

Gouvernement du Québec

**O.C. 652-2013, 19 June 2013**

Environment Quality Act  
(chapter Q-2)

**Industrial depollution attestations  
— Amendment**

Regulation to amend the Regulation respecting industrial depollution attestations

WHEREAS, under the first paragraph of section 31.10 of the Environment Quality Act (chapter Q-2), the Government determines the classes of industrial establishments to which Subdivision 1 of Division IV.2 of Chapter I of the Act applies;

WHEREAS, under the second paragraph of section 31.10, the Government's decision comes into force on the date of its publication in the *Gazette officielle du Québec*;

WHEREAS, under section 31.41 of the Environment Quality Act, the Government may make regulations to prescribe the manner and form in which every application for a depollution attestation must be made, to prescribe the annual duties applicable to the holder of a depollution attestation and to determine the terms and conditions of payment applicable to such fees;

WHEREAS, under section 115.27 of the Act, the Government may specify, by regulation, that a failure to comply with one of the provisions of a regulation may give rise to a monetary administrative penalty and determine the amount for 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 Regulation respecting industrial depollution attestations (chapter Q-2, r. 5);

WHEREAS the Government determined the classes of industrial establishments to which Subdivision 1 of Division IV.2 of Chapter I of the Environment Quality Act applies by 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 by 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);

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 Regulation to amend the Regulation respecting industrial depollution attestations was published in Part 2 of the *Gazette officielle du Québec* of 30 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 to amend the Regulation respecting industrial depollution attestations, attached to this Order in Council, 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 Regulation respecting industrial depollution attestations, attached to this Order in Council, be made.

JEAN ST-GELAIS,  
*Clerk of the Conseil exécutif*

**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).

For the purposes of this section, operations that consist in producing precious metals from ore or mine tailings are included in an establishment's operations, operations that consist in extracting, from ores or mine tailings, an ore concentrate or another substance, and operations involving ore beneficiation, are included in ore processing operations and 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 or any new application

(1) 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; or

(2) at least 6 months before the date of expiry of the operator's attestation."

**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, hydrometallurgical 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, as the case may be:

(1) for industrial discharges into water or the atmosphere, the sum of the amounts calculated in accordance with Schedule I;

(2) for mine tailings deposited in an accumulation area:

(a) for the first year of validity of the first depollution attestation of an establishment, 33% of the lesser amount between the amount calculated in accordance with Schedule II and \$1,000,000;

(b) for the second year of validity of the first depollution attestation of an establishment, 66% of the lesser amount between the amount calculated in accordance with Schedule II and \$1,000,000;

(c) in the other cases, 100% of the lesser amount between the amount calculated in accordance with Schedule II and \$1,000,000.

The sum of the amounts provided for in subparagraphs 1 and 2 of the first paragraph may not exceed \$1,000,000.

The annual duties exigible are payable by cheque or money order, made out to the Minister of Finance, prior to 1 April of the year following the 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 the contaminants discharged, from among those 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 of the annual duties exigible is adjusted on 1 January of each year in the manner provided for in section 83.3 of the Financial Administration Act (chapter A-6.001). The foregoing also applies to the unit rate provided for in Schedule I and to the unit rate and base amount provided for in Schedule II.

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 the contaminants discharged, from among those 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.** The holder of a depollution attestation must apply to the Minister for the revocation of the attestation, as provided for in section 31.31 of the Environment Quality Act (chapter Q-2), within 90 days following the permanent cessation of the operations of the industrial establishment covered by the attestation.”

**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) comply with the time limit prescribed by section 20 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 to 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 or section 14, 14.1, 15, 19 or 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 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**  
AMOUNT EXIGIBLE FOR INDUSTRIAL  
DISCHARGES INTO WATER AND THE  
ATMOSPHERE  
(s. 12)

1. The annual duties provided for in section 12 are composed, in particular, of the total of the amounts calculated for an establishment’s industrial discharges into water and the atmosphere. Those amounts are calculated in the following manner for each of the contaminants in Tables I and II:

$$\sum_{c=1}^n T_c \times F_c \times 2 \$$$

where

**T** = tonnage of contaminant discharged during the preceding year of operation of the establishment, in metric tons.

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

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

**2 \$** = unit rate per metric ton of contaminant discharged per year

**Table I**  
Discharges into water and weighting factor

Contaminants discharged into water (c)	Weighting factor(F)	
	Contaminants discharged "into system"	Contaminants discharged "outside system"
Biochemical oxygen demand (BOD <sub>5</sub> )	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	
Total fluorides	50	
Polycyclic aromatic hydrocarbons (PAH)	1,000	
Lithium (Li), thorium (Th), titanium (Ti), vanadium (V) and uranium (U)	100	
Mercury (Hg)	100,000	
Radium (Ra)	200	

