are detected or have them analyzed in accordance with section 33,

(4) to close a burial site within the time provided for in section 40,

(5) to have a certified and independent professional prepare an assessment provided for in the first paragraph of section 47, within the time provided for in that section,

also commits an offence and is liable to the same fines.

61. Every person who

(1) contravenes section 36 or fails to forward, within the time provided for in that section, a notice to the Minister of the date on which the burial site will close in accordance with section 40,

(2) 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.

62. Every person who

(1) contravenes any of sections 5 to 8 or the first paragraph of section 11,

(2) disposes of or introduces into contaminated soil burial sites prohibited soils pursuant to section 4 or any other material that may not be received therein pursuant to this Regulation,

commits an offence and is liable, in the case of a natural person, to a fine of \$8,000 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 \$24,000 to \$3,000,000.

63. Every person who contravenes section 3, the first paragraph of section 22 or section 24 or 27 commits an offence and is liable, in the case of a natural person, to a fine of \$10,000 to \$1,000,000 or, despite article 231 of the Code of Penal Procedure (chapter C-25.1), to a maximum term of imprisonment of 3 years, or to both the fine and imprisonment, or, in other cases, to a fine of \$30,000 to \$6,000,000.

63.1. Every 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 Chapter or the Environment Quality Act (chapter Q-2), 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.”

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