

(2) by adding the following after paragraph 1:

“(1.1) does not take the measures referred to in section 4.1;”.

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

104041

Gouvernement du Québec

O.C. 797-2019, 8 July 2019

Environment Quality Act
(chapter Q-2)

Land Protection and Rehabilitation —Amendment

Regulation to amend the Land Protection and Rehabilitation Regulation

WHEREAS, under the first paragraph of section 31.0.6 of the Environment Quality Act (chapter Q-2), the Government may, by regulation, designate the activities referred to in section 22 or 30 of the Act that, subject to the conditions, restrictions and prohibitions determined in the regulation, are eligible for a declaration of compliance under subdivision 2 of Division II of Chapter IV of Title I of the Act;

WHEREAS, under the first paragraph of section 31.0.11 of the Act, the Government may, by regulation and subject to any conditions, restrictions and prohibitions specified in it, exempt certain activities referred to in section 22 from subdivision 1 of Division II of Chapter IV of Title I of the Act;

WHEREAS, under the first paragraph of section 31.51 of the Act, a notice of permanent cessation of an industrial or commercial activity of a category designated by regulation of the Government must be sent to the Minister within the time prescribed by government regulation;

WHEREAS, under the first paragraph of section 31.68.1 of the Act, the Government may, by regulation, designate the contaminated land rehabilitation measures that, subject to the conditions, restrictions and prohibitions specified in the regulation, are eligible for a declaration of compliance;

WHEREAS, under paragraph 2 of section 31.69 of the Act, the Government may make regulations to determine the categories of the industrial or commercial activities referred to in sections 31.51, 31.52 and 31.53 of the Act;

WHEREAS, under subparagraph 7 of the first paragraph of section 95.1 of the Act, the Government may make regulations to define environmental protection and quality standards for all or part of the territory of Québec;

WHEREAS, under subparagraph 21 of the first paragraph of section 95.1 of the Act, the Government may make regulations to prescribe the documents and information that must be provided to the Minister by any person or municipality carrying on an activity governed by the Act or the regulations, and determine their form and content;

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

WHEREAS, under the first paragraph of section 115.34 of the Act, despite sections 115.29 to 115.32 of the Act, the Government may in particular determine the regulatory provisions made under the Act whose contravention constitutes an offence and renders the offender liable to a fine the minimum and maximum amounts of which are set by the Government or the Minister;

WHEREAS, in accordance with sections 10 and 11 of the Regulations Act (chapter R-18.1), a draft Regulation to amend the Land Protection and Rehabilitation Regulation was published in Part 2 of the *Gazette officielle du Québec* of 24 April 2019 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 with amendments;

IT IS ORDERED, therefore, on the recommendation of the Minister of the Environment and the Fight Against Climate Change:

THAT the Regulation to amend the Land Protection and Rehabilitation Regulation, attached to this Order in Council, be made.

YVES OUELLET,
Clerk of the Conseil exécutif

Regulation to amend the Land Protection and Rehabilitation Regulation

Environment Quality Act

(chapter Q-2, ss. 31.0.6, 31.0.11, 31.51, 31.68.1, 31.69, 1st par., subpar. 2, s. 95.1, 1st par., subpars. 7 and 21, ss. 115.27 and 115.34)

1. The Land Protection and Rehabilitation Regulation (chapter Q-2, r. 37) is amended by inserting the following heading before section 1:

“CHAPTER I

APPLICABLE LIMIT VALUES AND CATEGORIES OF ACTIVITIES CONCERNED”.

2. The following is inserted after section 2:

CHAPTER II

DECLARATIONS OF COMPLIANCE

DIVISION I

ACTIVITY ELIGIBLE UNDER SECTION 31.0.6 OF THE ENVIRONMENT QUALITY ACT

§1. Eligible activity

“**2.1.** Soils containing contaminants in a concentration equal to or less than the limit values in Schedule I that are received on or in land are eligible for a declaration of compliance if

- (1) the soils are intended to be reclaimed on the land;
- (2) they do not contain asbestos; and

(3) the soils covered by the declaration will not increase the total volume of contaminated soils received on the land to more than 10,000 m³, whether that volume is reached after a single project or several projects.

