

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

2809

Gouvernement du Québec

O.C. 671-2013, 19 June 2013

Environment Quality Act
(chapter Q-2)

**Agricultural Operations
— Amendment**

Regulation to amend the Agricultural Operations Regulation

WHEREAS, under subparagraphs *e* and *h* of the first paragraph of section 31 of the Environment Quality Act (chapter Q-2), the Government may make regulations to define standards for the protection and quality of the environment and determine the methods for collecting, analysing and computing any emission, deposit, issuance or discharge of a contaminant;

WHEREAS, under section 53.30 of the Act, the Government may, by regulation, regulate the recovery and reclamation 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 Agricultural Operations Regulation (chapter Q-2, r. 26);

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 Agricultural Operations Regulation 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 Agricultural Operations Regulation, attached to this Order in Council, be made.

JEAN ST-GELAIS,
Clerk of the Conseil exécutif

**Regulation to amend the Agricultural
Operations Regulation**

Environment Quality Act
(chapter Q-2, s. 31, 1st par., subpars. *e*, and *h*, s. 53.30,
1st par., subpar. 1.1, and ss.115.27 and 115.34)

1. The Agricultural Operations Regulation (chapter Q-2, r. 26) is amended by replacing the second paragraph of section 9.1.1 by the following:

“The operator must also give an agrologist a written mandate to inspect each pile during the growing season and to write, in a dated and signed report, his or her observations and, where applicable, his or her recommendations. The mandate must also provide that an annual report, written by the agrologist and summarizing all the inspections carried out for all the piles for which a recommendation was made under the first paragraph, will be given to the operator.”

2. Section 9.3 is amended by replacing “the raising site’s annual phosphorus (P₂O₅) production resulting from solid manure management” in paragraph 1 by “the annual phosphorus (P₂O₅) production resulting from solid manure management of all the buildings of the raising site”.

3. Section 16 is amended by replacing “The owner” in the fourth paragraph by “The operator”.

4. Section 28 is revoked.

5. Section 28.1 is amended

(1) by inserting “written” before “mandate” in the first paragraph;

(2) by replacing “provide it” in the sixth paragraph by “provide them”.

6. Section 28.2 is amended

(1) by inserting “written” before “mandate” in the second paragraph;

(2) by replacing “provide it” in the fourth paragraph by “provide them”.

7. The following is inserted after the heading of Chapter V and before section 44:**“DIVISION I
MONETARY ADMINISTRATIVE PENALTIES**

43.1. A monetary administrative penalty of \$250 in the case of a natural person or \$1,000 in other cases may be imposed on any person who fails

(1) to comply with the conditions provided for in the third paragraph of section 9 relating to the lease referred to therein;

(2) to comply with the conditions provided for in the third paragraph of section 9.1.1 relating to documents produced by an agrologist;

(3) to comply with the conditions provided for in section 9.2 relating to a storage register;

(4) to ensure that a permanent marker indicates the the drain outlet’s location in accordance with the second paragraph of section 12;

(5) to comply with the conditions provided for in section 16 relating to a storage agreement;

(6) to comply with the conditions provided for in section 21 relating to the agreement or lease referred to therein;

(7) to hold an agro-environmental fertilization plan signed by an authorized person and whose compliance has been certified by the signatory in accordance with section 24;

(8) to comply with the conditions provided for in section 33 relating to an agreement for the treatment or disposal of livestock waste;

(9) to comply with the conditions provided for in section 34 relating to a shipping register;

(10) to comply with the conditions provided for in the fifth paragraph of section 35 relating to a phosphorus report;

(11) to send the phosphorous report in accordance with the third, fourth or fifth paragraph of section 35.1;

(12) to keep the documents in accordance with the conditions provided for in section 35.2;

(13) to send, at the request of the Minister, the most recent final payment statement with respect to the insured units in accordance with section 36;

(14) to provide a certificate of compliance of the project as provided for in the fifth paragraph of section 39;

(15) to provide a certificate of compliance of the project as provided for in the third paragraph of section 40.

