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# NATIONAL ASSEMBLY

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SECOND SESSION

THIRTY-NINTH LEGISLATURE

Bill 89  
(2011, chapter 20)

**An Act to amend the Environment  
Quality Act in order to reinforce  
compliance**

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**Introduced 15 April 2010  
Passed in principle 7 April 2011  
Passed 4 October 2011  
Assented to 5 October 2011**

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## EXPLANATORY NOTES

*The purpose of this Act is to reinforce compliance with the Environment Quality Act, in particular by introducing administrative sanctions and by increasing penal sanctions.*

*More specifically, the Act provides for monetary administrative penalties to be imposed on persons and municipalities that contravene the Act or the regulations, subject to the right of those parties to contest before the Administrative Tribunal of Québec.*

*The penalties that may be imposed by the court on persons and municipalities convicted of an offence have been increased, and certain aggravating factors have been defined which the judge must take into account in imposing such penalties. The judge may also issue various types of orders to be carried out by the offender.*

*Certain other penal provisions are reinforced, in particular by making the directors and officers of legal persons, partnerships and associations more accountable, and by increasing prescription periods.*

*The Minister of Sustainable Development, Environment and Parks is given the power to order work or activities to be stopped if they cause serious harm or damage, or create a risk of serious harm or damage, to human health or the environment. In addition, the Government or the Minister is given the power, under certain conditions, to deny, amend, suspend or revoke any authorization, certificate or permit they issue, particularly in cases of fiscal or other criminal offences.*

*The Act establishes new measures for recovering amounts due to the Minister of Sustainable Development, Environment and Parks. It provides that public registers must be kept to record information on monetary administrative penalties imposed and on offences committed. It also specifies the powers of inspection and investigation provided for by law.*

**LEGISLATION AMENDED BY THIS ACT:**

- Act to affirm the collective nature of water resources and provide for increased water resource protection (R.S.Q., chapter C-6.2);
- Act respecting the forfeiture, administration and appropriation of proceeds and instruments of unlawful activity (R.S.Q., chapter C-52.2);
- Act respecting administrative justice (R.S.Q., chapter J-3);
- Act respecting the Ministère du Développement durable, de l'Environnement et des Parcs (R.S.Q., chapter M-30.001);
- Water Resources Preservation Act (R.S.Q., chapter P-18.1);
- Environment Quality Act (R.S.Q., chapter Q-2).

**REGULATION AMENDED BY THIS ACT:**

- Regulation respecting mandatory reporting of certain emissions of contaminants into the atmosphere (R.R.Q., chapter Q-2, r. 15).



## **Bill 89**

### **AN ACT TO AMEND THE ENVIRONMENT QUALITY ACT IN ORDER TO REINFORCE COMPLIANCE**

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

**1.** Section 27.1 of the Environment Quality Act (R.S.Q., chapter Q-2) is amended by replacing “already in operation” in the first paragraph by “who began operations before 17 August 1977”.

**2.** Section 31 of the Act is amended by replacing “or 115.1” in subparagraph *n* of the first paragraph by “, 115.0.1 or 115.1”.

**3.** Section 31.23 of the Act is amended by replacing “5” in subparagraph 2 of the first paragraph by “6”.

**4.** Section 31.29 of the Act is amended by inserting the following subparagraph after subparagraph 2 of the first paragraph:

“(2.1) fails to comply with any other condition of operation referred to in subparagraph 6 of the first paragraph of section 31.13;”.

**5.** Section 31.51 of the Act is amended by inserting “, not exceeding eighteen months,” after “time” in the first paragraph.

**6.** Section 31.62 of the Act is amended

(1) by striking out “, in the same manner as for any debt due to the State,” in the third paragraph;

(2) by striking out the last paragraph.

**7.** Section 44 of the Act is repealed.

**8.** Section 70.3 of the Act is amended

(1) by inserting “a notice of” after “publish” in the second paragraph;

(2) by adding the following at the end of the second paragraph: “The notice must contain at least the following information relating to the order: the legislative provision under which it is rendered, its object, the date of notification, the name and address of the person or municipality concerned,

and the address of the place where the public may consult the order other than the website of the Ministère du Développement durable, de l'Environnement et des Parcs.”

**9.** Section 70.12 of the Act is amended by inserting “or renewal” after “issue”.

**10.** Section 70.15 of the Act is amended

(1) by replacing “or revoke” in the portion before subparagraph 1 of the first paragraph by “, revoke or refuse to renew”;

(2) by replacing “or revoke” in the second paragraph by “, revoke or refuse to renew”;

(3) by replacing “at least 10 days to present observations” in the second paragraph by “15 days to submit observations, unless the Minister deems that, under the circumstances, it is necessary to grant more time”.

**11.** Section 95.4 of the Act is amended by replacing the second paragraph by the following paragraph:

“The denial of conformity must be preceded by 15 days’ prior notice to the proponent of the project unless the Minister deems that, under the circumstances, it is necessary to grant more time. However, the denial of conformity may be notified immediately if the Minister deems it necessary to prevent environmental damage.”

**12.** Section 96 of the Act is amended

(1) by striking out “, 114, 114.1” after “61” in the first paragraph;

(2) by inserting “, suspends” after “to grant” in the second paragraph;

(3) by inserting “, an attestation” after “permission” in the second paragraph.

**13.** The Act is amended by inserting the following section after section 96:

**“96.1.** A review decision rendered by a person designated by the Minister under section 115.18 and confirming a monetary administrative penalty under this Act or the regulations may be contested by the person or municipality concerned before the Administrative Tribunal of Québec. However, sections 98.1 and 98.2 do not apply to such a proceeding.”

**14.** Section 97 of the Act is replaced by the following section:

**“97.** The Minister and the person designated by the Minister shall, on making a decision under section 96 or 96.1, notify the decision to the person or municipality concerned and inform them of their right to contest the decision before the Administrative Tribunal of Québec.”

**15.** Section 98 of the Act is amended by replacing “The proceeding” by “A proceeding, except one provided for under section 115.49,”.

**16.** Section 99 of the Act is amended by adding the following paragraph:

“Despite the first paragraph, a proceeding instituted under section 96.1 suspends execution of the decision, subject to interest accruing.”

**17.** The Act is amended by replacing the heading between sections 105 and 106 of the Act by the following:

**“DIVISION XIII**

**“ADMINISTRATIVE MEASURES**

**“§1. — *Miscellaneous measures*”.**

**18.** Sections 106 to 112.0.1 of the Act are repealed.

**19.** Section 113 of the Act is replaced by the following section:

**“113.** When someone refuses or neglects to do something ordered under this Act, the Minister may cause the thing to be done at the expense of the offender and may recover the costs from the offender, including interest and other charges.”

**20.** Section 114 of the Act is replaced by the following section:

**“114.** If work is done or constructions or works are erected in contravention of this Act or the regulations or of an order, approval, authorization, permission, attestation, certificate or permit, the Minister may order one or more of the following measures, granting priority, after evaluation, to those which the Minister deems best for the protection of the environment:

(1) the demolition of the work, constructions or works;

(2) the restoration of the site to the state it was in before the work began or the constructions or works were erected or to a state approaching its original state;

(3) the implementation of compensatory measures.

