

Gouvernement du Québec

O.C. 286-2014, 26 March 2014

An Act respecting the conservation and development of wildlife
(chapter C-61.1)

**Fishing activities
— Revocation**

Regulation to revoke the Regulation respecting fishing activities

WHEREAS, under paragraph 16 of section 162 of the Act respecting the conservation and development of wildlife (chapter C-61.1), in addition to the other regulatory powers conferred on it by this Act, the Government may make regulations prescribing norms respecting the registration of fish;

WHEREAS, in accordance with sections 10 and 11 of the Regulations Act (chapter R-18.1), a draft of the Regulation to revoke the Regulation respecting fishing activities was published in Part 2 of the *Gazette officielle du Québec* of 16 October 2013 with a notice that it could be made by the Government on the expiry of 45 days following that publication;

WHEREAS it is expedient to make the Regulation without amendment;

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

THAT the Regulation to revoke the Regulation respecting fishing activities, attached to this Order in Council, be made.

JEAN ST-GELAIS,
Clerk of the Conseil exécutif

**Regulation to revoke the Regulation
respecting fishing activities**

An Act respecting the conservation and development of wildlife
(chapter C-61.1, s. 162)

1. The Regulation respecting fishing activities (chapter C-61.1, r. 2) is revoked.

2. 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. 287-2014, 26 March 2014

Environment Quality Act
(chapter Q-2)

**Operation of a residual organic materials
reclamation facility
— Financial guarantees**

Regulation respecting financial guarantees payable for the operation of a residual organic materials reclamation facility

WHEREAS, under subparagraph 4 of the first paragraph of section 53.30 of the Environment Quality Act (chapter Q-2), the Government may, by regulation, determine the conditions applicable to the operation of any reclamation facility;

WHEREAS, under section 115.27 of the Act, the Government may, in a regulation made under the Act, specify that a failure to comply with the regulation may give rise to a monetary administrative penalty and set forth the amount of the penalty;

WHEREAS, under section 115.34 of the Act, the Government may determine the regulatory provisions made under the Act whose contravention constitutes an offence and renders the offender liable to a fine and set the minimum and maximum amounts of the fine;

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 respecting financial guarantees payable for the operation of a residual organic materials reclamation facility was published in Part 2 of the *Gazette officielle du Québec* of 20 November 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 respecting financial guarantees payable for the operation of a residual organic materials reclamation facility, attached to this Order in Council, be made.

JEAN ST-GELAIS,
Clerk of the Conseil exécutif

Regulation respecting financial guarantees payable for the operation of a residual organic materials reclamation facility

Environment Quality Act
(chapter Q-2, s. 53.30, 1st par., subpar. 4, and ss. 115.27 and 115.34)

CHAPTER I PRELIMINARY

1. The purpose of this Regulation is to ensure the fulfillment of the obligations which, under the Environment Quality Act (chapter Q-2) and its regulations, are incumbent upon the operators of a residual organic materials reclamation facility.

2. This Regulation applies to residual organic materials reclamation facilities whose operation requires obtaining a certificate of authorization pursuant to section 22 of the Environment Quality Act (chapter Q-2) and where one or more of the following residual organic materials are sorted, transferred, stored or treated:

- (1) food, agri-food and marine waste;
- (2) plant matter from gardening, horticulture, landscaping or land clearing, hereinafter referred to as “green residues”;
- (3) municipal wastewater sludge, industrial putrescible sludge, slaughterhouse sludge or agri-food sludge;
- (4) paper, cardboard or absorbent fibres soiled by food, human waste or “livestock waste” within the meaning of the Agricultural Operations Regulation (chapter Q-2, r. 26);
- (5) compostable waxed paper or cardboard;
- (6) farm products or livestock waste;
- (7) digestate or compost from the residual organic materials listed above.