43.2. 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 comply with the requirements provided for in the second paragraph of section 9.1.1 relating to the inspections and reports provided for therein;

(2) to attach to the plan, at the end of the crop season, the report on the fertilization actually carried out provided for in section 25;

(3) to keep a copy of the plan referred to in section 26 in accordance with the conditions provided for therein;

(4) to keep a spreading register, to record the relevant information, to keep it during the period referred to or to provide it to the Minister upon request in accordance with section 27;

(5) to keep a copy of every laboratory’s certificate of analysis or of the characterization report made by the agrologist for the period referred to or to provide it to the Minister upon request in accordance with the sixth paragraph of section 28.1;

(6) to keep a copy of the annual phosphorus production as calculated for the period referred to and to provide it to the Minister upon request in accordance with the fourth paragraph of section 28.2;

(7) to keep a copy of the certificate of analysis for the period referred to or to provide it to the Minister upon request in accordance with the third paragraph of section 29.

43.3. 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 obtain, before laying out each pile, a recommendation dated and signed by an agrologist pertaining to the conditions for laying out the pile in accordance with the first paragraph of section 9.1.1;

(2) to remove and reclaim or eliminate at least once a year livestock waste accumulated over the year in a yard as provided for in section 17.1;

(3) to own or lease cultivated parcels or enter into written spreading agreements with a third party for the use of cultivated parcels in accordance with the second paragraph of section 20;

(4) to ensure that an agro-environmental plan complies with the prescriptions in section 23;

(5) to ensure a follow-up of the recommendations contained in the agro-environmental plan at the end of crop season in accordance with section 25;

(6) to have animal waste analyzed by a laboratory accredited by the Minister for the parameters provided for in the third or fourth paragraph of section 28.1;

(7) to comply with the frequencies of characterization provided for in sections 28.1 and 28.2 in accordance with section 28.3;

(8) to have analyzed, by a laboratory accredited by the Minister, the phosphorus content and percentage saturation of a cultivated parcel in accordance with the first paragraph of section 29;

(9) to hold a phosphorus report or an update of the report containing the information provided for in the sixth paragraph of section 35.

43.4. 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 protect by means of a watertight floor the soil on which a livestock building is constructed or laid out from any contact with the livestock waste produced therein or to use a building that has the capacity to store, without overflow, all of the livestock waste produced therein between each waste removal in accordance with section 8;

(2) to have a storage facility having the capacity to accumulate, without overflow, for the entire period where the livestock waste may not be spread, the livestock waste produced in the raising facilities as well as all other waste that may be received by the facility in accordance with section 10;

(3) to have a storage facility that complies with the conditions provided for in section 11;

(4) to have a storage facility that complies with the conditions provided for in the first or third paragraph of section 12;

(5) to maintain in a fully watertight condition livestock waste removal equipment in accordance with section 13;

(6) to remove, before there is any overflow of the substances contained, livestock waste stored in a storage facility in accordance with section 15;

(7) to lay out a yard so that no runoff can reach it in accordance with section 17;

(8) to reclaim or eliminate livestock waste stored according to the conditions provided for in section 19;

(9) to give a written mandate to an agrologist to characterize the livestock waste in accordance with the first or fifth paragraph of section 28.1;

(10) to comply with the conditions provided so that the annual phosphorus production of a raising site may be determined in accordance with section 50.01 using the data of Schedule VI as provided for in the first or third paragraph of section 28.2;

(11) to notify in writing and give an agrologist a written mandate to establish the annual phosphorus production in the case provided for in the second paragraph of section 28.2;

(12) to comply with the spreading period or the spreading conditions provided for in the second or third paragraph of section 31;

(13) to comply with the spreading conditions provided for in section 32;

(14) to comply with the conditions related to the phosphorus report provided for in the first, second, third or fourth paragraph of section 35;

(15) to comply with the conditions related to the time limits for sending the phosphorus report or the report's update as specified in the first or second paragraph of section 35.1;

(16) to recover wastewater from farm dairies on the conditions provided for in section 37;

(17) to transport livestock waste in accordance with section 38.

43.5. 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

(1) to prohibit livestock from having access to watercourses and bodies of water and their riparian strip in accordance with the second paragraph of section 4;

(2) to have a watertight storage facility for a raising site with liquid or solid manure management in accordance with the first paragraph of section 9;

(3) to comply with the conditions provided for in section 9.1 for storing solid manure piles in a cultivated field;

(4) to comply with the conditions set in section 9.3 for storing solid manure piles near a farm building;

(5) to take every measure to prevent or stop any overflow or leakage from a storage facility in accordance with section 14;

(6) to comply with the conditions related to spreading or establish an agro-environmental fertilization plan provided for in section 22;

(7) to give a project notice to the Direction de l'analyse et de l'expertise in the region where the project is situated within the time prescribed, in the cases and on the conditions provided for in the first, second, third or fourth paragraph of section 39;

(8) to give a project notice to the director of the Direction de l'analyse et de l'expertise in the region where the raising site is situated in accordance with the conditions provided for in the first or second paragraph of section 40;

(9) to comply with the prohibition of cultivation provided for in the first paragraph of section 50.3;

(10) to comply with the conditions for moving a cultivated parcel provided for in section 50.4.

