

Draft Regulation

Environment Quality Act
(chapter Q-2)

Act respecting certain measures enabling the enforcement of environmental and dam safety legislation
(chapter M-11.6)

Fertilizing residual materials management — Amendment

Notice is hereby given, in accordance with sections 10 and 11 of the Regulations Act (chapter R-18.1), that the Regulation to amend the Fertilizing Residual Materials Management Code, appearing below, may be made by the Government on the expiry of 45 days following this publication.

The draft Regulation amends the Fertilizing Residual Materials Management Code (chapter Q-2, r. 9.02) mainly to provide special standards for agricultural digestates that are subject to an exemption from authorization, in connection with an amendment made by the Regulation to amend the Regulation respecting the regulatory scheme applying to activities on the basis of their environmental impact, published as a draft Regulation in the current *Gazette officielle du Québec*, and for certain types of topsoil consisting of fertilizing residual materials. Adjustments are also made to the rules for the sampling of fertilizing residual materials, to the conditions for the field storage of the materials, to the information that must be included in a siting plan contained in a reclamation agro-environmental plan and to the composition of the panel for a sniffing test. Consequential amendments are made to the provisions respecting the monetary administrative penalties and penal sanctions.

The amendments proposed to the Fertilizing Residual Materials Management Code with respect to agricultural digestates and the easing of the conditions for the exemption from authorization associated with the digestates proposed by the Regulation to amend the Regulation respecting the regulatory scheme applying to activities on the basis of their environmental impact published as a draft Regulation in the current *Gazette officielle du Québec* would result in an annual saving of \$67,700. As regards topsoil, the reduction of the analysis of the microbiological parameters for topsoil consisting of fertilizing residual materials would result in an annual saving of \$21,700. New tightening provisions would impose additional compliance costs of \$19,000 for analyses for the verification of the quality of all-purpose topsoil and about \$3,000 for producing attestations guaranteeing the safety of the products put on the market.

Further information on the draft Regulation may be obtained by contacting Maude Durand, Director, Bureau de stratégie législative et réglementaire, Ministère de l'Environnement, de la Lutte contre les changements climatiques, de la Faune et des Parcs, 675, boulevard René-Lévesque Est, 29^e étage, boîte 14, Québec (Québec) G1R 5V7; email: question.bslr@environnement.gouv.qc.ca.

Any person wishing to comment on the draft Regulation is requested to submit written comments within the 45-day period to Maude Durand at the above contact information.

BENOIT CHARETTE

Acting Minister of the Environment, the Fight Against Climate Change, Wildlife and Parks

Regulation to amend the Fertilizing Residual Materials Management Code

Environment Quality Act
(chapter Q-2, s. 53.30, 1st par., subpars. 1, 4 and 5, and s. 95.1, 1st par., subpars. 3, 4, 6, 18, 20, 21, 24 and 25.1).

Act respecting certain measures enabling the enforcement of environmental and dam safety legislation
(chapter M-11.6, s. 30, 1st par., and s. 45, 1st par.).

1. The Fertilizing Residual Materials Management Code (chapter Q-2, r. 9.02) is amended in section 1

(1) by replacing “enfin” in the French text of the fourth paragraph by “aussi”;

(2) by inserting the following after the fourth paragraph:

“Lastly, this Code sets out special standards for agricultural digestates stored and spread under an exemption from authorization in accordance with section 291.20 of the Regulation respecting the regulatory scheme applying to activities on the basis of their environmental impact and for certain types of topsoil consisting of fertilizing residual materials.”

2. Section 23 is amended by inserting the following after the first paragraph:

“Despite subparagraph 3 of the first paragraph, when the analysis pertains to PFAS, the sampling must have been conducted in the 12 months preceding the filing of a declaration of compliance.

Despite subparagraphs 1 to 3 of the first paragraph, when the analysis pertains to dioxins and furans or the parameters in Table 10 of Schedule I, the sampling frequency may be the frequency set out in subparagraphs 1 and 2 of the first paragraph of section 20.”