3. Despite the provisions of section 2, this Regulation does not apply to the following facilities:

(1) a facility for the sorting, storage or treatment of residual organic materials operated as part of an industrial or commercial activity other than residual materials reclamation where both of the following conditions are met:

(a) the facility is situated on the same site as the activity involved;

(b) the operator of the facility is authorized to reclaim in the facility only materials generated by the activity or, in addition to those materials, a quantity of exogenous residual organic materials equal to or less than 2,000 tonnes per year;

(2) a facility for the sorting or biological treatment of residual organic materials where the yearly treatment capacity authorized is equal to or less than 2,000 tonnes per year;

(3) a facility for the biological treatment of farm products or livestock waste where both of the following conditions are met:

(a) the facility is operated as part of an agricultural activity;

(b) the operator of the facility is authorized to treat in the facility only farm products or livestock waste or, in addition to those materials, other residual organic materials in a proportion that does not exceed 25% of the yearly treatment capacity of the facility;

(4) a facility for the storage of farm products or livestock waste part of a “raising site” or located on a “spreading site” within the meaning of the Agricultural Operations Regulation (chapter Q-2, r. 26);

(5) a facility for the storage of residual organic materials part of a raising site or located on a spreading site where both of the following conditions are met:

(a) the storage capacity authorized for the site concerned is equal to or less than 4,000 cubic metres;

(b) the residual organic materials stored are intended solely for agricultural spreading;

(6) a facility for the treatment of sludge by biomethanation operated as part of the operation of municipal wastewater treatment works where only the reclamation of the sludge generated by the works is authorized at the facility.

CHAPTER II SETTING UP AND USE OF FINANCIAL GUARANTEE

4. The operation of any facility referred to in this Regulation is conditional on the setting up of a financial guarantee.

The amount of the guarantee is based on the use of the facility and is calculated in accordance with the table in Schedule I.

In the case where the facility has more than one use, a guarantee must be set up for each of the uses. However, the sorting and storage incidental to another use do not require the setting up of a guarantee.

5. The guarantee may be set up by the operator of the facility or by a third person on behalf of the operator. It must be provided to the Minister at least 60 days before the facility starts operating.

6. It is incumbent upon the operator of the facility to take the measures required to maintain the guarantee provided for the whole period of operation of the facility and for an additional 12-month period beginning on the date of the cessation of operations for any reason whatsoever.

7. Except in the case of a transfer facility, the amount of the guarantee is reviewed where the certification provided for in section 22 of the Environment Quality Act (chapter Q-2) authorizing for the operation of the facility is modified or renewed.

In the case where the amount of a guarantee already provided is less than the amount calculated under the first paragraph, an additional guarantee must be provided to the Minister at least 60 days before the facility begins operating on the conditions of the new certificate.

8. The guarantee may be provided in the form of

(1) a bank draft or a certified cheque made out to the Minister of Finance and the Economy;

(2) debt securities in Canadian dollars issued or guaranteed by the Gouvernement du Québec or any other government in Canada having a market value at least 10% greater than the amount of the guarantee calculated in accordance with the table in Schedule I;

(3) a security, with a waiver of the benefits of division and discussion, issued by a legal person governed by the Act respecting insurance (chapter A-32), the Act respecting financial services cooperatives (chapter C-67.3) or the Bank Act (S.C. 1991, chapter 46); or

(4) an irrevocable letter of credit issued by a legal person referred to in the previous paragraph.

9. A guarantee in the form of a bank draft, certified cheque or debt securities must be deposited pursuant to Division I of the Deposit Act (chapter D-5).

10. A financial guarantee provided in the form of a security or an irrevocable letter of credit must have a term of not less than 12 months. A proof of its renewal or a new guarantee must be provided to the Minister not less than 60 days before the date of expiry of the guarantee.

The guarantee must contain a clause setting at not less than 12 months after its expiry or rescission the time available to the Minister to file a claim with the legal person who issued the guarantee.

The guarantee must also provide that its modification or rescission may take effect only if prior notice of at least 60 days is sent by registered or certified mail to the Minister.

11. Subject to the law applicable in Québec, a guarantee provided in the form of an irrevocable letter of credit must comply with the rules of the International Chamber of Commerce related to documentary credits or stand-by letters of credit as the rules read on the day the guarantee is issued.

12. The Minister uses the guarantee provided by the operator of a facility in all cases where the operator, despite a notice to remedy the failure, refuses or fails to execute an obligation with which the operator must comply under the Environment Quality Act (chapter Q-2) or its regulations.

The guarantee may be used to pay or reimburse expenses related to the performance of the obligation involved.

CHAPTER III ADMINISTRATIVE AND PENAL SANCTIONS

13. An administrative monetary sanction of \$500 in the case of a natural person or \$2,500 in all other cases may be imposed to the operator of a facility referred to in this Regulation that, in contravention of this Regulation, fails to

(1) provide the Minister with a financial guarantee complying with the requirements of this Regulation; or

(2) maintain such guarantee for the period provided for in section 6.

