

NATIONAL ASSEMBLY

FIRST SESSION

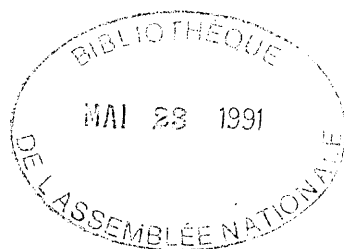
THIRTY-FOURTH LEGISLATURE

Bill 143

An Act to amend the Environment Quality Act

Introduction

**Introduced by
Mr Pierre Paradis
Minister of the Environment**



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EXPLANATORY NOTES

The principal object of this bill is to amend Subdivision 1 of Division IV.2 of Chapter I of the Environment Quality Act, relating to depollution attestations in the industrial sector, in order to facilitate its application.

The bill specifies the content of a depollution attestation and clarifies the powers of the Minister of the Environment which allow him to add to the content of the attestation to provide, in particular, for a waste management plan.

In addition, the bill provides the power to make orders prohibiting the operator of an industrial establishment from discharging contaminants into the environment if he fails to apply for an attestation within the time limits prescribed by regulation. The Minister's decision with regard to such an order will be executory, despite an appeal, unless the Commission municipale decides otherwise.

The bill amends the provisions relating to public hearings and, in particular, grants an applicant for attestation additional time to allow him to present his views following a public hearing of the case presented in his application. It also proposes adjustments to the provisions dealing with the obligations of holders of attestation, especially the obligation to submit to the Minister of the Environment, before installing a treatment device, a technical report on the solution selected.

Furthermore, the bill provides certain rules concerning a change of operator and specifies the circumstances in which the holder of an attestation must request that his attestation be modified as well as the circumstances in which the Minister may modify an attestation during its period of validity. It also determines additional circumstances in which the Minister may suspend or revoke an attestation and adjusts certain regulatory powers concerning the tarification of administrative acts and the powers relating to

Bill 143

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THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. Section 31 of the Environment Quality Act (R.S.Q., chapter Q-2), amended by section 3 of chapter 26 of the statutes of 1990, is again amended

(1) by inserting the words “class, nature, extent or” after the words “upon the” in the sixth line of paragraph *g*;

(2) by replacing paragraph *n* by the following paragraph:

“(n) require, as a condition prior to the issue of a certificate of authorization, a certificate or an authorization or to the issue or renewal of a permit and in such cases as it may determine, that a person furnish security to enable the Minister to take or cause to be taken the steps required pursuant to section 59, 113, 115 or 115.1, the cost of which may be charged to the person, fix the nature and amount of the security and the conditions for its utilization by the Minister and for its remittance; the amount may vary depending upon the class, nature, extent or cost of the project for which the security is required;”.

2. Section 31.11 of the said Act, enacted by section 8 of chapter 49 of the statutes of 1988, is replaced by the following section:

“31.11 No person may emit, deposit, release or discharge into the environment or allow the emission, deposit, release or discharge into the environment of a contaminant resulting from the operation of an industrial establishment for which the Minister has refused to issue a depollution attestation until the Minister has issued a depollution attestation with respect to another application submitted for the operation of that establishment.”

3. Section 31.12 of the said Act, enacted by section 8 of chapter 49 of the statutes of 1988, is amended

(1) by replacing paragraphs 1 and 2 by the following paragraphs:

“(1) the description and location of the points of emission, deposit, release or discharge into the environment of contaminants resulting from the operation of the industrial establishment and the description of what constitutes the source of each of the points of emission, deposit, release or discharge of contaminants, to the extent that such points are subject to a standard or requirement coming under one of the elements set out in the attestation;

“(2) the list of the regulations made under this Act which apply to the operator of an industrial establishment;”;

(2) by replacing the words “for every contaminant emitted, deposited, released or discharged into the environment, which results from the operation of an industrial establishment, except those standards which are incompatible with those set down by the Minister under section 31.15” in the third, fourth, fifth, sixth and seventh lines of paragraph 3 by the words “to the extent that such standards apply to the operator of an industrial establishment”;

(3) by striking out paragraphs 4 and 5;

(4) by replacing the word and figure “section 31,” in the fifth line of paragraph 6 by the words and figure “section 31 as well as” and by replacing the words “as well as any other method or standard prescribed by the Minister with respect to controlling and monitoring the discharge of contaminants, including the procedure for transmitting statements of the results obtained thereby” in the ninth, tenth, eleventh and twelfth lines of the same paragraph by the words “to the extent that such methods or standards apply to the operator of an industrial establishment”.

