

## Draft Regulations

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### Draft Regulation

Environment Quality Act  
(chapter Q-2)

#### Industrial depollution attestations — Amendment

Notice is hereby given, in accordance with sections 10 and 11 of the Regulations Act (chapter R-18.1) and section 124 of the Environment Quality Act (chapter Q-2), that the Regulation to amend the Regulation respecting industrial depollution attestations, appearing below, may be made by the Government on the expiry of 60 days following this publication.

The draft Regulation amends the annual duties payable by holders of depollution certificates firstly by adding certain contaminants and amending certain weighting factors used in computing the tariff applicable to industrial discharges in water and in the atmosphere, and secondly by making it possible to add to the annual duties an amount for mine tailings deposited in an accumulation area.

The draft Regulation also integrates, with a few amendments, the content of the Orders in Council made to determine the classes of industrial establishments that are subject to the application of subdivision 1 of Division IV.2 of Chapter I of the Environment Quality Act.

The draft Regulation also amends section 20 to make a distinction between the cessation of the activities of an industrial establishment for which a depollution certificate was issued, which requires a notice to the Minister, and the permanent cessation of activities, which requires an application for revocation of such an attestation.

The draft Regulation also adds a new chapter concerning the applicable penalties, in particular to add monetary administrative penalties and to amend the penal sanctions already provided for in the Regulation, for purposes of harmonization with the Act to amend the Environment Quality Act in order to reinforce compliance (2011, c. 20). The amount of the monetary administrative penalties and penal sanctions has been determined according to the nature of the offences concerned.

Lastly, the draft Regulation further specifies certain provisions and relaxes certain administrative rules.

Few small and medium-sized businesses are concerned by this draft Regulation. Metal and non-metal ore mining businesses with an annual capacity over 2,000,000 metric tons per year will be subject to the obligation to hold an industrial depollution certificate. Holders of a depollution attestation will have to pay the duties payable according to the amounts established by the draft Regulation, which will increase the duties currently payable. However, the amounts for mine tailings deposited in an accumulation area will be charged progressively. The draft Regulation proposes a significant increase in all the fines and, for certain offences considered to be more serious, terms of imprisonment.

Further information on the draft Regulation may be obtained by contacting:

Mario Bérubé, Director  
Direction des matières résiduelles et des lieux contaminés  
Ministère du Développement durable, de l'Environnement, de la Faune et des Parcs  
Édifice Marie-Guyart  
675, boulevard René-Lévesque Est, 9<sup>e</sup> étage  
Québec (Québec) G1R 5V7  
Telephone: 418 521-3950, extension 4970  
Fax: 418 644-8562  
Email: mario.berube3@mddefp.gouv.qc.ca

Any person wishing to comment on the matter is requested to submit written comments within the 60-day period to the same address.

YVES-FRANÇOIS BLANCHET,  
*Minister of Sustainable Development,  
Environment, Wildlife and Parks*

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### Regulation to amend the Regulation respecting industrial depollution attestations

Environment Quality Act  
(chapter Q-2, ss. 31.10, 31.41, 115.27 and 115.34)

1. The Regulation respecting industrial depollution attestations (chapter Q-2, r. 5) is amended by inserting the following before Chapter I:

**“CHAPTER 0.1  
INDUSTRIAL ESTABLISHMENTS COVERED**

**0.1.** Subdivision 1 of Division IV.2 of Chapter I of the Environment Quality Act (chapter Q-2) applies to the following industrial establishments, defined in particular on the basis of their primary activity under the North American Industry Classification System (NAICS 1998):

(1) an industrial establishment manufacturing pulp intended for sale or a paper product within the meaning of section 1 of the Regulation respecting pulp and paper mills (chapter Q-2, r. 27);

(2) an industrial establishment engaged in metal ore mining (2122) and non-metallic mineral mining and quarrying (2123) if the establishment has an ore mining capacity greater than 2,000,000 metric tons per year or an ore or mine tailing processing capacity greater than 50,000 metric tons per year;

(3) an industrial establishment engaged in clay building material and refractory manufacturing (32712) if the establishment has a refractory brick production capacity greater than 20,000 metric tons per year;

(4) an establishment engaged in glass manufacturing (327214) if its primary activity is to manufacture flat glass;