In the event of non-compliance with an order issued under the first paragraph, the costs that the Minister, when exercising the powers granted under

section 113, incurs to demolish a work or construction, restore a site or implement compensatory measures, constitute a prior claim on the immovable, of the same nature and with the same rank as the claims described in paragraph 5 of article 2651 of the Civil Code.”

**21.** Section 114.2 of the Act is repealed.

**22.** Section 114.3 of the Act is amended by striking out “, in the same manner as any debt owing to the Government may be claimed,” in the first paragraph.

**23.** Section 115 of the Act is amended

(1) by inserting “ or the regulations” after “this Act”;

(2) by replacing everything after “take” by “one or more of the measures provided for in section 114, under the same conditions.”

**24.** Section 115.0.1 of the Act is amended by striking out “, in the same manner as any debt owing to the Government may be claimed,” in the fourth paragraph.

**25.** Section 115.1 of the Act is amended

(1) by striking out “, in the same manner as any debt owing to the Government,” in the third paragraph;

(2) by replacing “joint and several” in the third paragraph by “solidary”.

**26.** The Act is amended by inserting the following after section 115.1:

**“115.2.** If a person or municipality is doing work, erecting constructions or works or carrying on activities in contravention of this Act or the regulations or an order, approval, authorization, permission, attestation, certificate or permit, the Minister may order that such operations cease or be limited to the extent determined by the Minister for a maximum period of 30 days, if the Minister believes that they cause serious harm or damage, or create a risk of serious harm or damage, to human health or the environment, including vegetation and wildlife.

The Minister may also, on that occasion, order the person or municipality concerned to take, within the time period determined by the Minister, the measures required to prevent or reduce the harm or damage or risk of harm or damage.

The Minister may delegate the power to make an order given the Minister under this section. An order made by the delegatee is deemed to be an order of the Minister for the purposes of this Act or the regulations.



**“115.3.** The Minister may extend for a maximum period of 60 days an order made under section 115.2 if the Minister believes that the reasons that gave rise to the order remain valid.

**“115.4.** An order made under section 115.2 or 115.3 must include reasons. It takes effect on the date of notification to the offender or on any later date specified in the order. A copy of the order is sent to the clerk of the municipality on whose territory the work, constructions, works or activities concerned are located.

“§2. — *Refusal, modification, suspension and revocation of authorization*

**“115.5.** The Government or the Minister may refuse to issue or renew an authorization certificate, or may amend, suspend or revoke such a certificate if the applicant or holder or, in the case of a legal person, one of its directors, officers or shareholders:

(1) is the *prête-nom* of another person;

(2) has, in the last five years, been convicted of an offence under a fiscal law, an indictable offence connected with activities covered by the certificate or an indictable offence under sections 467.11 to 467.13 of the Criminal Code (Revised Statutes of Canada, 1985, chapter C-46);

(3) has filed a false declaration or document, or false information, or has distorted a material fact to have the certificate issued, maintained or renewed;

(4) has been convicted of an offence under this Act or the regulations in the last two years, or in the last five years if the minimum amount of the fine to which the offender is liable is that provided for in section 115.32;

(5) has failed to comply with an order or an injunction made under this Act;

(6) has defaulted on payment of an amount, including a fine or a monetary administrative penalty, owed under this Act or any other Act administered by the Minister or any regulation under those Acts;

(7) is not dealing at arm's length, within the meaning of the Taxation Act (chapter I-3), with a person who carries on a similar activity but whose authorization certificate has been suspended or revoked or is the subject of an injunction or order to that effect, unless it is proven that the activity of the holder or applicant does not constitute a continuation of the activity of that person.

Subparagraphs 5 and 6 of the first paragraph apply to a failure to comply with an order, or to pay an amount owing, only upon expiry of the time for contesting the order or claim before the competent court or tribunal or for

applying for a review in the case of a monetary administrative penalty, or, if applicable, only as of the 30th day following the final decision of the Tribunal confirming all or part of the order or claim.

**“115.6.** The Government or the Minister may refuse to issue or renew an authorization certificate, or may amend, suspend or revoke such a certificate if the applicant or holder or, in the case of a legal person, one of its directors, officers or shareholders has, for the purpose of financing activities covered by the certificate, entered into a contract for a loan of money with a person and this person or, in the case of a legal person, one of its directors, officers or shareholders has, in the last five years, been convicted of an offence under a fiscal law, an indictable offence connected with activities covered by the certificate or an indictable offence under any of sections 467.11 to 467.13 of the Criminal Code.

**“115.7.** The Government or the Minister may refuse to issue or renew an authorization certificate, or may amend, suspend or revoke such a certificate, if the applicant or holder or, in the case of a legal person, one of its directors, officers or shareholders, was a director, officer or shareholder of a legal person that

(1) has been convicted of an offence under this Act or the regulations in the last two years, or in the last five years if the minimum amount of the fine to which the offender is liable is that provided for in section 115.32;

(2) has, in the last five years, been convicted of an offence under a fiscal law, an indictable offence connected with activities covered by the certificate or an indictable offence under any of sections 467.11 to 467.13 of the Criminal Code.

**“115.8.** For the purposes of sections 115.5 to 115.7, the applicant or holder must file, as a condition for the issue, maintenance or renewal of an authorization certificate, any declaration, information or documents required by the Government or the Minister to that end and concerning, among other things, penal or indictable offences of which the applicant or holder or one of their money lenders or, in the case of a legal person, one of its directors, officers or shareholders, has been convicted.

In the case of an offence under a fiscal law or an indictable offence, the offender’s declaration must state whether the offence was connected with activities covered by the certificate.

**“115.9.** For the purposes of sections 115.5 to 115.8,

(1) “shareholder” refers exclusively to a natural person who holds, directly or indirectly, shares that carry 20% or more of the voting rights in a legal person that is not a reporting issuer under the Securities Act (chapter V-1.1);

(2) “loan of money” does not include a loan granted by insurers as defined by the Act respecting insurance (chapter A-32), financial services cooperatives as defined by the Act respecting financial services cooperatives (chapter C-67.3), trust companies or savings companies as defined by the Act respecting trust companies and savings companies (chapter S-29.01) or banks listed in Schedule I or II of the Bank Act (Statutes of Canada, 1991, chapter 46), insofar as those financial institutions are duly authorized to act in that capacity;

(3) in the case of a conviction for an indictable offence, the administrative penalty does not apply if the person has obtained a pardon for the offence.

**“115.10.** The Government or the Minister may amend, suspend, revoke or refuse to renew an authorization certificate in the following cases:

(1) the holder does not comply with its provisions or conditions or uses it for purposes other than those specified;

(2) the holder does not comply with this Act or the regulations;

(3) the holder does not make use of it within one year from the date it was issued.