4. Section 31.13 of the said Act, enacted by section 8 of chapter 49 of the statutes of 1988, is amended

(1) by replacing the word and figure “section 31.15” in the second line of paragraph 1 by the words “the first paragraph of section 31.15 and, in the case described in the second paragraph of that section, the implementation requirements and schedule established by the Minister under that paragraph”;

(2) by inserting, after paragraph 1, the following paragraph:

“(1.1) the contaminant discharge standards referred to in paragraph 3 of section 31.12 the implementation of which, pursuant to a decision of the Minister under the third paragraph of section 31.15, is deferred, as well as the period over which their implementation is deferred;”;

(3) by replacing paragraph 2 by the following paragraphs:

“(2) a corrective programme imposed by the Minister under section 31.15.1;

“(2.1) a waste management plan imposed by the Minister under section 31.15.2;

“(2.2) any additional requirements concerning the control and monitoring of the discharge of contaminants established by the Minister under section 31.15.3;”;

(4) by striking out the words “or evacuation” in the first line of paragraph 4;

(5) by replacing the words “preventive, emergency and evacuation measures” in the seventh line of paragraph 5 by the words “preventive and emergency measures”.

5. Section 31.14 of the said Act, enacted by section 8 of chapter 49 of the statutes of 1988, is repealed.

6. Section 31.15 of the said Act, enacted by section 8 of chapter 49 of the statutes of 1988, is amended

(1) by replacing the words “In the depollution attestation, the Minister may, for each industrial establishment, set down contaminant discharge standards which differ from those referred to in paragraph 3 of section 31.12, if the latter standards do not adequately ensure that the environment affected by the” in the first, second, third, fourth and fifth lines by the words “Where all of the contaminant discharge standards adopted by the Government or a municipality are insufficient to ensure that the environment affected by an” and by adding, after the word “effects” in the tenth line, the words “, the Minister may, in the depollution attestation, establish other contaminant discharge standards for each industrial establishment”;

(2) by adding, at the end, the following paragraphs:

“The Minister may, for each contaminant discharge standard he may establish under the first paragraph, indicate in the attestation

a date of implementation for each standard by fixing requirements and dates of application.

The Minister may also, when issuing a depollution attestation, defer, for a period not exceeding three years, the application of a contaminant discharge standard referred to in paragraph 3 of section 31.12 where he considers that compliance with the standard at the time of its application in respect of the holder will interfere with the requirements and dates of application established under the second paragraph.

For the purposes of the third paragraph, there is interference where the introduction of an abatement technology or of an industrial process which would allow compliance with the regulatory standard referred to in the third paragraph is insufficient and incompatible with the technology or process the introduction of which is intended to allow compliance with a discharge standard established by the Minister under the first paragraph.”

7. The said Act is amended by inserting, after section 31.15, the following sections:

“31.15.1 Where the Minister ascertains that the applicant of a depollution attestation does not comply with a contaminant discharge standard referred to in paragraph 3 of section 31.12, he may require that the applicant submit to him, within 60 days after the date of service of a written notice or on any later date specified in the notice, a corrective programme intended to bring the applicant to comply with the standard.

The Minister may, when issuing the attestation, impose the corrective programme, with or without amendment.

If the applicant fails to submit a corrective programme within the time allowed, the Minister may impose on him, on issuing the attestation, any corrective programme he considers necessary to bring the attestation holder to comply with the standard and, for that purpose, fix the conditions, requirements, time limits and terms of the programme.

This section does not apply where the application for an attestation concerns an industrial establishment having begun its operation after the date of coming into force of the order determining the class of industrial establishments to which the applicant's establishment belongs or where the application concerns an industrial establishment for which the Minister has already issued a depollution attestation.