3. Section 42 is amended by replacing “during” in the second paragraph by “outside”.

4. Section 52 is amended in the first paragraph

(1) by replacing subparagraph 2 by the following:

“(2) on snow-covered soil in the case of a FRM, other than compost, having a carbon/nitrogen ratio less than 25;”;

(2) by inserting the following after subparagraph *c* of subparagraph 5:

“(d) is a compost;

(e) has a combined total nitrogen and total P₂O₅ content less than 1% on a dry basis;”.

5. Section 53 is amended by replacing “a Class P1 compost having a dryness value equal to or greater than 25%” in subparagraph 6 of the first paragraph by “a compost”.

6. Section 89, amended by the Regulation to amend the Fertilizing Residual Materials Management Code, published as a draft Regulation in the *Gazette officielle du Québec* of 25 February 2026, is further amended by striking out subparagraph 5 of the first paragraph.

7. The following is inserted after section 101:

“CHAPTER VI.1 AGRICULTURAL DIGESTATES

101.1. This Chapter applies to the storage of agricultural digestates on a raising site or spreading site, for reclamation by spreading, and to their spreading on such a site, carried out under an exemption from authorization in accordance with section 291.20 of the Regulation respecting the regulatory scheme applying to activities on the basis of their environmental impact (chapter Q-2, r. 17.1).

101.2. When the operator of a raising site, a spreading site or a site where a forest development activity is carried out requires the services of a third person to act as promoter of a reclamation project concerning the storage of

agricultural digestates, the third person is responsible for the application of the provisions set out in this Chapter for the activity for which the third person’s services are required.

101.3. The agricultural digestates covered by this Chapter are FRMs that meet the following characteristics:

(1) the inputs consist exclusively of the following materials:

(a) for at least 50% of the total volume, livestock waste and organic residue from the cultivation of plants or whole plants;

(b) for not more than 50% of the total volume, the following agri-food organic materials, classed C1 and E1:

i. the inputs in paragraphs *a*, *c* to *f*, *l* and *t* in list 1.1 of Schedule II and those in paragraph *q* of that list that are not livestock waste within the meaning of the Agricultural Operations Regulation (chapter Q-2, r. 26);

ii. the inputs in paragraphs *m*, *n* and *v* in list 1.1 of Schedule II, pasteurized at 70 °C during 60 minutes or classed P1, the pasteurization or classification may be made exclusively on the input or on the digestate including the input;

(2) the inputs are free of the following materials:

(a) inedible meat defined in section 7.1.1 of the Regulation respecting food (chapter P-29, r. 1);

(b) municipal biosolids and any other material that may be contaminated by human waste;

(c) packaged agri-food waste and waste having been unpacked;

(d) post-consumer food waste;

(e) the residues in list 1.2 of Schedule II;

(f) the FRMs in list 2 of Schedule II;

(3) the digestates have been the subject of the analyses required under Table 8 of Schedule I by the generator, according to the frequency in Table 9 of that Schedule, using samples compliant with the requirements in section 21 and the results of the analyses are entered in the register referred to in section 22;

(4) the digestates come from a biomethanization process making it possible to reach a temperature of 35 °C for 20 consecutive days or a biomethanization process established by an engineer making it possible to ensure a reduction of 50% of the volatile solids in the digestate;

(5) the digestates are classed E1 by the generator;

(6) the digestates are classed for odours, but are not OC.

101.4. A generator of agricultural digestates must produce for the digestates the description sheet referred to in section 32 and furnish a copy to the operator or, if applicable, to the project promoter.

Compliance of the description sheet with section 32 must be confirmed by an agrologist who must be a person other than the person who signed the sampling verification report referred to in section 25 for agricultural digestates.

The generator of the agricultural digestates must keep for a minimum period of 5 years all the information and documents used to produce the sheet referred to in the first paragraph.