**“115.11.** Before making a decision under any of sections 115.5 to 115.10, the Government shall allow the applicant or holder of the certificate of authorization 15 days to submit observations in writing.

Before making a decision under any of those sections, the Minister shall notify the applicant or holder in writing as prescribed by section 5 of the Act respecting administrative justice (chapter J-3) and allow the applicant or holder 15 days to submit observations.

However, the Government or the Minister may grant more time if this is judged necessary under the circumstances. The Government or the Minister may also, where urgent action is required or there is a danger of irreparable damage being caused, make a decision without being bound by those prior obligations. In such cases, the applicant or holder may, within the time specified, submit observations for a review of the decision.

**“115.12.** Sections 115.5 to 115.11 apply, with the necessary modifications and in addition to any other provisions concerning specific conditions of refusal, amendment, suspension or revocation, to all authorizations, approvals, permissions, attestations, certificates and permits granted under this Act or the regulations.

*“§3. — Monetary administrative penalties*

**“115.13.** Persons designated by the Minister may impose monetary administrative penalties on any person or municipality that fails to comply with this Act or the regulations in the cases and under the conditions set out in them.

For the purposes of the first paragraph, the Minister develops and makes public a general framework for applying such administrative penalties in connection with penal proceedings, specifying the following elements:

(1) the purpose of the penalties, such as urging the person or municipality to take rapid measures to remedy the failure and deter its repetition;

(2) the categories of functions held by the persons designated to impose penalties;

(3) the criteria that must guide designated persons when a failure to comply has occurred, such as the type of failure, its repetitive nature, the seriousness of the effects or potential effects, and the measures taken by the person or municipality to remedy the failure;

(4) the circumstances in which a penal proceeding is deemed to have priority;

(5) the other procedures connected with such a penalty, such as the fact that it must be preceded by notification of a notice of non-compliance.

The general framework must give the categories of administrative or penal sanctions as defined by the Act or the regulations.

**“115.14.** No decision to impose a monetary administrative penalty may be notified to a person or municipality for a failure to comply with this Act or the regulations if a statement of offence has already been served for a failure to comply with the same provision on the same day, based on the same facts.

**“115.15.** In the event of a failure to comply with this Act or the regulations, a notice of non-compliance may be notified to the person or municipality concerned urging that the necessary measures be taken immediately to remedy the failure. Such a notice must mention that the failure may give rise to a monetary administrative penalty and penal proceedings.

**“115.16.** When a person designated by the Minister imposes a monetary administrative penalty on a person or municipality, the designated person must notify the decision by a notice of claim in accordance with section 115.48.

No accumulation of monetary administrative penalties may be imposed on the same person or municipality for failure to comply with the same provision if the failure occurs on the same day and is based on the same facts. In cases where more than one penalty would be applicable, the person imposing the penalty decides which one is most appropriate in light of the circumstances and the purpose of the penalties.

**“115.17.** The person or municipality may apply in writing for a review of the decision within 30 days after being notified of the notice of claim.

**“115.18.** The Minister designates the persons responsible for reviewing decisions on monetary administrative penalties. They must not come under the same administrative authority as the persons who impose such penalties.

**“115.19.** After giving the applicant an opportunity to submit observations and produce any documents to complete the record, the person responsible for reviewing the decision renders a decision on the basis of the record, unless the person deems it necessary to proceed in some other manner. That person may confirm, quash or vary the decision under review.

**“115.20.** The application for review must be dealt with promptly. The review decision must be written in clear and concise terms, with reasons given, must be notified to the applicant and must state that the applicant has the right to contest the decision before the Administrative Tribunal of Québec within the time prescribed for that purpose.

If the review decision is not rendered within 30 days after receipt of the application or, if applicable, within the time prescribed for the applicant to submit observations or documents, the interest provided for in the third paragraph of section 115.48 on the amount owed ceases to accrue until the decision is rendered.

**“115.21.** The imposition of a monetary administrative penalty for failure to comply with the Act or the regulations is prescribed by two years as of the date of the failure to comply.

However, if false representations have been made to the Minister, or to a functionary, employee or other person referred to in any of sections 119 to 120.1, or if a failure to comply relates to hazardous materials referred to in Division VII.1 of Chapter I, or to section 20, the monetary administrative penalty may be imposed within two years after the date on which the inspection or investigation that led to the discovery of the failure to comply was begun.

In the absence of evidence to the contrary, the certificate of the Minister, inspector or investigator constitutes conclusive proof of the date on which the inspection or investigation was begun.

**“115.22.** If a failure to comply for which a monetary administrative penalty may be imposed continues for more than one day, it constitutes a new failure for each day it continues.

**“115.23.** A monetary administrative penalty of \$250 in the case of a natural person and \$1,000 in the case of a legal person may be imposed on any person or municipality that, in contravention of this Act,

(1) refuses or neglects to give a notice or furnish information, studies, research findings, expert evaluations, reports, plans or other documents, or fails to file them in the prescribed time, in cases where no other monetary administrative penalties are provided for by this Act or the regulations;

(2) fails to establish, maintain or, if applicable, update a list or register;  
or

(3) fails to post or publish information, a notice or a document.

The penalty provided for in the first paragraph may also be imposed on any person or municipality that

(1) fails to make a characterization study available to the Minister in accordance with the third paragraph of section 31.59; or

(2) removes, defaces or allows to be defaced a notice posted under section 120.

**“115.24.** A monetary administrative penalty of \$500 in the case of a natural person and \$2,500 in the case of a legal person may be imposed on any person or municipality that, in contravention of this Act,

(1) fails to respect any condition, restriction or prohibition relating to an approval, authorization, permission, attestation, certificate or permit granted under this Act, in particular when carrying out a project, during the construction, use or operation of works, or upon ceasing an activity;

(2) fails to apply or comply with a land rehabilitation plan, a corrective program, a depollution program or a residual materials management plan;

(3) fails to furnish security or establish a trust, or fails to maintain such security or trust for the entire period it is required; or

(4) fails to register in the land register.

The penalty provided for in the first paragraph may also be imposed on any person or municipality that

(1) fails to transmit an expert’s certificate to the Minister under section 31.48;

(2) has custody of land but does not allow free access to a person requiring such access for the purposes of section 31.63;

(3) fails to form a committee for the purposes of the first paragraph of section 57; or

(4) prevents or hinders a person referred to in section 119 from exercising the powers conferred by that section.