“31.15.2 The Minister may require that the applicant submit to him, within 60 days after the date of service of a written notice or on any later date specified in the notice, a management plan for the waste produced by the industrial establishment or found on the site of the establishment.

The Minister may, on issuing an attestation, impose the waste management plan, with or without amendment.

If the applicant fails to submit a waste management plan within the time allowed, the Minister may impose on him, on issuing the attestation, any waste management plan he considers necessary for the protection of the environment and, for that purpose, fix the conditions, requirements, time limits and terms of the plan.

“31.15.3 The Minister may, where all of the methods and standards referred to in paragraph 6 of section 31.12 are insufficient to ensure adequate control and monitoring of the discharge of contaminants resulting from the operation of an industrial establishment, fix in the attestation any additional requirement concerning the control and monitoring of the discharge of contaminants including, in particular, the procedure for transmitting statements of the results obtained.

“31.15.4 The Minister may, for each industrial establishment for which an application for a depollution attestation has been submitted, determine among the elements referred to in paragraphs 3 to 5 of section 31.13 those which apply to such an establishment.”

8. Section 31.16 of the said Act, enacted by section 8 of chapter 49 of the statutes of 1988, is amended by adding, at the end, the following paragraphs:

“If the operator fails to submit an application to the Minister within the time and in the manner and form prescribed by regulation, the Minister may order the operator to cease to emit, deposit, release or discharge into the environment a contaminant resulting from the operation, by the operator, of an industrial establishment until the operator submits an application for a depollution attestation in the manner and form prescribed by regulation.

Before making an order, the Minister shall serve on the operator a prior notice of 30 days of his failure to submit an application for a depollution attestation within the time and in the manner and form prescribed by regulation and specifying that in the event of his failure to submit his application in the manner and form prescribed by regulation on the expiry of 30 days after the service of the prior notice,

the Minister will be authorized to order him, in accordance with the second paragraph, to cease to emit, deposit, release or discharge a contaminant into the environment. The Minister shall also transmit a copy of the prior notice to the secretary-treasurer or clerk of the municipality in which the industrial establishment is located.

The order must set out the reasons of the Minister. It shall take effect on the thirtieth day following the date on which it is served on the operator of the industrial establishment or on any later date specified therein, unless the operator submits, before the order takes effect, an application for a depollution attestation in the manner and form prescribed by regulation.”

9. Section 31.19 of the said Act, enacted by section 8 of chapter 49 of the statutes of 1988, is amended by replacing the word “any” in the second line of the second paragraph by the word “the”.

10. Section 31.20 of the said Act, enacted by section 8 of chapter 49 of the statutes of 1988, is amended

(1) by replacing the first paragraph by the following paragraph:

“31.20 The Minister shall, for every application for a depollution attestation, publish, on two separate occasions and within the time prescribed by regulation, a notice of his intention to issue or to refuse to issue the application in a Montréal daily newspaper and a Québec daily newspaper, as well as, for industrial establishments located outside the Montréal and Québec regions, in a daily or weekly newspaper published in the region in which the establishment is located.”;

(2) by replacing the word “notices” in the first line of the second paragraph by the word “notice” and by replacing the words “source of contamination” in the second and third lines of the same paragraph by the words “industrial establishment”;

(3) by replacing the word “notices” in the first line of the third paragraph by the word “notice”.

11. Section 31.21 of the said Act, enacted by section 8 of chapter 49 of the statutes of 1988, is amended by replacing the words “one of the notices” in the first line of the first paragraph by the words “the notice”.

12. The said Act is amended by inserting, after section 31.21, the following section:

“31.21.1 The Minister shall, at the expiry of the period set aside for consultation of the application record, transmit to the applicant a written notice informing him of his intention to issue or to refuse to issue him with a depollution attestation.

The Minister shall indicate, in the notice, the reasons for his intention and, where applicable, the content of the proposed depollution attestation or the amendments he intends to bring to the attestation.