§2. Content of the declaration

2.2. Every declarant for the activity eligible for a declaration of compliance referred to in subdivision 1 must include the following information in the declaration:

(1) information regarding the declarant’s identity, namely:

(a) the declarant’s name, contact information and, if applicable, those of the declarant’s representative;

(b) in the case of a declarant other than a natural person, the Québec business number assigned under the Act respecting the legal publicity of enterprises (chapter P-44.1), where applicable, and that of the establishment covered by the declaration;

(2) if the declarant has retained the services of professionals or other competent persons to prepare the declaration, the name and contact information of those persons, a brief description of each of their mandates and an attestation that the information and documents they provide are complete and accurate;

(3) a description of the activity that is subject to the declaration of compliance by indicating in particular any information enabling to verify compliance of the activity with the eligibility conditions provided for in subdivision 1;

(4) the limits within which the activity will be carried on and, as the case may be, the applicable municipal zoning and, if applicable, the presence of wetlands and bodies of water within a radius of 100 m and their designation.

For the activity referred to in the first paragraph to be eligible for a declaration of compliance, the declarant must also attach to the declaration

(1) a plan that indicates the geographic coordinates of the site concerned;

(2) the characterization study referred to in section 2.12;

(3) an attestation that all the information and documents provided by the declarant are complete and accurate; and

(4) the payment of the fees payable under the Ministerial Order concerning the fees payable under the Environment Quality Act (chapter Q-2, r. 28).

The declarant must, at the same time as the declarant sends the declaration of compliance to the Minister, send a copy to the municipality in the territory of which the activity will be carried on.

The owner of the land receiving the soils is responsible for making that declaration.

2.3. Any change to the information sent in the declaration of compliance or to the documents attached to the declaration must be communicated to the Minister by the declarant as soon as possible.

DIVISION II
REHABILITATION MEASURES ELIGIBLE
UNDER SECTION 31.68.1 OF THE ENVIRONMENT
QUALITY ACT

§1. Eligible rehabilitation measures

2.4. The following contaminated land rehabilitation measures, when taken under section 31.51 or 31.54 of the Environment Quality Act (chapter Q-2), are eligible for a declaration of compliance if the conditions determined in the second paragraph are met:

(1) land rehabilitation is made only by excavation of soils whose concentration of contaminants present therein exceeds the limit values in Schedule I and its carrying out may be completed within a maximum period of 1 year;

(2) only the recovery of water accumulating in the excavation is required.

The conditions that must be complied with so that the measures referred to in the first paragraph are eligible for a declaration of compliance are the following:

(1) the quantity of contaminated soils to be excavated is not more than 10,000 m³;

(2) the characterization study reveals

(a) the absence, in the land, of residual hazardous materials, asbestos, chlorinated volatile organic compounds and measurable immiscible liquids; and

(b) that no monitoring of groundwater quality is required after carrying out the work;

(3) the recovered water will be discharged into a municipal wastewater treatment works or transported to a site authorized by the Minister.

The rehabilitation measures referred to in the first paragraph must begin as soon as possible after carrying out the characterization study provided for in the first paragraph of section 31.51 or in the first paragraph of section 31.53 of the Environment Quality Act (chapter Q-2).

§2. Content of the declaration

2.5. The declaration of compliance includes the following information and is accompanied by a work schedule:

(1) the contact information of the person filing it;

(2) the location and description of the contaminated land;

(3) the nature and concentration of contaminants present in the land and the quantity of soils to be excavated;

(4) if the declarant is not the person carrying out the excavation work, the contact information of that person;

(5) the address of the site where

(a) contaminated soils will be shipped;

(b) material from the dismantling of the installations present on the land, where applicable, will be shipped; and

(c) recovered water will be discharged or, where applicable, transported.

2.6. Any change to the information or schedule sent pursuant to section 2.5 must be communicated to the Minister as soon as possible.

CHAPTER III
EXEMPTIONS

2.7. Soils containing contaminants in a concentration equal to or less than the limit values in Schedule I that are received on or in land are exempted from the application of all or part of section 22 of the Environment Quality Act (chapter Q-2) if

(1) the soils are intended to be reclaimed on that land;

(2) they do not contain asbestos; and

(3) the disposal of those soils will not increase the total volume of contaminated soils received on the land to more than 1,000 m³, whether that volume is reached after a single project or several projects.