(5) an establishment engaged in cement manufacturing (32731) if its primary activity is to manufacture Portland cement;

(6) an establishment engaged in lime manufacturing (32741) if its primary activity is to manufacture quicklime;

(7) an establishment engaged in other non-metallic mineral products manufacturing (3279) if its primary activity is to manufacture silicon carbide;

(8) an establishment engaged in iron and steel mills and ferroalloy manufacturing (33111) if its primary activity is

- (a) the production of pig iron;
- (b) the production of steel;
- (c) the production of stainless steel; or
- (d) the production of ferroalloys;

(9) an establishment engaged in the primary production of alumina and aluminum (331313);

(10) an establishment engaged in non-ferrous metal smelting and refining (33141).

**0.2.** For the purposes of paragraph 2 of section 0.1, “processing” means any operation involving ore beneficiation or the extraction of an ore concentrate or another substance from ores or mine tailings.

Operations involving the production of precious metals from ore or mine tailings are included in an establishment’s operations.

Establishments involved in ore agglomeration are deemed to be extraction establishments.”

**2.** Section 5 is replaced by the following:

“**5.** An operator of an industrial establishment referred to in section 0.1 must apply for a depollution attestation within 6 months of the day on which the operator’s establishment becomes subject to this Regulation or, if an establishment begins operation after that date, within 30 days from the date of obtention of the certificate of authorization issued to operate the establishment.”

**3.** Section 6 is amended by striking out “on 2 separate occasions.”

**4.** Section 7 is amended by replacing “all the notices” in paragraph 4 by “the notice”.

**5.** The following is inserted before section 12:

“**11.1.** For the purposes of this Division,

“accumulation area” means a parcel of land on which mine tailings are accumulated or intended to be accumulated;

“mine tailings” means any solid or liquid substance released through the extraction, preparation, beneficiation and separation of ore, including sludge and dust resulting from the treatment of mining wastewater or atmospheric emissions, except for the final effluent and residue released through the operation of a pit or quarry within the meaning of the Regulation respecting pits and quarries (chapter Q-2, r. 7). Any solid or liquid substance released through the processing of mine tailings to market a substance contained therein or slag and sludge released in the course of a treatment using primarily ore or enriched or concentrate ore as part of a pyrometallurgical, hydro-metallurgical or electrolytic process, are also considered as mine tailings.”

**6.** Section 12 is replaced by the following:

“**12.** The annual duties exigible from each holder of a depollution attestation include a fixed amount of \$2,851, plus the following amounts for the industrial establishment concerned:

(1) the total of the amounts calculated using the formula in Schedule I for each of the contaminants provided for in that Schedule, coming from industrial discharges in water and in the atmosphere;

(2) an amount calculated using the formula in Schedule II for mine tailings deposited in an accumulation area.

The amount provided for in subparagraph 2 of the first paragraph is set at 33% of the total amount calculated for the first valid year of an attestation, and at 66% of that amount for the second valid year of an attestation.

The annual duties exigible are calculated for the preceding calendar year and for the period in which the operator is an attestation holder. They are payable by cheque or money order, made out to the Minister of Finance, prior to 1 April of the year following the calendar year in which the duties are exigible.

The cheque or money order must be accompanied by a report containing the detailed calculation of the annual duties exigible, including the method used to determine the annual tonnage of each contaminant referred to in Schedule I or of the mine tailings deposited in an accumulation area, as the case may be.”

**7.** Section 13 is replaced by the following:

“**13.** The fixed amount and the unit rates of the annual duties payable are adjusted on 1 January of each year according to the rate corresponding to the annual variation in the aggregate average for the Consumer Price Index for Québec, excluding alcoholic beverages and tobacco products, for the 12-month period ending on 30 September of the year preceding the year for which the unit rates are to be adjusted.

The rules provided for in the Regulation respecting the rounding off of adjusted fees (chapter A-6.001, r. 0.1) apply to the adjusted amounts and rates.

The Minister is to publish the result of the adjustment in Part 1 of the *Gazette officielle du Québec*.”

**8.** The following is inserted after section 14:

“**14.1.** The holder of a depollution attestation must also keep a record containing the information necessary for the detailed calculation of the annual duties and the information necessary for the calculation of the annual tonnage of each contaminant referred to in Schedule I or of the mine tailings deposited in an accumulation area, as the case may be.