The applicant may, within 30 days after the date of transmission of the notice, make representations in writing to the Minister requesting him to change the content of the proposed depollution attestation or, as the case may be, to issue him with a depollution attestation.”

13. Section 31.22 of the said Act, enacted by section 8 of chapter 49 of the statutes of 1988, is amended

(1) by replacing the words “After the period set aside for consultation of the application record” in the first and second lines of what precedes paragraph 1 by the words “At the expiry of the time limit provided for in the third paragraph of section 31.21.1”;

(2) by striking out the words “, on payment of the fees prescribed by regulation,” in the first line of paragraph 1 and by replacing the words “having general circulation throughout the region in which the source of contamination is located” in the fourth, fifth and sixth lines of the same paragraph by the words “published in the region in which the industrial establishment is located or, if no daily or weekly newspaper is published in the region, in a daily or weekly newspaper having general circulation throughout the region”.

14. Section 31.23 of the said Act, enacted by section 8 of chapter 49 of the statutes of 1988, is amended

(1) by replacing the words “referred to in paragraph 3 of section 31.12 and those” in the first and second lines of paragraph 1 by the words “and the implementation requirements and schedule”;

(2) by inserting, after paragraph 1, the following paragraph:

“(1.1) comply with the corrective programme referred to in paragraph 2 of section 31.13;”;

(3) by replacing paragraph 2 by the following paragraph:

“(2) comply with elements set out in paragraphs 2.1 to 5 of section 31.13;”;

(4) by striking out paragraph 7;

(5) by adding, at the end, the following paragraph:

“Where the holder of a depollution attestation intends to proceed with the installation of devices for the treatment of waste water in the industrial establishment for which he was issued an attestation or intends to install or put in place, in that establishment, any apparatus or equipment intended to prevent, abate or eliminate the release of contaminants in the atmosphere, he shall, prior to installation, submit to the Minister a technical report on the solution selected, in accordance with the regulations.”

15. Sections 31.24 and 31.25 of the said Act, enacted by section 8 of chapter 49 of the statutes of 1988, are replaced by the following sections:

“31.24 The new operator of an industrial establishment for which the previous operator held a depollution attestation shall become the holder of the depollution attestation from the date on which he begins to operate the establishment.

The new holder shall, within 30 days after the date on which he begins to operate the establishment, inform the Minister of the change of holder.

“31.25 The holder of a depollution attestation shall not make changes that may entail a departure from the provisions of his attestation or make changes to the industrial processes or production equipments that may change the nature of, or add new contaminants to, the contaminants emitted, deposited, released or discharged into the environment by the industrial establishment, unless he obtains an amended depollution attestation from the Minister or, except in the cases described in the fourth paragraph, a written notice indicating that such changes require no amendment to his attestation.

In the cases referred to in the first paragraph, the holder shall submit to the Minister an application to amend a depollution attestation in the manner and form prescribed by regulation. Section 31.17, adapted as required, applies to an application to amend an attestation.

After having examined the application to amend a depollution attestation, the Minister shall, within 60 days after the application is submitted,

- (1) issue the applicant with an amended depollution attestation;
- (2) refuse to issue the applicant with an amended depollution attestation and, in that case, he shall transmit to him a notice informing him of the reasons for his refusal; or
- (3) transmit to the applicant a written notice informing him that the changes require no amendment to his depollution attestation.

Notwithstanding the third paragraph, in the cases determined by regulation, sections 31.18 to 31.22, adapted as required, apply to an application to amend an attestation."

16. Section 31.26 of the said Act, enacted by section 8 of chapter 49 of the statutes of 1988, is amended

(1) by replacing the words "methods or standards prescribed by the Minister with respect to the control and monitoring of the discharge of contaminants, including" in the first, second and third lines of subparagraph 3 of the first paragraph by the words "additional requirements established by the Minister concerning the control and monitoring of the discharge of contaminants including, in particular";

(2) by replacing the second and third paragraphs by the following paragraphs:

"Where the Government makes a regulation under this Act that applies to the operator of an industrial establishment and where the operator holds a depollution attestation, the Minister shall adjust the content of the attestation to take account of the new regulatory standards that apply to him.