The information and documents must be furnished to the Minister on request, within the time specified by the Minister.

101.5. Agricultural digestates must be stored in accordance with the requirements applicable to livestock waste under the Agro-Environmental Practices Regulation published as a draft Regulation in the *Gazette officielle du Québec* of 25 February 2025.

The agricultural digestates stored in field piles must have a dryness value of at least 20% or, if they have a dryness value greater than 15%, but less than 20%, meet the conditions set out in the second paragraph of section 52.

The operator must enter in a register the information referred to in section 41 relating to the storage of agricultural digestates.

101.6. Field storage of agricultural digestates must take place at the minimum distances prescribed by subparagraphs 1 and 3 of the first paragraph of section 37 and, if applicable, section 38.

101.7. The spreading of agricultural digestates must take place in accordance with the standards for the spreading of livestock waste and fertilizers in the

Agro-Environmental Practices Regulation published as a draft Regulation in the *Gazette officielle du Québec* of 25 February 2025.

The spreading must have been the subject of the recommendation referred to in section 61, in accordance with section 64.

101.8. The spreading of agricultural digestates must take place at the minimum distances prescribed by sections 78 to 80.

CHAPTER VI.2 TOPSOIL

DIVISION I GENERAL

101.9. The topsoil covered by this Chapter is substrates produced by blending one or more FRMs with other materials, including soils, peat, coconut fibre, natural or synthetic mineral liming materials or fertilizers, added for their fertilizing or structuring capacity and constituting an environment suitable for plant growth.

Excavated soils, amended by FRMs then put back in place, or soils in place amended by FRMs are not considered topsoil.

101.10. This Chapter applies to topsoil consisting of FRMs and one or more of the following materials:

(1) all-purpose materials consisting of FRMs;

(2) restricted-use materials, that is, consisting of FRMs and soils complying with the limit values set in Schedule I to the Land Protection and Rehabilitation Regulation (chapter Q-2, r. 37).

101.11. Topsoil must meet the following conditions:

(1) it consists exclusively of one or more FRMs referred to in subparagraphs 1 to 6, 10, 11, 13, 17 and 19 to 21 of the first paragraph of section 4;

(2) the FRMs used as input are classed P1 and O1 or, in the case of FRMs certified as compliant with a BNQ standard, they are classed O1;

(3) if composts that are not certified as compliant with CAN/BNQ 0413-200 “Organic Soil Conditioners – Composts” are used, the materials consist exclusively of inputs that comply with lists 1.1 and 1.2 of Schedule II;

(4) the topsoil is free of the following materials and of any material from those materials:

(a) a residue in Table 10 that is OC for the organic chemical parameters according to Table 11 of Schedule I;

(b) viable parts of invasive exotic species that are likely to be propagated by the use of the topsoil;

(c) varnished, painted, stained or treated wood, engineered wood or oriented strandboard, plywood or particleboard, or a material generated by the combustion of those types of wood;

(d) a material from the sorting of renovation, construction or demolition waste, except gypsum;

(e) a FRM contaminated by hydrocarbons;

(f) a residual material manufactured using the carcasses of mammals or poultry;

(g) human fecal matters, livestock waste and non-agricultural waste, except

- i. treated and dehydrated chicken manure;
- ii. waste from insect farming where the insects are fed by inputs complying with lists 1.1 and 1.2 of Schedule II; and
- iii. a livestock waste or non-agricultural waste compost;

(5) it is produced by a topsoil manufacturing facility authorized under section 22 of the Act.

Subparagraph *c* of subparagraph 4 of the first paragraph does not apply to the FRMs referred to in item *g* within the scope of BNQ 0419-090 “Inorganic Soil Conditioners – Liming Materials from Industrial Processes” (2021).

Subparagraph *f* of subparagraph 4 of the first paragraph does not apply to rendering products, such as blood meal, bone powder or feathers, and to materials from the treatment of food waste from the preparation, consumption and distribution of food and beverages.