The information contained in the record must be kept for at least 5 years.”

**9.** Section 20 is replaced by the following:

“**20.** When an industrial establishment for which a depollution attestation was issued ceases its activities, the attestation holder must, within 30 days of the cessation, inform the Minister in writing of the date of cessation and, if applicable, of the date scheduled for resumption of activities.

If the cessation of activities is equivalent to or becomes a permanent cessation of the establishment’s operations, the holder of the depollution certificate must also apply to the Minister for the revocation of the certificate, as provided for in section 31.31 of the Environment Quality Act (chapter Q-2), within 90 days of the date of the permanent cessation.”

**10.** The following is inserted after section 20:

**“CHAPTER IV.1  
PENALTIES**

**DIVISION I  
MONETARY ADMINISTRATIVE PENALTIES**

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

(1) comply with the time limit or terms and conditions prescribed by section 5 to file an application for a depollution attestation with the Minister;

(2) send the Minister a report containing the information prescribed by the fourth paragraph of section 12;

(3) keep up-to-date a register containing the information prescribed by sections 14 and 14.1 or to keep it for the period of time indicated therein;

(4) send the Minister an annual report containing the information and documents prescribed by section 15, on the conditions and at the frequency indicated therein;

(5) submit to the Minister a technical report containing the information prescribed by section 19;

(6) inform the Minister if an industrial establishment ceases activities, in accordance with the first paragraph of section 20, or comply with the time limit prescribed by the second paragraph of that section to apply for the revocation of the depollution attestation in the case provided for therein.

**20.2.** A monetary administrative penalty of \$350 in the case of a natural person or \$1,000 in the other cases may be imposed on every person who fails to send the Minister a notice containing the information prescribed by section 17, within the time limit provided for therein.

**20.3.** A monetary administrative penalty of \$500 in the case of a natural person or \$2,500 in the other cases may be imposed on every person who fails to pay the annual duties payable in accordance with the third paragraph of section 12.

## DIVISION II PENAL SANCTIONS

**20.4.** A person who contravenes section 5, the fourth paragraph of section 12, section 14, 14.1, 15 or 19 or the first or second paragraph of section 20 commits an offence and is liable to a fine of \$1,000 to \$100,000 in the case of a natural person, or from \$3,000 to \$600,000 in the other cases.

**20.5.** A person who contravenes section 17 commits an offence and is liable to a fine of \$2,000 to \$100,000 in the case of a natural person, or from \$6,000 to \$600,000 in the other cases.

**20.6.** A person who contravenes the third paragraph of section 12 commits an offence and is liable to a fine of \$2,500 to \$250,000 in the case of a natural person, or from \$7,500 to \$1,500,000 in the other cases.

**20.7.** A person who, pursuant to this Regulation, makes a declaration, communicates information or files a document that is incomplete, 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 imprisonment for a maximum term of 18 months, or to both the fine and imprisonment, or, in the other cases, to a fine of \$15,000 to \$3,000,000.

**20.8.** A person who contravenes any other obligation imposed by this Regulation also commits an offence and is liable, if 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 from \$3,000 to \$600,000 in the other cases.”.

**11.** Section 21 is revoked.

**12.** Schedules A and B are replaced by the following:

### “SCHEDULE I FORMULA APPLICABLE TO INDUSTRIAL DISCHARGES INTO WATER AND THE ATMOSPHERE (s. 12)

**1.** Part of the annual duties exigible is composed of the aggregate of the amounts calculated using the following formula for each of the contaminants in Tables I and II:

$$T_c \times F_c \times 2 \text{ \$/m.t.y}$$

where

**T** = annual tonnage per contaminant provided for in Tables I and II, calculated for the preceding calendar year and for the period during which the operator holds an attestation