43.6. 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 fails

(1) to comply with the prohibition of erecting, laying out or expanding a raising or storage facility in a watercourse, lake, swamp, natural marsh or pond and the 15 m area on each side or around those areas, as provided for in section 6;

(2) to have, at the beginning of each annual growing season and for all the season, cultivated parcels that correspond to the total area required for the purpose of spreading livestock waste or surplus waste and other fertilizers in accordance with the first paragraph of section 20;

(3) to have, at the beginning of each annual growing season and for all the season, cultivated parcels that correspond to the total area required for the purpose of spreading fertilizers in accordance with the first paragraph of section 20.1;

(4) to spread fertilizers on ground that is not frozen or covered with snow in accordance with the first paragraph of section 31;

(5) to comply with the deadlines provided for in section 50.

43.7. 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 fails

(1) to comply with the prohibition of depositing, discharging, spreading, receiving, keeping in deposit or allowing the deposit, discharge, spreading or keeping in deposit of livestock waste except to the extent provided for in this Regulation in accordance with the first paragraph of section 4;

(2) to take the measures necessary to prevent livestock waste from entering the surface or subsurface water or to take the measures required to terminate the discharge, deposit, storage or spreading of livestock waste and to immediately remove such substances from the lot or to restore it to its previous condition in accordance with section 5;

(3) to comply with the prohibition to the effect that contaminated water from a yard must not enter the surface water in accordance with section 18;

(4) to comply with the prohibition of spreading on a parcel of land where a crop for human consumption is grown, or on pasture land fertilizing materials or a product containing any amount of such materials mentioned in section 29.1;

(5) to comply with the conditions for spreading provided for in section 30.”.

8. Section 44 is replaced by the following:

**“DIVISION II
PENAL SANCTIONS**

44. Every person who contravenes the third paragraph of section 9 or 9.1.1, section 9.2, the second paragraph of section 12, section 16, 21, 24, 33 or 34, the fifth paragraph of section 35, the third, fourth or fifth paragraph of section 35.1, section 35.2 or 36, the fifth paragraph of section 39 or the third paragraph of section 40 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.

44.1. Every person who contravenes the second paragraph of section 9.1.1, section 26 or 27, the sixth paragraph of section 28.1, the fourth paragraph of section 28.2 or the third paragraph of section 29 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 to attach to the plan, at the end of the growing season, the fertilization report actually carried out provided for in section 25 also commits an offence and is liable to the same fines.

44.2. Every person who contravenes the first paragraph of section 9.1.1, section 17.1, the second paragraph of section 20, section 23, the third or fourth paragraph of section 28.1, section 28.3, the first paragraph of section 29 or the sixth paragraph of section 35 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 to ensure the follow-up of the recommendations contained in the agro-environmental plan at the end of the crop season in accordance with section 25 also commits an offence and is liable to the same fines.

44.3. Every person who contravenes section 8, 10 or 11, the first or third paragraph of section 12, section 13, 15, 17 or 19, the first or fifth paragraph of section 28.1, the first, second or third paragraph of section 28.2, the second or third paragraph of section 31, section 32, the first, second, third or fourth paragraph of section 35, the first or second paragraph of section 35.1 or section 37 or 38 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.

44.4. Every person who

(1) contravenes the second paragraph of section 4, the first paragraph of section 9, section 9.1, 9.3, 14 or 22, the first, second, third or fourth paragraph of section 39, the first or second paragraph of section 40, the first paragraph of section 50.3 or section 50.4,

(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.

44.5. Every person who contravenes section 6, the first paragraph of section 20, the first paragraph of section 20.1, the first paragraph of section 31 or section 50 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.

44.6. Every person who contravenes the first paragraph of section 40, section 5, 18 or 29.1 or the first or third paragraph of section 30 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.

44.7. 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 in this Division 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.”

9. Sections 48.4 and 49 are revoked.

10. Section 50 is amended by striking out the first two dashes of the first paragraph.

11. This Regulation comes into force on the fifteenth day following the date of its publication in the *Gazette officielle du Québec*, except section 4 of this Regulation, which comes into force on 1 January 2014.