101.12. The generator of all-purpose topsoil consisting of FRMs or restricted-use topsoil must produce a description sheet of the topsoil including

- (1) the type of topsoil;

(2) the contact information for the manufacturing facility authorized under section 22 of the Act where the topsoil is manufactured;

(3) the quality of the soils and the type of FRMs used as inputs; and

(4) the confirmation that the topsoil meets the conditions set out in section 101.11 and Division II of this Chapter for all-purpose topsoil and Division III for restricted-use topsoil.

The topsoil generator must furnish a copy of the sheet, signed and dated, to every person to whom the topsoil is distributed.

The sheet must be kept up to date and kept by the topsoil generator for a minimum period of 5 years and be furnished to the Minister on request, within the time specified by the Minister.

DIVISION II

ALL-PURPOSE TOPSOIL CONSISTING OF FRMS

101.13. All-purpose topsoil consisting of FRMs must also meet the following conditions:

(1) the soil used as an input does not contain contaminants from human activity, including metals or metalloids, monocyclic aromatic hydrocarbons (MAHs), polycyclic aromatic hydrocarbons (PAHs) or petroleum hydrocarbons (C₁₀-C₅₀);

(2) when the FRMs used as inputs appear in list 2 of Schedule II, they are classed II for the preventive investigative parameters;

(3) it complies with the maximum contents in Table 15 of Schedule I for the chemical, microbiological and foreign matter parameters.

101.14. In addition to the materials referred to in subparagraphs *i* to *iii* of subparagraph *g* of subparagraph 4 of the first paragraph of section 101.11, FRMs certified as compliant with a BNQ standard are also covered by the exception provided for in subparagraph *g*.

101.15. All-purpose topsoil consisting of FRMs must be characterized by its generator in accordance with Table 16 of Schedule I, based on the tonnes produced annually, for each type of topsoil.

101.16. When the total production of all-purpose topsoil consisting of FRMs is equal to or greater than 5,000 dry tonnes per calendar year, the generator of the

topsoil must give a mandate to a person accredited or certified by the Minister under section 118.6 of the Act for the sector and type of production, in order to take a sample of the topsoil and verify compliance with the criteria in Table 15 of Schedule I for the chemical, microbiological and foreign matter parameters.

In the case of a facility whose total production of all-purpose topsoil is equal to or greater than 5,000 dry tonnes per calendar year, for which each type of topsoil produced individually is less than 5,000 dry tonnes per calendar year, the sampling must be conducted on the type of all-purpose topsoil produced in greater quantities.

101.17. The only residual materials that may be used for the production of all-purpose topsoil consisting of wood waste or compost are

(1) wood shavings, sawdust, bark or wood chips from pruning activity by the generator;

(2) a compost produced in accordance with section 265 of the Regulation respecting the regulatory scheme applying to activities on the basis of their environmental impact (chapter Q-2, r. 17.1);

(3) a compost produced in accordance with section 254.1 or 279 of the Regulation respecting the regulatory scheme applying to activities on the basis of their environmental impact, if the topsoil is intended for the exclusive use of the generator or is classed P1;

(4) a compost from a composting facility authorized under section 22 of the Act and meeting the following conditions:

(a) the compost is classed P1 and O1 by its generator and is not OC for the other parameters;

(b) when the compost appears in list 2 of Schedule II, it is classed II for the preventive investigative parameters;

(c) the compost consists exclusively of inputs complying with lists 1.1 and 1.2 of Schedule II; and

(5) a compost certified as compliant with CAN/BNQ 0413-200 “Organic Soil Conditioners – Composts” and, when it appears in list 2 of Schedule II, the compost is classed II.