14. The operator of a reclamation facility that fails to

(1) provide the Minister with a financial guarantee complying with the requirements of this Regulation, or

(2) maintain such guarantee for the period provided for in section 6,

commits an offence and is liable to a fine of \$2,500 to \$250,000 in the case of a natural person or \$7,500 to \$1,500,000 in all other cases.

CHAPTER IV TRANSITIONAL AND FINAL

15. Every person who, on 24 April 2014, operates a facility referred to in this Regulation must provide the Minister, not later than 23 February 2017, with a financial guarantee complying with the requirements of this Regulation.

If the amount of the guarantee is greater than \$3,000,000, the amount is reduced to \$3,000,000 until 23 April 2019.

16. Every person who begins operating a facility referred to in this Regulation between 24 April 2014 and 22 June 2014, must provide the Minister with a financial guarantee complying with the requirements of this Regulation within 60 days following the beginning of the operation of the facility.

SCHEDULE I

CALCULATION OF THE FINANCIAL GUARANTEE

Use of the facility	Amount of the guarantee
Sorting, except the sorting of green residues	\$100,000 + \$100/tonne for the quantity in excess of 1,000 tonnes
Transfer	\$100,000
Storage	\$100,000 + \$100/cubic metre for the quantity in excess of 1,000 cubic metres
Green residues sorting or biological sorting and treatment where the total quantity of residual materials the operator is authorized to receive at the facility is	
— more than 2,000 tonnes without exceeding 5,000 tonnes	\$15/tonne
— more than 5,000 tonnes without exceeding 50,000 tonnes	\$75,000 + \$20/tonne for the quantity in excess of 5,000 tonnes
— more than 50,000 tonnes	\$975,000 + \$25/tonne for the quantity in excess of 50,000 tonnes
Biological treatment where the yearly treatment capacity authorized for the facility is	
— more than 2,000 tonnes without exceeding 5,000 tonnes	\$15/tonne
— more than 5,000 tonnes without exceeding 50,000 tonnes	\$75,000 + \$20/tonne for the quantity in excess of 5,000 tonnes
— more than 50,000 tonnes	\$975,000 + \$25/tonne for the quantity in excess of 50,000 tonnes

17. The operator of a facility who, contrary to this Regulation, has failed to provide the Minister with a financial guarantee in accordance with the requirements prescribed by section 15 or 16,

(1) may be imposed a monetary administrative penalty of \$500 in the case of a natural person or \$2,500 in all other cases;

(2) commits an offence and is liable to a fine of \$2,500 to \$250,000 in the case of a natural person or \$7,500 to \$1,500,000 in all other cases.

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

Use of the facility	Amount of the guarantee
Thermal treatment	
— where the facility is operated as part of an industrial or commercial activity other than the reclamation of residual materials and the operator is authorized to receive at the facility more than 2,000 tonnes of exogenous residual organic materials per year	1% of capital costs of the facility multiplied by the percentage of exogenous residual organic materials that the operator is authorized to receive per year — minimum \$200,000 — maximum \$4,000,000
— any other cases	1% of capital costs of the reclamation facility — minimum \$200,000 — maximum \$4,000,000

1. In the case where the use of the facility is to sort, sort green residues or sort and treat biological materials, the amount of the guarantee is calculated on the basis of the yearly total capacity of residual materials that the operator is authorized to receive at the operator's facility.

2. In the case where the use of the facility is to store residual organic materials, the amount of the guarantee is calculated on the basis of the total capacity of residual organic materials that the operator is authorized to store at any time at the operator's facility.

3. In the case of a biological treatment facility operated as part of an industrial or commercial activity other than the reclamation of residual materials, the amount of the guarantee is calculated on the basis of the yearly treatment capacity authorized for the facility less the quantity of residual organic materials generated by the activity.

4. In the case of a facility for sludge treatment by bi-methanation operated as part of the operation of municipal wastewater treatment works, the amount of the guarantee is calculated on the basis of the yearly treatment capacity authorized for the facility less the quantity of sludge generated by the municipal wastewater treatment works.

5. In the case of a residual organic materials thermal treatment facility operated as part of an industrial or commercial activity other than the reclamation of residual materials, the percentage of exogenous residual organic materials that the operator is authorized to receive per year is calculated according to the following formula, where "ROM" means "residual organic materials":

$$\frac{\text{Quantity of exogenous ROM authorized (tonnes/year)} - 2,000 \text{ tonnes/year}}{\text{Total quantity of residual materials authorized for the facility (tonnes/year)}} \times 100$$

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