**“115.25.** A monetary administrative penalty of \$1,000 in the case of a natural person and \$5,000 in the case of a legal person may be imposed on any person or municipality that

(1) fails to advise the Minister without delay, in accordance with section 21, of the accidental presence in the environment of a contaminant;

(2) does something or carries on an activity without first obtaining the required approval, authorization, permission, attestation, permit or certificate, including the certificate of authorization required under section 22 or 31.1;

(3) fails to comply with the contaminant discharge standards or the implementation requirements or schedule referred to in subparagraph 1 of the first paragraph of section 31.13, in accordance with subparagraph 1 of the first paragraph of section 31.23;

(4) fails to inform the Minister, as soon as possible, of the permanent cessation of a water withdrawal or to comply with the measures the Minister imposes to prevent or remedy environmental damage or interference with the rights of other users, in accordance with the second paragraph of section 31.83;

(5) imposes or changes water or sewage rates without first submitting them to the Minister for approval, in accordance with section 32.9, or collects taxes, duties or dues for the purposes of a waterworks or sewer system in contravention of section 39;

(6) fails to carry out a site characterization study or submit or file a land rehabilitation plan and an implementation schedule, plans and specifications or an attestation of environmental conformity as required by this Act;

(7) fails to fulfill the obligations set out in section 66 with respect to the deposit or discharge of residual materials;

(8) fails to notify the Minister, within the time prescribed, of the cessation of all or some of the person's or the municipality's activities or to comply with the decontamination measures indicated by the Minister, in accordance with the second paragraph of section 70.18;

(9) begins work on a project requiring an attestation of environmental conformity before the time period specified in section 95.3 has expired;

(10) fails to comply with the decontamination measures required under this Act.

**“115.26.** A monetary administrative penalty of \$2,000 in the case of a natural person and \$10,000 in the case of a legal person may be imposed on any person or municipality that

(1) contravenes the prohibition in the second paragraph of section 20 against the emission, deposit, issuance or discharge of any contaminant whose presence in the environment is likely to affect the life, health, safety, welfare or comfort of human beings, or to cause damage to or otherwise impair the quality of the soil, vegetation, wildlife or property;

(2) fails to advise the Minister, in the prescribed time, of the accidental occurrence in the environment of a contaminant or to take all necessary measures to minimize the effects and eliminate or prevent the causes, in accordance with subparagraph 3 of the first paragraph of section 31.23;

(3) has custody of land in which contaminants are found and fails to notify the owner of the neighbouring land and the Minister of the presence of contaminants, in the cases and under the conditions set out in section 31.52;

(4) makes a water withdrawal in contravention of an order under subparagraph 2 of the first paragraph of section 31.86;

(5) contravenes the prohibition to transfer water set out in section 31.90 or 31.105;

(6) fails to take water samples as prescribed by section 45.1 and to forward them to an accredited laboratory;

(7) fails to take the measures prescribed by an emergency plan formulated by the Minister under section 49 in case of air pollution;

(8) does something or carries on an activity that contravenes a decision rendered by the Government or the Minister under this Act;

(9) refuses or fails to comply with an order imposed under this Act or in any way prevents or hinders its execution;

(10) does something or carries on or pursues an activity or operation when the approval, authorization, permission, attestation, certificate or permit required under this Act or the regulations has been refused, suspended or revoked, or has been the object of a denial of conformity by the Government or the Minister under this Act.

In addition, the penalty provided for in the first paragraph may be imposed on any municipality that does not prohibit access, in accordance with section 83, to any bathing place considered to be a danger to health.

**“115.27.** The Government or the Minister may, in a regulation made under this Act, specify that a failure to comply with the regulation may give rise to a monetary administrative penalty. The regulation may define the conditions for applying the penalty and set forth the amounts or the methods for determining them. The amounts may vary according to the degree to which the standards have been infringed, without exceeding the maximum amounts provided for in section 115.26. The maximum amounts may nonetheless be higher in the case of a monetary administrative penalty provided for in a regulation made under paragraph 2 of section 46.15.

**“115.28.** If a provision of a regulation made by the Government under this Act is enforceable by a municipality and failure to comply with the



provision may give rise to a monetary administrative penalty, the penalty may also be imposed by any municipality designated for that purpose by the Government for a failure that occurred on its territory. However, such a penalty may not be imposed in addition to a penalty imposed by a person designated by the Minister on the same person or municipality on the same day, based on the same facts.

The provisions of this Act concerning monetary administrative penalties apply to the municipality that imposes such a penalty, with the necessary modifications and under the conditions determined by the Government, which include the possibility of the decision being contested before the competent municipal court and details on the procedures for recovering the amounts owed.

A municipality that imposes a monetary administrative penalty may charge fees for the recovery of the amount.

The amounts collected by a municipality under this section belong to it and, with the exception of recovery fees, must be used to finance environmental measures and programs.

#### **“DIVISION XIII.1**

#### **“PENAL PROVISIONS**

#### **“115.29. Whoever**

(1) contravenes subparagraph 4, 5 or 6 of the first paragraph of section 31.23, the second paragraph of section 31.24 or 31.55, the third paragraph of section 31.59, section 31.68, 31.84, 50, 51, 52, 53.31, 64.3, 64.11, 68.1, 70.5, 70.6 or 70.7, the first or third paragraph of section 70.18, or section 116.3,

(2) contravenes the first paragraph of section 121 by removing, defacing or allowing to be defaced a notice the person was ordered to post,

(3) refuses or neglects to give a notice or furnish information, studies, research findings, expert evaluations, reports, plans or any other documents required under this Act or the regulations, or fails to file them within the prescribed time, in cases where no other penalties are provided for by this Act or the regulations,

commits an offence and is liable to a fine of \$1,000 to \$100,000 in the case of a natural person and \$3,000 to \$600,000 in the case of a legal person.

#### **“115.30. Whoever**

(1) contravenes subparagraph 1.1, 2 or 8 of the first paragraph of section 31.23, the first paragraph of section 31.31, paragraph 1 of section 31.38, section 31.47, 31.48 or 31.58, the third paragraph of section 31.60, section 31.63, the first

paragraph of section 31.83, subparagraph 1 or 2 of the first paragraph of section 46.2, section 46.10, 53.31.12 or 56, the first paragraph of section 57, or section 64.2, 64.10 or 123.1,

(2) fails to comply with a condition imposed under section 31.5 or 31.6, the third paragraph of section 31.15.1 or section 31.15.2, section 31.15.3, 31.40 or 31.79, subparagraph 1 of the first paragraph of section 31.86, the second paragraph of section 65 or 164, section 167, the first paragraph of section 201, or section 203,

(3) fails to comply with a rehabilitation plan approved by the Minister under Division IV.2.1,

(4) fails to comply with a condition, restriction or prohibition imposed by the Minister under the first paragraph of section 70.8 or section 70.12,

(5) fails to comply with a depollution program approved by the Minister under section 116.2,

(6) hinders a functionary, employee or other person referred to in section 119, 119.1, 120 or 120.1 in the performance of the duties of office, or misleads such a person by concealment or false declarations, or fails to obey an order such a person is authorized to give under this Act or the regulations,

(7) fails to furnish security or establish a trust, or fails to maintain such security or trust for the entire period it is required,

(8) fails to register in the land register as required by this Act or the regulations,

(9) fails to comply with any other condition, restriction or prohibition relating to an approval, authorization, permission, certificate, attestation or permit granted under this Act or the regulations, in particular when carrying out a project or during the construction, use or operation of works, or upon ceasing an activity,

commits an offence and is liable to a fine of \$2,500 to \$250,000 in the case of a natural person and \$7,500 to \$1,500,000 in the case of a legal person.