The Minister may however, within 90 days after the adoption by the Government of a new contaminant discharge standard, defer, for a period not exceeding three years, the application of a standard, if he considers that compliance with the standard at the time of its application in respect of the holder will interfere with the requirements and dates of application established under the second paragraph of section 31.15. The Minister shall, in that case, indicate in the attestation the contaminant discharge standards the application of which is deferred and the period of time for which it is deferred.

For the purposes of the third paragraph, there is interference where the introduction of an abatement technology or of an industrial process which would ensure compliance with the regulatory standard referred to in the third paragraph is insufficient and incompatible with

the technology or process the introduction of which is intended to ensure compliance with a discharge standard established by the Minister under the first paragraph of section 31.15.

Before issuing an amended depollution attestation, the Minister shall transmit to the holder of the depollution attestation a written notice informing him of his intention to amend the attestation, for the reasons he indicates, and give the holder the opportunity to present his point of view within 30 days after the date of transmission of the notice."

17. Section 31.27 of the said Act, enacted by section 8 of chapter 49 of the statutes of 1988, is amended by replacing the second and third paragraphs by the following paragraphs:

"However, where the application for a depollution attestation concerns an industrial establishment having begun its operation after the date of coming into force of the order determining the class of industrial establishments to which the operator's establishment belongs, the first depollution attestation to which the establishment is subject shall be issued for a period of 10 years.

Notwithstanding the expiry of the period referred to in the first or second paragraph, the operator shall remain the holder of the depollution attestation until such time as the Minister makes a decision with respect to any reapplication for a depollution attestation."

18. Section 31.28 of the said Act, enacted by section 8 of chapter 49 of the statutes of 1988, is amended

(1) by striking out the words "or after a decision is made pursuant to the said paragraph" in the second and third lines of the third paragraph;

(2) by striking out the words ", on payment of the fees prescribed by regulation," in the first line of subparagraph 1 of the third paragraph;

(3) by replacing the words "Notwithstanding the foregoing" in the fourth paragraph by the words "However, notwithstanding the third paragraph".

19. Section 31.29 of the said Act, enacted by section 8 of chapter 49 of the statutes of 1988, is amended

(1) by striking out the words “or those referred to in paragraph 1 of section 31.13” in the second and third lines of subparagraph 1 of the first paragraph;

(2) by inserting, after subparagraph 1 of the first paragraph, the following subparagraphs:

“(1.1) does not comply with the contaminant discharge standards and the requirements and dates of application referred to in paragraph 1 of section 31.13;

“(1.2) does not comply with the corrective programme referred to in paragraph 2 of section 31.13;

“(1.3) does not comply with the waste management plan referred to in paragraph 2.1 of section 31.13;”;

(3) by inserting, after subparagraph 3 of the first paragraph, the following subparagraph:

“(3.1) does not submit to him a reapplication for a depollution attestation within the time prescribed by regulation;”;

(4) by replacing the words “the Deputy Minister or any functionary contemplated” in the first and second lines of subparagraph 4 of the first paragraph by the words “a functionary or a person referred to”;

(5) by striking out the words “or evacuation” in the third and fourth lines of the second paragraph;

(6) by replacing the third and fourth paragraphs by the following paragraph:

“Before rendering his decision, the Minister shall transmit to the holder of the depollution attestation a written notice informing him of his decision to suspend or revoke the attestation for the reasons he indicates, and give him the opportunity to present his point of view within 30 days after the date of transmission of the notice.”

20. Section 31.30 of the said Act, enacted by section 8 of chapter 49 of the statutes of 1988, is replaced by the following section:

“31.30 No person may emit, deposit, release or discharge into the environment or allow the emission, deposit, release or discharge into the environment of a contaminant resulting from the operation of an industrial establishment if the depollution attestation issued for the establishment has been suspended or revoked.”

21. Section 31.31 of the said Act, enacted by section 8 of chapter 49 of the statutes of 1988, is replaced by the following section:

“31.31 Where the holder of a depollution attestation intends to cease permanently to operate the industrial establishment, he shall apply to the Minister, within the time prescribed by regulation, to revoke his depollution attestation.