**F** = weighting factor established by contaminant as provided for in Tables I and II

**c** = contaminant referred to in Tables I and II

**2 \\$/m.t.y** = unit rate per metric ton of contaminant discharged per year

**Table I**

Discharges into water and weighting factor

| Contaminants discharged into water                                      | Weighting factor   |   |
|---|--|---|
|   | Contaminants discharged "into system" <sup>1</sup>         | Contaminants discharged "outside system" <sup>2</sup> |
| Biochemical oxygen demand (BOD5)  | 0.4  | 2   |
| Suspended matter (SM)   | 0.2  | 1   |
|   | Contaminants discharged "into system" and "outside system" |   |
| Aluminum (Al), iron (Fe) and manganese (Mn)                             | 50   |   |
| Arsenic (As), cadmium (Cd), chromium (Cr) and lead (Pb)                 | 200  |   |
| Absorbable halogen compounds (AHC)                                      | 100  |   |
| Copper (Cu), nickel (Ni), selenium (Se) and zinc (Zn)                   | 100  |   |
| Cyanides (CN)   | 100  |   |
| Dioxins and furans – total (PCDD-PCDF)                                  | 1,000,000  |   |
| Fluorides (F)   | 50   |   |
| Polycyclic aromatic hydrocarbons (PAH)                                  | 1,000  |   |
| Lithium (Li), thorium (Th), titanium (Ti), vanadium (V) and uranium (U) | 100  |   |
| Mercury (Hg)  | 1,000,000  |   |
| Radium (Ra)   | 200  |   |

(1) contaminants discharged «into system»: any contaminant discharged by an industrial establishment into a sewer system and treated by a municipal wastewater treatment installation;

(2) contaminants discharged «outside system»: any contaminant discharged by an industrial establishment outside a sewer system or not treated by a municipal wastewater treatment installation.

**Table II**

Emissions into the atmosphere and weighting factor

| Contaminants emitted into the atmosphere                | Weighting factor |
|---|------------------|
| Sulphuric acid (H <sub>2</sub> SO <sub>4</sub> )        | 100              |
| Arsenic (As), cadmium (Cd), chromium (Cr) and lead (Pb) | 200              |
| Hydrogen chloride(HCl)                                  | 100              |
| Total reduced sulphur compounds (TRS)                   | 50               |
| Volatile organic compounds (COV)                        | 20               |
| Dioxins and furans - total (PCDD-PCDF)                  | 1,000,000        |
| Sulphur dioxide (SO <sub>2</sub> )                      | 4                |
| Total fluorides   | 50               |
| Polycyclic aromatic hydrocarbons (HAP)                  | 1,000            |
| Mercury (Hg)  | 1,000,000        |
| Nitrogen oxides (NO <sub>2</sub> )                      | 4                |
| Particles (P)   | 1                |

**SCHEDULE II**

FORMULA APPLICABLE TO MINE TAILINGS DEPOSITED IN AN ACCUMULATION AREA (s. 12)

1. Part of the annual duties exigible is composed of an amount calculated using the following formula for mine tailings deposited in an accumulation area:

$$T_{mt} \times F_{mt} \times \text{u.r. } \$/1,000 \text{ m.t.y}$$

where

$T_{mt}$  = annual tonnage of mine tailings deposited in an accumulation area, calculated on a dry basis for the preceding calendar year and for the period during which the operator holds an attestation

**F** = weighting factor established by category of mine tailings as provided for in Table I

**mt** = category of mine tailings referred to in Table I

**u.r. \$** = unit rate established in accordance with Table III in relation to the quantity of mine tailings (assessed on a dry basis) deposited yearly in an accumulation area

**m.t.y** = metric ton of mine tailings deposited in an accumulation per year

**Table I**

Mine tailings and weighting factor

| Categories of mine tailings   | Weighting factor |
|---|------------------|
| Acid-generating <sup>1</sup> or cyanide-containing <sup>2</sup> mine tailings | 4                |
| Radioactive <sup>3</sup> or high-risk <sup>4</sup> mine tailings              | 6                |
| Others  | 1                |

(1) Acid-generating mine tailings: mine tailings whose total sulphur content is greater than 0.3% and having any of the following characteristics:

(a) a net acid neutralization potential (NNP) less than 20 kg CaCO<sub>3</sub>/metric ton of mine tailings;

(b) a result less than 3 for the equation

$$\frac{\text{Acid neutralization potential (NP)}}{\text{Acid generation potential (AGP)}}$$

(2) Cyanide-containing mine tailings: mine tailings not treated or treated by natural degradation, originating from a process using cyanides;

(3) Radioactive mine tailings: mine tailings that emit ionizing radiations (S) and for which the result of the following equation is greater than 1:

$$S = \sum_{i=1}^n \frac{C_n}{A_n}$$

where

**C** = specific activity for each radioelement present in a kilogram of mine tailings, expressed in kilobecquerels per kilogram (kBq/kg)