**“115.31.** Whoever

(1) contravenes section 21, 22 or 31.1, the first paragraph of section 31.16, subparagraph 1 of the first paragraph of section 31.23, section 31.25, the first paragraph of section 31.28, section 31.51 or 31.51.1, the first paragraph of section 31.53, 31.54 or 31.57, the second paragraph of section 31.83, section 32, 32.1, 32.2, 32.7, 32.9, 33, 39, 41 or 43, the first paragraph of section 46.6, section 48 or 55, the first paragraph of section 65, section 66, section 70.9, the second paragraph of section 70.18, or section 95.1, 95.3, 154 or 189,

(2) files or signs a false declaration of environmental conformity,

(3) does something without first obtaining any other approval, authorization, permission, attestation, certificate or permit required under this Act or the regulations,

(4) knowingly makes a false or misleading declaration in order to obtain an approval, authorization, permission, attestation, certificate or permit required under this Act or the regulations,

(5) makes water withdrawals without the authorization of the Government or the Minister, as applicable, in contravention of Division IV.1 or section 31.75,

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 a maximum term of imprisonment of 18 months, or to both the fine and imprisonment, and, in the case of a legal person, to a fine of \$15,000 to \$3,000,000.

**“115.32.** Whoever

(1) contravenes section 20 or 31.11, subparagraph 3 of the first paragraph of section 31.23, or section 31.30, 31.52, 45, 45.1 or 83,

(2) makes a withdrawal of water in violation of a decision under subparagraph 2 of the first paragraph of section 31.86,

(3) contravenes the prohibition against transferring water prescribed by section 31.90 or 31.105,

(4) fails to take the measures prescribed by an emergency plan formulated by the Minister under section 49 in case of air pollution,

(5) continues a project for which a denial of conformity was notified under section 95.4,

(6) refuses or neglects to comply with an order imposed under this Act, or in any manner hinders or prevents the enforcement of such an order,

(7) does something or carries on or pursues an activity or operation when the approval, authorization, permission, attestation, certificate or permit required under this Act or the regulations has been denied, suspended or revoked,

commits an offence and is liable, in the case of a natural person, to a fine of \$10,000 to \$1,000,000 or, despite article 231 of the Code of Penal Procedure, to a maximum term of imprisonment of three years, or to both the fine and imprisonment, and, in the case of a legal person, to a fine of \$30,000 to \$6,000,000.

**“115.33.** The maximum penalties prescribed in section 115.32 apply to an offence described in sections 115.29 to 115.31 if the harm or damage caused by the offence to human health or the environment, including vegetation and wildlife, is sufficiently serious to justify heavier penalties.

**“115.34.** Despite sections 115.29 to 115.32, the Government or, as applicable, the Minister may determine the regulatory provisions made under this Act whose contravention constitutes an offence and renders the offender liable to a fine the minimum and maximum amounts of which are set by the Government or the Minister. The Government may provide that, despite article 231 of the Code of Penal Procedure, a contravention renders the offender liable to the fine, a term of imprisonment, or both the fine and imprisonment.

The maximum penalties under the first paragraph may not exceed those prescribed in section 115.32. The penalties may vary according to the importance of the standards that have been infringed.

**“115.35.** The fines prescribed in sections 115.29 to 115.32 or the regulations are doubled for a second offence and tripled for a subsequent offence. The maximum term of imprisonment is five years less a day for a second or subsequent offence.

If an offender commits an offence under this Act or the regulations after having been previously convicted of any such offence and if, without regard to the amounts prescribed for a second or subsequent offence, the minimum fine to which the offender was liable for the first offence was equal to or greater than the minimum fine prescribed for the second offence, the minimum and maximum fines and, if applicable, the minimum and maximum terms of imprisonment prescribed for the second offence become, if the prosecutor so requests, those prescribed in the case of a second or subsequent offence.

This section applies to prior convictions pronounced in the two-year period preceding the second offence or, if the minimum fine to which the offender was liable for the prior offence is that prescribed in section 115.32, in the five-year period preceding the second offence. Fines for a third or subsequent offence apply if the penalty imposed for the prior offence was the penalty for a second or subsequent offence.

**“115.36.** If an offence under this Act or the regulations is committed by a director or officer of a legal person, partnership or association without legal personality, the minimum and maximum fines that would apply in the case of a natural person are doubled.

**“115.37.** If an offence under this Act or the regulations continues for more than one day, it constitutes a separate offence for each day it continues.

A person who continues, day after day, to use a structure or industrial process, to operate an industry, to carry on an activity or to produce goods or services

without holding the authorization required under this Act or the regulations is also guilty of a separate offence for each day.

**“115.38.** Whoever does or omits to do something in order to assist a person or municipality to commit an offence under this Act or the regulations, or advises or encourages or incites a person or municipality to commit such an offence, is considered to have committed the same offence.

**“115.39.** In any penal proceedings relating to an offence under this Act or the regulations, proof that the offence was committed by an agent, mandatary or employee of any party is sufficient to establish that it was committed by that party, unless the party establishes that it exercised due diligence and took all necessary precautions to prevent the offence.

**“115.40.** If a legal person or an agent, mandatary or employee of a legal person, partnership or association without legal personality commits an offence under this Act or the regulations, its director or officer is presumed to have committed the offence unless it is established that the director or officer exercised due diligence and took all necessary precautions to prevent the offence.

For the purposes of this section, in the case of a partnership, all partners, except special partners, are deemed to be directors of the partnership unless there is evidence to the contrary appointing one or more of them, or a third person, to manage the affairs of the partnership.

**“115.41.** In determining the penalty, the judge may take into account aggravating factors such as

(1) the seriousness of the harm or damage, or of the risk of harm or damage, to human health or the environment, including vegetation and wildlife;

(2) the particular nature of the environment affected as, for example, whether the feature affected is unique, rare, significant or vulnerable;

(3) the intentional, negligent or reckless nature of the offence;

(4) the foreseeable character of the offence or the failure to follow recommendations or warnings to prevent it;

(5) the cost to society of repairing the harm or damage;

(6) the dangerous nature of the substances resulting in the offence;

(7) the behaviour of the offender after committing the offence, as, for example, whether the offender attempted to cover up the offence or omitted to take rapid measures to prevent or limit the damage or remedy the situation;

(8) the increase in revenues or decrease in expenses that the offender obtained, or intended to obtain, by committing the offence or by omitting to take measures to prevent it;

(9) the failure to take reasonable measures to prevent the commission of the offence or limit its effects despite the offender's financial ability to do so, given such considerations as the size of the offender's undertaking and the offender's assets, turnover and revenues.

A judge who, despite the presence of an aggravating factor, decides to impose the minimum fine must give reasons for the decision.

**“115.42.** On an application made by the prosecutor and submitted with the statement of offence, the judge may impose on the offender, in addition to any other penalty, a further fine not exceeding the financial benefit realized by the offender as a result of the offence, even if the maximum fine has also been imposed.