Before revoking a depollution attestation, the Minister shall satisfy himself that the cessation of activities will not entail the emission, deposit, release or discharge of a contaminant into the environment.”

22. Section 31.41 of the said Act, enacted by section 8 of chapter 49 of the statutes of 1988, is amended

(1) by replacing paragraph 6 by the following paragraphs:

“(6) prescribe fees for the examination of the application for a depollution attestation, which fees may vary depending on one or several of the following factors:

(a) the class of industrial establishments;

(b) the territory in which the industrial establishment is located;

(c) the nature or extent of the activities of the industrial establishment;

“(6.1) prescribe, for the holder of a depollution attestation, annual duties which may vary depending on one or several of the following factors:

(a) one of the factors referred to in paragraph 6;

(b) the nature or extent of the discharge of contaminants resulting from the operation of the industrial establishment;

(c) the period during which the operator is the holder of a depollution attestation;

“(6.2) determine the periods during which the fees and annual duties must be paid and the terms and conditions of payment;”;

(2) by inserting, after paragraph 9, the following paragraph:

“(9.1) determine the form and content of the technical report to be submitted by the holder of a depollution attestation in the cases

provided for in the second paragraph of section 31.23 and determine the qualifications required of the natural persons who may prepare and sign such reports;”;

(3) by replacing the words and figures “paragraphs 7 and 8” in the third line of paragraph 10 by the word and figure “paragraph 8”;

(4) by replacing paragraph 13 by the following paragraph:

“(13) determine the cases in which sections 31.18 to 31.22 apply to applications to amend a depollution attestation and the cases in which the second paragraph of section 31.19 and sections 31.20 to 31.22 apply to reapplications for a depollution attestation;”;

(5) by striking out paragraph 14;

(6) by replacing the words “suspend or revoke the attestation” in the second and third lines of paragraph 15 by the words “revoke the attestation”;

(7) by adding, at the end, the following paragraph:

“(16) exempt from the application of part of this Act certain classes of constructions, works, activities and projects carried out on the site of an industrial establishment, or on part of such a site, for which a depollution attestation has been issued, and certain classes of industrial processes used in the operation of the establishment.”

23. Section 65 of the said Act is amended by striking out the words “for a period of 25 years” in the second and third lines of the first paragraph.

24. Section 70 of the said Act, amended by section 41 of chapter 23 of the statutes of 1990, is again amended by striking out the words “and the amount of the guarantee required for that purpose” in the third and fourth lines of subparagraph *g* of the first paragraph.

25. Section 99 of the said Act is amended by replacing the words “case provided for in section 26. In this case” in the second line by the words “cases provided for in section 26 and in the second paragraph of section 31.16. In such cases”.

26. Section 106 of the said Act, amended by section 731 of chapter 4 of the statutes of 1990, is again amended

(1) by replacing that part which precedes subparagraph *a* of the first paragraph by the following: “A natural person who contravenes

any of sections 21, 22 and 31.1, the first paragraph of section 31.16, section 31.23, except subparagraphs 1 and 1.1 of the first paragraph, the first paragraph of section 31.25 or 31.28 or any of sections 68, 91, 95.1, 95.3, 121, 123.1, 154 and 189 commits an offence and is liable to a fine”;

(2) by striking out subparagraph *f* of the second paragraph.

27. Section 106.2 of the said Act, amended by section 733 of chapter 4 of the statutes of 1990, is again amended by replacing that part which precedes paragraph *a* by the following: “Whoever contravenes section 31.11, subparagraph 1 or 1.1 of the first paragraph of section 31.23, section 31.30 or the first paragraph of section 31.31 commits an offence and is liable”.

28. This Act comes into force on (*insert here the date of assent to this Act*), except

(1) sections 2 to 22, which will come into force on (*insert here the date of coming into force of section 8 of chapter 49 of the statutes of 1988*);

(2) section 27, which will come into force on (*insert here the date of coming into force of section 106.2, enacted by section 18 of chapter 49 of the statutes of 1988*).