DIVISION III RESTRICTED-USE TOPSOIL

101.18. Restricted-use topsoil must also meet the following conditions:

(1) the FRMs used as input are classed E1;

(2) when the FRMs used as inputs appear in list 2 of Schedule II, they are not OC for the preventive investigative parameters;

(3) when FRMs classed I2 are used as inputs, the total mass of FRMs in list 2 of Schedule II does not exceed 5% of the dry mass of the topsoil;

(4) the soil used as input complies with the limit values set in Schedule I to the Land Protection and Rehabilitation Regulation (chapter Q-2, r. 37).

101.19. In addition to the materials referred to in subparagraphs i to iii of subparagraph g of subparagraph 4 of the first paragraph of section 101.11, the following materials are also covered by the exception provided for in subparagraph g:

(1) a compost certified as compliant with a BNQ standard and classed AA or A according to the standard for the foreign matter content;

(2) a dry municipal biosolid.”

8. Section 102 is amended by inserting the following after paragraph 42:

“(42.1) to furnish a copy of the description sheet of the agricultural digestates in accordance with the first paragraph of section 101.4;

(42.2) to keep the information and documents referred to in the third paragraph of section 101.4 for the period provided for therein or to furnish them to the Minister in accordance with the fourth paragraph of that section;

(42.3) to furnish a copy of the topsoil description sheet referred to in the first paragraph of section 101.12 to every person to whom the topsoil is distributed in accordance with the second paragraph of that section;

(42.4) to keep the topsoil description sheet for the period provided for in the third paragraph of section 101.12 or to furnish it to the Minister in accordance with that paragraph;”.

9. Section 103 is amended by adding the following at the end:

“(16) to enter in a register the information relating to the storage of agricultural digestates in accordance with the third paragraph of section 101.5.”.

10. Section 104 is amended by adding the following at the end:

“(29) to produce an agricultural digestate description sheet in accordance with the first paragraph of section 101.4;

(30) to have confirmed the compliance of the description sheet of the agricultural digestates in accordance with the second paragraph of section 101.4;

(31) to have a recommendation for the spreading of agricultural digestates in accordance with the second paragraph of section 101.7;

(32) to produce a description sheet of a topsoil in accordance with the first paragraph of section 101.12;

(33) to keep up to date the description sheet of a topsoil in accordance with the third paragraph of section 101.12;

(34) to characterize all-purpose topsoil consisting of FRMs in accordance with section 101.15.”.

11. Section 105 is amended

(1) by adding “or, as the case may be, to meet the other conditions set out in that section” at the end of paragraph 9;

(2) by adding the following at the end:

“(19) to give a mandate to a person referred to in the first paragraph of section 101.16 in order to perform the sampling and verification in accordance with that paragraph.”.

12. Section 106 is amended by inserting the following after paragraph 14:

“(14.1) to store agricultural digestates in field piles at the minimum distances referred to in section 101.6;

(14.2) to spread agricultural digestates at the minimum distances referred to in section 101.8;

(14.3) to use for the production of all-purpose topsoil consisting of wood waste or compost only the residual materials referred to in section 101.17;”.

13. Section 107 is amended by inserting the following after paragraph 13:

“(13.1) stores agricultural digestates in contravention of the conditions set out in the second paragraph of section 101.5;”.

14. Section 109 is amended by replacing “or the second paragraph of section 101” by “; the second paragraph of section 101, the first, third or fourth paragraph of section 101.4, the second paragraph of section 101.12 or the third paragraph of that section in respect of the period for which the description sheet must be kept and the requirement to furnish the sheet to the Minister”.

15. Section 110 is amended by replacing “or the first paragraph of section 98 as it pertains to the content of the notice” by “; the first paragraph of section 98 in respect of the content of the notice or the third paragraph of section 101.5”.

16. Section 111 is amended by replacing “or the first paragraph of section 95 or 101” by “; the first paragraph of section 95 or 101, the first or second paragraph of section 101.4, the second paragraph of section 101.7, the first paragraph of section 101.12 or the third paragraph of that section in respect of the requirement to keep the sheet up to date or section 101.15”.