**“115.43.** In the judgment, the judge may order an offender convicted under this Act or the regulations

(1) to refrain from any action or activity that may lead to the continuation or repetition of the offence;

(2) to carry out any action or activity to prevent the offence from being continued or repeated;

(3) to establish a pollution prevention plan or an environmental emergency plan, submit the plan to the Minister for approval and abide by the approved plan;

(4) to carry out follow-up studies on the environmental impact of the activities carried on by the offender or to pay a sum of money to a person or body designated by the judge to carry out such studies;

(5) to take one or more of the following measures, with priority given to those determined by the judge as being best for the protection of the environment:

(a) to restore things to the state they were in prior to the offending act;

(b) to restore things to a state approaching their original state;

(c) to implement compensatory measures;

(d) to pay compensation, in a lump sum or otherwise, for repair of the damage resulting from the commission of the offence;

(e) to pay, as compensation for the damage resulting from the commission of the offence, a sum of money to the Green Fund established under

section 15.1 of the Act respecting the Ministère du Développement durable, de l'Environnement et des Parcs (chapter M-30.001);

(6) to provide security or consign a sum of money to guarantee performance of those obligations;

(7) to make public the conviction and any prevention or repair measures imposed, under the conditions determined by the judge.

Moreover, if the Minister, in carrying out this Act or the regulations, has taken restoration or compensatory measures in the place and stead of the offender, the judge may order the offender to reimburse the Minister for the direct and indirect costs of such measures, including interest.

**“115.44.** The prosecutor must give the offender at least 10 days' prior notice of an application for restoration or for compensatory measures, or of any request for an indemnity, a sum of money to be paid to the Green Fund or a reimbursement of costs to the Minister, unless the parties are in the presence of a judge. In that case, the judge must, before rendering a decision and on the request of the offender, grant the offender what the judge considers a reasonable period of time in which to present evidence with regard to the prosecutor's application or request.

**“115.45.** When determining a fine higher than the minimum fine prescribed in this Act or the regulations, or when determining the time within which an amount must be paid, the judge may take into account the offender's ability to pay, provided the offender furnishes proof of assets and liabilities.

**“115.46.** Penal proceedings for offences under this Act or the regulations are prescribed by the longer of

(1) five years from the date the offence was committed;

(2) two years from the date on which the inspection or investigation that led to the discovery of the offence was begun if

(a) false representations were made to the Minister, or to a functionary, employee or other person referred to in section 119, 119.1, 120 or 120.1;

(b) the offence relates to hazardous materials covered by Division VII.1 of Chapter I;

(c) the case involves an offence under section 20.

In the cases referred to in subparagraph 2 of the first paragraph, the certificate of the Minister, inspector or investigator constitutes, in the absence of evidence to the contrary, conclusive proof of the date on which the inspection or investigation was begun.

**“115.47.** A municipality may institute penal proceedings with regard to offences committed on its territory in contravention of a regulatory provision that was made under this Act and that the municipality is in charge of carrying out. If applicable, such proceedings may be instituted before the competent municipal court.

The fines collected as a result of such proceedings belong to the municipality.

The costs relating to proceedings instituted before a municipal court belong to the municipality under the jurisdiction of that court, except the part of the costs remitted to another prosecuting party by the collector under article 345.2 of the Code of Penal Procedure (chapter C-25.1), and the costs remitted to the defendant or imposed on the municipality under article 223 of that Code.

A municipality may draw to the attention of the Minister, for appropriate action, any offence against a regulatory provision under the municipality’s responsibility.

#### **“DIVISION XIV**

#### **“GENERAL PROVISIONS**

**“115.48.** The Minister may claim payment from a person or municipality of any amount owed to the Minister under this Act or the regulations by notification of a notice of claim. However, in the case of a monetary administrative penalty, the claim is made by the person designated by the Minister under section 115.16 and the notice of claim must mention the right to obtain a review of the decision within the time period specified in the notice.

A notice of claim must state the amount of the claim, the reasons for it, the time from which it bears interest, the right to contest the claim or, if applicable, the review decision before the Administrative Tribunal of Québec and the time within which such a proceeding must be brought. The notice must also include information on the procedure for recovery of the amount owing, in particular with regard to the issue of a recovery certificate under section 115.53 and its effects. The person or municipality concerned must also be advised that failure to pay the amount owing may give rise to the refusal, amendment, suspension or revocation of any authorization issued under this Act or the regulations and, if applicable, that the facts on which the claim is founded may result in penal proceedings.

Unless otherwise provided, the amount owing bears interest at the rate determined under the first paragraph of section 28 of the Tax Administration Act (chapter A-6.002), from the 31st day after notification of the notice.



Notification of a notice of claim interrupts the prescription provided for in the Civil Code with regard to the recovery of an amount owing.

**“115.49.** A notice of claim or, if applicable, a review decision that confirms the imposition of a monetary administrative penalty, may be contested before the Administrative Tribunal of Québec by the person or municipality concerned, within 60 days after notification of the notice or review decision.

When rendering its decision, the Administrative Tribunal of Québec may make a ruling with respect to interest accrued on the penalty while the matter was pending before the Tribunal.

**“115.50.** The directors and officers of a legal person that has defaulted on payment of an amount owed to the Minister under this Act or the regulations are solidarily liable, with the legal person, for the payment of the amount, unless they establish that they exercised due care and diligence to prevent the failure which led to claim.

**“115.51.** The reimbursement of an amount owed to the Minister under this Act or the regulations is secured by a legal hypothec on the debtor’s movable and immovable property.

**“115.52.** The debtor and the Minister may enter into a payment agreement with regard to the amount owing. Such an agreement, or the payment of the amount owing, does not constitute, for the purposes of penal proceedings or any other administrative penalty under this Act or the regulations, an acknowledgement of the facts giving rise to it.

**“115.53.** If the amount owing is not paid in its entirety or the payment agreement is not adhered to, the Minister may issue a recovery certificate upon the expiry of the time for applying for a review of the decision, upon the expiry of the time for contesting the review decision before the Administrative Tribunal of Québec or upon the expiry of 30 days after the final decision of the Tribunal confirming all or part of the Minister’s decision or the review decision, as applicable.

However, a recovery certificate may be issued before the expiry of the time referred to in the first paragraph if the Minister is of the opinion that the debtor is attempting to evade payment.

A recovery certificate must state the debtor’s name and address and the amount of the debt.

**“115.54.** Once a recovery certificate has been issued, any refund owed to a debtor by the Minister of Revenue may, in accordance with section 31 of the Tax Administration Act (chapter A-6.002), be withheld for payment of the amount due referred to in the certificate.

The withholding interrupts the prescription provided for in the Civil Code with regard to the recovery of an amount owing.

**“115.55.** Upon the filing of the recovery certificate at the office of the competent court, together with a copy of the final decision stating the amount of the debt, the decision becomes enforceable as if it were a final judgment of that court not subject to appeal, and has all the effects of such a judgment.