2.8. Every person or municipality that carries on an activity exempted under this Chapter must keep the characterization study of the land where the soils are received, required by section 2.12, for at least 5 years after the end of the activity.

CHAPTER IV
MONITORING MEASURES

2.9. Soils that, in connection with a project, are intended to be reclaimed and whose reception is covered by a declaration of compliance or is exempt from the requirement of obtaining an authorization under the Environment Quality Act (chapter Q-2), must be used for that purpose within 30 days after they are received on the land where their reclamation must take place.

2.10. Where the reception of contaminated soils is covered by a declaration of compliance or exempted from the application of section 22 of the Environment Quality Act (chapter Q-2), the owner of the land where the soils are received, or the owner's representative, must, before receiving the soils, verify their acceptability.

To that end, the owner or representative must, upon arrival of the soils, enter in a logbook the following information:

- (1) the address of the soils' land of origin;
- (2) the contact information of the carrier of soils;
- (3) the date on which the soils are received;
- (4) their quantity, expressed in m³;
- (5) the nature and concentration of the contaminants they contain, established on the basis of the analysis reports referred to in the third paragraph.

The owner or representative must also attach to the logbook the analysis reports that were used to perform the characterization study of the soils that their owner must give to them.

Where the reception of the owner's soils is covered by a declaration of compliance, the owner of the land or representative must also, when receiving the soils,

- (1) for each batch of soils accepted less than or equal to 100 m³, collect a sample and have it analyzed;
- (2) for each batch of soils accepted greater than 100 m³, collect an additional sample and have it analyzed for each additional fraction of soils less than or equal to 200 m³.

The analysis of the samples collected in accordance with the fourth paragraph must allow to determine whether they contain the following contaminants referred to in Schedule I:

- (1) monocyclic aromatic hydrocarbons (MAH) and polycyclic aromatic hydrocarbons (PAH);
- (2) petroleum hydrocarbons (C10 to C50);
- (3) metals and metalloids;
- (4) any other contaminant whose presence in the soils accepted is indicated in the analysis reports referred to in the third paragraph.

The results of the analysis referred to in the fourth paragraph must also be entered in the logbook referred to in the second paragraph.

2.11. The owner of the land or the owner's representative must keep the logbook and make it available to the Minister for at least 5 years after the project of reclamation of soils has ended.

CHAPTER VI CHARACTERIZATION STUDY

2.12. Every person or municipality preparing to receive soils containing contaminants in a concentration equal to or less than the limit values in Schedule I and intended for reclamation, on or in land must, before receiving such soils, perform a characterization study, carried out by a professional or by any other person qualified in the field, of the portion of land on which the soils will be disposed of, excluding surface and groundwater found there.

The characterization study referred to in the first paragraph must be carried out in accordance with generally accepted standards and practices and the person responsible for performing the study must take into account the history of the land and the results of the analysis reports referred to in the third paragraph of section 2.10 with respect to contaminants whose presence in the portion of land concerned is indicated in the reports.”.

3. Section 3 is amended by replacing “of Division IV.2.1 of Chapter I” by “of this Regulation or of Division IV of Chapter IV of Title I”.

4. The following heading is inserted after section 3:

“**CHAPTER VI**
MONITORING OF GROUNDWATER QUALITY”.

5. The following is inserted after section 13:

“**CHAPTER VII**
NOTICE OF PERMANENT CESSATION

13.0.1. Every person who permanently ceases an activity of one of the categories listed in Schedule III must send to the Minister, not later than 30 days following that cessation, a notice containing the following information and document:

- (1) where applicable, the number and date of issue of the authorization corresponding to the activity that ceased;
- (2) the person's name and address;
- (3) the address of the site where the activity was carried on;
- (4) the date of the cessation of the activity;
- (5) an attestation from that person that all the information and documents provided are complete and accurate.

CHAPTER VIII PROHIBITIONS

13.0.2. Except in the cases covered by the Environment Quality Act (chapter Q-2) or the regulations made thereunder, no one may dispose of contaminated soils nor allow them to be disposed of, on or in a site other than land where the disposal is permitted, as the case may be,

(1) by an authorization issued under the Environment Quality Act (chapter Q-2);

(2) by a declaration of compliance covered by the Act or the regulations made thereunder and filed in accordance with the Act; or

(3) by a rehabilitation plan approved by the Minister.