17. Section 112 is amended

(1) by inserting “to perform the sampling and verification provided for in section 23,” after “section 24”;

(2) by inserting “or 101.16” after “section 99”.

18. Section 113 is amended by inserting “, 101.6, 101.8, 101.17” after “87”.

19. Section 114 is amended

(1) by replacing “25,000” by “24,000”;

(2) by inserting “, the second paragraph of section 101.5” after “or 100”.

20. Schedule I, amended by section 20 of the Regulation to amend the Fertilizing Residual Materials Management Code published as a draft Regulation in the *Gazette officielle du Québec* of 25 February 2026, is further amended

(1) in the column “Types of FRMs” in Table 4,

(a) by replacing “paragraph *f*” in paragraph *h* of Class O2 by “paragraph *e*”;

(b) by adding the following at the end of Class O3:

“(j) Leachates from a composting facility.”;

(2) by adding the following at the end:

“Table 15. Maximum contents authorized for the chemical, microbiological and foreign matter parameters for all-purpose topsoil

Chemical parameters		
Chemical contaminants (Dry matter)	Maximum contents (Total analysis)	Maximum contents (Mehlich-3)
Arsenic (mg/kg)	12	-
Cadmium (mg/kg)	2.0	0.24
Chromium (mg/kg)	99	0.75
Cobalt (mg/kg)	29	1.2
Copper (mg/kg)	100	-
Mercury (mg/kg)	0.4	-
Molybdenum (mg/kg)	5	-
Nickel (mg/kg)	52	2.1
Lead (mg/kg)	70	5.7
Selenium (mg/kg)	1.4	-
Zinc (mg/kg)	200	14
Dioxins and furans (ng/kg) ¹	8	-
Microbiological parameters		
Salmonella	Salmonella not detected in at least 2 out of 3 subsamples	
Biological stability ²	Compliance with one of the maturity and stability requirements in criteria P1 for composts in Table 3 of Schedule I	
Foreign matters		
Foreign matters having a length greater than 25 mm and a width greater than 3 mm	≤ 1 per 500 ml	
Sharp foreign matters (having a size greater than 5 mm)	0 per 500 ml	
Total foreign matters (greater than 2 mm)	0.25% dry mass	

1. Parameters required only if one of the topsoil inputs contains more than 17 ng TEQ/kg on a dry basis of dioxins and furans.

2. Parameters required exclusively for topsoil using a FRM referred to in paragraphs 2, 10 and 11 and non-wood waste referred to in subparagraph 2 of the first paragraph of section 4.

Table 16. Minimum number of samples of all-purpose topsoil to be taken and analyzed pursuant to section 101.15

Total quantity produced per calendar year, per formulation of topsoil (dry tonnes)	Minimum number of composite samples according to the nature of the parameter to be analyzed	
	Dioxins and furans and foreign matters ¹	Other parameters
0 to 300	1	1
301 to 1,500	1	2
1,501 to 3,500	1	3
3,501 to 7,000	2	4
7,001 to 10,500	2	5
10,501 to 15,000	3	6
More than 15,000	+ 1 for each additional 15,000 tonnes	+ 1 for each additional 7,500 tonnes

1. The number of dioxin and furan analyses may be reduced to only one analysis every 12 months if, during a 36-month period, all the results of the analyses of the topsoil during that period are always lower than the maximum contents in Table 15.²

21. Schedule III is amended in the part concerning the composition of the panel by replacing subparagraph 1 of the second paragraph by the following:

“(1) 5 independent agrologists, not related to the person responsible for the test, or in the employ of a public interest organization;”.

22. This Regulation comes into force on (*insert the date that is 15 days after the date of publication of this Regulation in the Gazette officielle du Québec*), except sections 4, 5 and 6, which come into force on (*insert the date that is 180 days after the date of publication of this Regulation in the Gazette officielle du Québec*).

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