**“115.56.** The debtor is required to pay a recovery charge in the cases, under the conditions and in the amount determined by ministerial order.

**“115.57.** The Minister may, by agreement, delegate to another department or body all or some of the powers relating to the recovery of an amount owing under this Act or the regulations.”

**27.** Section 116.1.1 of the Act is amended

(1) by replacing “this section” in the second paragraph by “the first paragraph”;

(2) by adding the following paragraph at the end:

“Expenses incurred by the Minister to determine the nature of the work required to restore things to their original state or to a state approaching their original state, or to implement compensatory measures shall also be included in the cost of proceedings.”

**28.** The heading between sections 116.4 and 117 of the Act is repealed.

**29.** Section 118.1 of the Act is repealed.

**30.** Section 118.3.2 of the Act is amended by replacing everything after “pursuant to” in paragraph 1 by “this Act;”.

**31.** Section 118.5 of the Act is amended

(1) by inserting “31.75,” after “31.6,” in subparagraph *a* of the first paragraph;

(2) by adding “, including those which have been suspended or revoked” after “sections” in subparagraph *b* of the first paragraph;

(3) by striking out the second paragraph.

**32.** The Act is amended by inserting the following sections after section 118.5:

**“118.5.1.** The Minister shall keep a register relating to the monetary administrative penalties imposed by the persons the Minister designates for that purpose under this Act or the regulations.

The register must contain at least the following information:

- (1) the date the penalty was imposed;
- (2) the date and nature of the failure for which, and the legislative and regulatory provisions under which, the penalty was imposed;
- (3) the name of the municipality in whose territory the failure occurred;
- (4) if the penalty was imposed on a legal person, the legal person’s name and the address of the legal person’s head office or one of the legal person’s establishments or the business establishment of one of the legal person’s agents;
- (5) if the penalty is imposed on a natural person, the person’s name, the name of the municipality in whose territory the person resides and, if the failure occurred during the ordinary course of business of the person’s enterprise, the name and address of the enterprise;
- (6) the amount of the penalty imposed;
- (7) the date of receipt of an application for review, the date and conclusions of the decision;
- (8) the date a proceeding is brought before the Administrative Tribunal of Québec and the date and conclusions of the decision rendered by the Tribunal, as soon as the Minister is made aware of the information;
- (9) the date a proceeding is brought against the decision rendered by the Administrative Tribunal of Québec, the nature of the proceeding and the date and conclusions of the decision rendered by the court concerned, as soon as the Minister is made aware of the information; and
- (10) any other information the Ministers considers of public interest.

**“118.5.2.** The Minister shall keep a register of the following information relating to convictions for offences under this Act or the regulations:

- (1) the date of conviction;
- (2) the nature of the offence and the legislative or regulatory provisions under which the offender was convicted;
- (3) the date of the offence and the name of the municipality in whose territory it was committed;

(4) if the offender is a legal person, the legal person's name and the address of the legal person's head office or one of the legal person's establishments or the business establishment of one of the legal person's agents;

(5) if the offender is a natural person, the person's name, the name of the municipality in whose territory the person resides and, if the failure occurred during the ordinary course of business of the person's enterprise, the name and address of the enterprise;

(6) if the offender is an officer or director of a legal person, a partnership or an association without legal personality, the officer's or director's name, the name of the municipality in whose territory the officer or director resides and, as applicable, the name and the address of the head office of the legal person or one of the legal person's establishments or the business establishment of one of the legal person's agents, or the name and address of the partnership or association;

(7) the penalty imposed by the judge;

(8) the date a proceeding is brought against the decision rendered, the nature of the proceeding and the date and conclusions of the decision rendered by the competent court, as soon as the Minister is made aware of the information; and

(9) any other information the Minister considers of public interest.

**“118.5.3.** The information contained in the registers provided for in sections 118.5 to 118.5.2 is public. The Minister promptly posts the information on the website of the Ministère du Développement durable, de l'Environnement et des Parcs. The Minister also posts on that website the text of any order rendered under this Act and, if applicable, that of the notice of such an order, published in accordance with this Act.”

**33.** Section 119 of the Act is amended

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

**“119.** Every functionary authorized for that purpose by the Minister may at any reasonable time enter land, a building, including a dwelling house, a vehicle or a boat, to examine books, registers and records, or the premises, for the purposes of this Act or the regulations.”;

(2) by inserting the following paragraphs after the first paragraph:

“A person who has the care, possession or control of such books, registers or records must make them available to the functionary and facilitate their examination.

The functionary may also, on that occasion,

- (1) collect samples;
  - (2) carry out any necessary excavation or drilling or have such excavation or drilling carried out on any premises;
  - (3) install measuring apparatus;
  - (4) conduct tests and take measurements;
  - (5) make analyses;
  - (6) record the state of a place or natural environment by means of photographs, videos or other sound or visual recording methods;
  - (7) examine, record or copy a document or data, on any medium whatsoever; or
  - (8) require that something be set in action, used or started, under the conditions specified by the functionary.”;
- (3) by replacing “the first paragraph” in the last paragraph by “this section”.

**34.** The Act is amended by inserting the following section after section 119:

**“119.0.1.** For the purposes of section 119, the functionary authorized by the Minister may only enter a dwelling house without the consent of the owner or lessee

- (1) if, given the urgency of the situation, there is a serious risk to human health, the environment or wildlife; or
- (2) to ensure compliance with the provisions of this Act or the regulations specified by order of the Minister.”

**35.** Section 119.1 of the Act is amended

- (1) by replacing the portion of the first paragraph after “any place” by “to perform any act described in section 119 that, without such authorization, would constitute an unreasonable search or seizure.”;
- (2) by replacing subparagraph 2 of the third paragraph by the following subparagraph:

“(2) the reasons why performance of the act that is the subject of the application will provide evidence of the commission of the offence;”;

(3) by replacing subparagraph 4 of the third paragraph by the following subparagraph:

“(4) the time needed to perform the act that is the subject of the application;”;

(4) by replacing subparagraph 5 of the third paragraph by the following subparagraph:

“(5) the period when the act that is the subject of the application is to be performed.”;

(5) by replacing the fourth paragraph by the following paragraph:

“The judge may grant the authorization on the terms and conditions the judge determines if satisfied, on the strength of the declaration, that performance of the act that is the subject of the application will provide evidence of the commission of the offence. The judge who grants the authorization may order any person to lend assistance if it may reasonably be necessary for performance of the authorized act.”;

(6) by replacing “exercise the powers conferred under the first two paragraphs if the time involved in obtaining a warrant, taking into account the exigent circumstances” in the portion of the fifth paragraph before subparagraph 1 by “, without authorization, perform an act described in section 119 if, given the urgency of the situation, the conditions to be met and the time needed to obtain authorization”.

**36.** Section 120.6.1 of the Act is amended by replacing “a charge has been laid under this Act” by “penal proceedings have been instituted under this Act or the regulations”.