**Table II**  
Emissions into the atmosphere and weighting factor

Contaminants emitted into the atmosphere(c)	Weighting factor(F)
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)	100,000
Nitrogen oxides (NO <sub>x</sub> )	4
Particles (P)	1

2. For the purposes of Table I of section 1 of this Schedule,

(1) **contaminants discharged “into system”** means any contaminant discharged by an industrial establishment into a sewer system and treated by a municipal wastewater treatment works;

(2) **contaminants discharged “outside system”** means any contaminant discharged by an industrial establishment outside a sewer system or not treated by a municipal wastewater treatment works.

## SCHEDULE II

### AMOUNT EXIGIBLE FOR MINE TAILINGS DEPOSITED IN AN ACCUMULATION AREA (s. 12)

1. The annual duties provided for in section 12 are composed, in particular, of an amount calculated for an establishment's mine tailings deposited in an accumulation area. That amount is calculated in the following manner:

$$F_{mt} \times [(\text{base amount}) + ((T_{mt} - L) \times \text{u.r.})]$$

where

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

**Base amount** = amount (in \$) established in accordance with Table II in relation to the interval corresponding to the quantity of mine tailings deposited yearly in an accumulation area

$T_{mt}$  = tonnage of mine tailings deposited in an accumulation area during the preceding year of operation of the establishment, calculated on a dry basis in metric tons

L = lower limit of the interval provided for in Table II determined in relation to the quantity of mine tailings deposited yearly in an accumulation area

u.r. = unit rate (in \$ per 1,000 metric tons) established in accordance with Table II in relation to the interval corresponding to the quantity of mine tailings deposited yearly in an accumulation area

Table I  
Mine tailings and weighting factor

Categories of mine tailings (mt)	Weighting factor(F)
Acid-generating or cyanide-containing mine tailings	4
Inert mine tailings	0.5
Radioactive or high-risk mine tailings	6
Others	1

Table II  
Applicable base amount and unit rate

Quantity of mine tailings deposited yearly in an accumulation area (in metric tons), per interval	Base amount (\$)	Unit rate (in \$ per 1,000 metric tons) (u.r.)
Less than 1 million	0	20
Equal to or greater than 1 million, but less than 10 million	20,000	25
Equal to or greater than 10 million, but less than 30 million	245,000	27
30 million and more	785,000	32

2. For the purposes of Table I of section 1 of this Schedule,

(1) **Acid-generating mine tailings** means 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 following equation:

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

Acid generation potential (AGP);

(2) **Cyanide-containing mine tailings** means mine tailings, originating from a process using cyanides;

(3) **Inert mine tailings** means mine tailings rejected through ore extraction that are not economically profitable and may not be qualified as acid-generating, radioactive or high-risk mine tailings;

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

$$S = \sum_{i=1}^n \frac{C_i}{A_i}$$

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;

(5) **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 the Table below:

Table III  
High-risk mine tailings

Contaminants	Concentration (mg/L)
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;

$$S = \sum_{i=1}^n \frac{C_i}{A_i}$$

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 ug/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.”

#### TRANSITIONAL AND FINAL

**13.** For depollution attestations issued before 1 January 2014, the amount of the duties exigible for mine tailings deposited in an accumulation area is set

(1) at 33% of the lesser amount between the amount calculated in accordance with Schedule II for 2014 and \$1,000,000;

(2) at 66% of the lesser amount between the amount calculated in accordance with Schedule II for 2015 and \$1,000,000;

(3) at 100% of the lesser amount between the amount calculated in accordance with Schedule II for subsequent years and \$1,000,000.

For the same attestations, the total of the amounts of duties exigible for industrial discharges into water and the atmosphere and for mine tailings deposited in an accumulation area calculated in accordance with Schedules I and II may not exceed \$1,000,000.

**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.** 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.

2790