**A** = maximum specific activity mentioned in Schedule 1 to the Regulation respecting hazardous materials (chapter Q-2, r. 32) for each radioelement present in a kilogram of mine tailings, expressed in kilobecquerels per kilogram (kBq/kg)

**n** = radioelement present in a kilogram of mine tailings;

(4) High-risk mine tailings: mine tailings having any of the following characteristics:

(a) mine tailings that produce leachate containing contaminants in a concentration greater than those mentioned in Table II below:

**Table II**

High-risk mine tailings

| Contaminants (mg/L)   | Concentration |
|---|---------------|
| Arsenic (As)  | 5.0           |
| Barium (Ba)   | 100           |
| Boron (B)   | 500           |
| Cadmium (Cd)  | 0.5           |
| Chromium (Cr)   | 5.0           |
| Total fluorides   | 150           |
| Mercury (Hg)  | 0.1           |
| Nitrates + nitrites (N-NO <sub>3</sub> +N-NO <sub>2</sub> ) | 1,000         |
| Nitrites (N-NO <sub>2</sub> )                               | 100           |
| Lead (Pb)   | 5.0           |
| Selenium (Se)   | 1.0           |
| Uranium (U)   | 2.0           |

;

(b) mine tailings that produce leachate emitting ionizing radiations (S) and for which the result of the following equation is greater than 0.05, but equal to or less than 1;

$$S = \sum_{i=1}^n \frac{C_n}{A_n}$$

where

**C** = activity concentration for each radioelement present in a kilogram of mine tailings, expressed in kilobecquerels per litre (kBq/L)

**A** = maximum activity concentration mentioned in Schedule 1 to the Regulation respecting hazardous materials for each radioelement present in a kilogram of mine tailings, expressed in kilobecquerels per litre (kBq/L)

**n** = radioelement present in a kilogram of mine tailings;

(c) mine tailings that contain more than 5 g/kg of polychlorinated dibenzofurans or polychlorinated dibenzo [b, e] [1,4] dioxins, as calculated according to the international toxicity equivalency factors provided for in Schedule 2 to the Regulation respecting hazardous materials.

**Table III**

Applicable unit rate

| <b>Mine tailings deposited yearly in an accumulation area (in metric tons)</b> | <b>Unit rate (in \$ per 1,000 metric tons)</b> |
|--|--|
| Less than 1 million  | 20   |
| Equal to or greater than 1 million, but less than 5 million                    | 25   |
| Equal to or greater than 5 million, but less than 15 million                   | 27   |
| Equal to or greater than 15 million, but less than 50 million                  | 32   |
| 50 million and more  | 35   |

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### TRANSITIONAL AND FINAL

**13.** Despite section 12 of the Regulation respecting industrial depollution attestations (chapter Q-2, r. 5), as replaced by section 6 of this Regulation, the amount provided for in subparagraph 2 of the first paragraph of that section is set, for depollution attestations issued before 1 January 2014, at 33% of the total amount calculated for 2014, 66% for 2015 and 100% for subsequent years.

**14.** The Order in Council respecting the application of subdivision 1 of Division IV.2 of Chapter I of the Environment Quality Act to the mineral industry and primary metal manufacturing sector (chapter Q-2, r. 4)

and the Order in Council respecting a class of industrial establishments to which subdivision 1 of Division IV.2 of Chapter I of the Environment Quality Act applies (chapter Q-2, r. 8) are revoked.

**15.** In any Act, regulation and document, unless the context indicates otherwise and with the necessary modifications, a reference to the Order in Council respecting the application of subdivision 1 of Division IV.2 of Chapter I of the Environment Quality Act to the mineral industry and primary metal manufacturing sector (chapter Q-2, r. 4) and to the Order in Council respecting a class of industrial establishments to which subdivision 1 of Division IV.2 of Chapter I of the Environment Quality Act applies (chapter Q-2, r. 8) or to one of their provisions is deemed to be a reference to this Regulation or to the corresponding provision in it.

**16.** This Regulation comes into force on the fifteenth day following the date of its publication in the *Gazette officielle du Québec*, except section 1 which comes into force on the date of its publication in the *Gazette officielle du Québec* and sections 5 to 8 and section 12, which come into force on 1 January 2014.

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