The prohibition provided for in the first paragraph does not apply where the disposal is covered by an exemption covered by the Environment Quality Act (chapter Q-2) or the regulations made thereunder.

Where contaminated soils are disposed of on or in a site where the disposal is not permitted by one of the documents provided for in the first paragraph or is not covered by an exemption, the owner, the lessee or any other person in charge of the site is required to take the necessary measures so that the soils are transported on or in a site where

(1) such a disposal is permitted by one of the documents; or

(2) such a disposal is covered by an exemption.

13.0.3. No one may dispose of contaminated soils in wetlands and bodies of water.

CHAPTER IX PENALTIES

DIVISION I MONETARY ADMINISTRATIVE PENALTIES

6. Section 13.1 is amended by adding the following before paragraph 1:

“(0.1) to keep, as provided for in section 2.8, the characterization study required by section 2.12 for at least 5 years following the end of the exempted activity;”

7. Section 13.2 is replaced by the following:

“**13.2.** 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 communicate to the Minister, as provided for in sections 2.3 and 2.6, any change to the information sent pursuant to section 2.2 or 2.5, as soon as possible;

(2) to enter in a logbook the information provided for in the second paragraph of section 2.10 or to attach to the logbook the analysis reports that were used to perform the characterization study of soils in accordance with the third paragraph of that section;

(3) to keep the logbook or to make it available to the Minister for at least 5 years after the project of reclamation of soils has ended, in accordance with section 2.11;

(4) to send to the Minister an analysis report made under section 8, in accordance with the first paragraph of section 9;

(5) to send to the Minister a notice containing the information and document required by section 13.0.1, within the time prescribed therein.”

8. Section 13.3 is amended by inserting the following before paragraph 1:

“(0.1) to verify the acceptability of the soils before they are received, in the cases and on the conditions provided for in section 2.10;

(0.2) to collect or have analyzed the samples covered by the fourth paragraph of section 2.10, in the cases and on the conditions provided for in the fourth and fifth paragraphs of that section or to enter, as required in the sixth paragraph of that section, the results of the analysis of those samples in the logbook covered by the second paragraph of that section;”

9. Section 13.5 is replaced by the following:

“**13.5.** A monetary administrative penalty of \$1,000 in the case of a natural person and \$5,000 in other cases may be imposed on any person who fails

(1) to perform a characterization study in accordance with the first paragraph of section 2.12 and to comply with the requirement provided for in the second paragraph of that section;

(2) to mention, in the analysis report referred to in the second paragraph of section 8, an excess of the limit value or to inform the Minister thereof as soon as possible, in accordance with the second paragraph of section 8;

(3) to comply with the prohibition provided for in the first paragraph of section 13.0.2 or that provided for in section 13.0.3;

(4) to comply with the requirement provided for in the third paragraph of section 13.0.2.”

10. The following heading is inserted after section 13.5:

“**DIVISION II**
PENAL SANCTIONS”.

11. Section 14 is amended by inserting “section 2.8,” after “who contravenes”.

12. Section 14.1 is amended by replacing “the first paragraph of section 9” by “section 2.3, 2.6, the second or third paragraph of section 2.10, section 2.11, the first paragraph of section 9 or section 13.0.1”.

13. Section 14.2 is amended by inserting “the fourth, fifth or sixth paragraph of section 2.10,” after “who contravenes”.

14. Section 14.4 is amended by replacing “the second paragraph of section 8” in paragraph 1 by “the first paragraph of section 2.10, section 2.12, the second paragraph of section 8 or section 13.0.2 or 13.0.3;”.

15. Schedule III is amended

(1) by striking out the following:

“4471 Gasoline Stations (including Self-Serve Facilities or Unattended Self-Serve Facilities and Gas Stations with no Vehicle Servicing);”

(2) by replacing

“Motor Fuel Dispensing Outlets (Self-Serve Facilities, Unattended Self-Serve Facilities, Airport Outlets, User Outlets, Marina Outlets and Service Stations) as defined in section 8.01 of the Construction Code and governed by that Code”

by the following:

“Motor Fuel Dispensing Outlets Using High-Risk Petroleum Equipment, as defined by section 8.01 of the Construction Code.”.

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