**37.** Section 121 of the Act is amended by inserting “119.1,” after “119,” in the first paragraph.

**38.** The Act is amended by inserting the following section after section 121:

**“121.1.** A functionary, employee or other person who exercises the duties described in section 119, 119.1, 120 or 120.1 may not be prosecuted for acts performed in good faith in the performance of those duties.”

**39.** Section 122.1 of the Act is repealed.

**40.** Section 122.2 of the Act is amended

(1) by inserting “, suspend” after “amend”;

(2) by adding the following paragraph:

“This section applies, with the necessary modifications, to any authorization, approval, permission, attestation, certificate or permit granted under this Act or the regulations. It also applies in the cases provided for in section 32.8, without, however, restricting the application of that section.”

- 41.** Section 122.3 of the Act is repealed.
- 42.** Section 122.4 of the Act is repealed.
- 43.** Section 123 of the Act is renumbered “121.2”.
- 44.** The heading between sections 126.1 and 127 of the Act is repealed.
- 45.** Sections 127 to 129 of the Act are repealed.
- 46.** Section 129.2 of the Act is repealed.

#### AMENDING PROVISIONS

##### ACT TO AFFIRM THE COLLECTIVE NATURE OF WATER RESOURCES AND PROVIDE FOR INCREASED WATER RESOURCE PROTECTION

- 47.** Section 35 of the Act to affirm the collective nature of water resources and provide for increased water resource protection (R.S.Q., chapter C-6.2) is amended by replacing “109.1” in the second paragraph by “115.34”.
- 48.** Section 36 of the Act is amended by replacing “106.1” by “115.32”.
- 49.** Section 37 of the Act is amended by replacing the portion before “of the Environment Quality Act” by “Sections 113, 114, 114.3, 115, 115.2 to 115.4, 115.35 to 115.57 and 116.1.1”.

##### ACT RESPECTING THE FORFEITURE, ADMINISTRATION AND APPROPRIATION OF PROCEEDS AND INSTRUMENTS OF UNLAWFUL ACTIVITY

- 50.** Section 25 of the Act respecting the forfeiture, administration and appropriation of proceeds and instruments of unlawful activity (R.S.Q., chapter C-52.2) is amended

(1) by inserting “in the case of the Ministère du Développement durable, de l’Environnement et des Parcs, the proceeds are paid into the Green Fund under section 15.4 of the Act respecting the Ministère du Développement durable, de l’Environnement et des Parcs (chapter M-30.001)” after “property” in subparagraph 6 of the first paragraph;

(2) by inserting “, with the exception of the Ministère du Développement durable, de l’Environnement et des Parcs,” after “government departments” in the second paragraph.

**51.** Schedule 1 to the Act is amended by inserting the following in alphanumerical order:

“— Environment Quality Act (chapter Q-2), but only as regards offences under sections 115.31 and 115.32;”.

#### ACT RESPECTING ADMINISTRATIVE JUSTICE

**52.** Schedule III to the Act respecting administrative justice (R.S.Q., chapter J-3) is amended by replacing “and 96” in paragraph 3 by “, 96 or 96.1”.

#### ACT RESPECTING THE MINISTÈRE DU DÉVELOPPEMENT DURABLE, DE L’ENVIRONNEMENT ET DES PARCS

**53.** Section 14 of the Act respecting the Ministère du Développement durable, de l’Environnement et des Parcs (R.S.Q., chapter M-30.001) is replaced by the following section:

**“14.** Any person authorized by the Minister may, in the performance of his duties, enter on land in the private domain. If so required, the person must produce identification and a certificate of authorization signed by the Minister.

The person who, as owner or lessee or in any other capacity, has the custody of the land shall give free access to the land at any reasonable time to the person referred to in the first paragraph, in particular for the purpose of carrying out the research, inventories, studies or analyses required to assess the location, quantity, quality or vulnerability of groundwater present in the land, subject, however, to that person restoring the premises to their former state and compensating the owner or custodian of the land, as the case may be, for any damage.

Whoever contravenes the provisions of the second paragraph or hinders an authorized person in the exercise of the person’s duties, is liable to a fine of not less than \$500 and not more than \$5,000. The fine is doubled in the case of a subsequent offence.”

**54.** Section 15.4 of the Act is amended by inserting the following paragraph after paragraph 5:

“(5.1) the monetary administrative penalties imposed under subdivision 3 of Division XIII of Chapter I of the Environment Quality Act;”.



## WATER RESOURCES PRESERVATION ACT

**55.** Section 4 of the Water Resources Preservation Act (R.S.Q., chapter P-18.1) is amended

(1) by replacing “106.1” in the first paragraph by “115.32”;

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

“Sections 113, 114, 114.3, 115, 115.2 to 115.4, 115.35 to 115.57 and 116.1.1 of that Act apply.”

## REGULATION RESPECTING MANDATORY REPORTING OF CERTAIN EMISSIONS OF CONTAMINANTS INTO THE ATMOSPHERE

**56.** Section 8 of the Regulation respecting mandatory reporting of certain emissions of contaminants into the atmosphere (R.R.Q., chapter Q-2, r. 15) is amended by replacing the portion before paragraph 1 by the following:

“**8.** Whoever fails to communicate to the Minister data, information, notices and documents prescribed by this Regulation, communicates false or inaccurate data or information, fails to use the calculation methods prescribed by this regulation or fails to retain the data, information and documents for the period prescribed is liable”.

## TRANSITIONAL AND FINAL PROVISIONS

**57.** Section 115.46 of the Environment Quality Act (R.S.Q., chapter Q-2), enacted by section 26, applies to an offence committed before 4 November 2011, taking into account the time that has elapsed at that date.

**58.** Any penal provision of a regulation made by the Minister under section 109.1 of the Environment Quality Act before 4 November 2011 is valid even if the regulation was made by the Minister rather than the Government.

**59.** The penalties prescribed in section 115.32 of the Environment Quality Act, enacted by section 26, apply to those who refuse or neglect to comply with an order issued under the Water Board Act (Revised Statutes, 1964, chapter 183), the Public Health Act (Revised Statutes, 1964, chapter 161) or the Water Purification Board Act (Revised Statutes, 1941, chapter 44A) concerning any matter covered by the Environment Quality Act. Such orders remain in force, even those issued by the Water Purification Board that have not been approved by the Government, unless they have since been repealed or amended by another order under the Environment Quality Act.

**60.** In any other Act, regulation or document, a reference to any of sections 106 to 112.0.1 of the Environment Quality Act is a reference to the section as it existed prior to 4 November 2011.

**61.** The Government or the Minister, as applicable, must, by regulations adopted no later than 30 June 2013, revise the regulations adopted for the purposes of the Environment Quality Act before that date, in order to harmonize the penal provisions of those regulations with those enacted by this Act, determine the provisions of those regulations that may give rise to a monetary administrative penalty if they are not complied with, define the conditions for applying such a penalty, and set forth the amounts of the penalties or the methods for calculating them, in accordance with this Act.

Until the penal provisions of such revised regulations come into force, section 109 of the Environment Quality Act as it read on 4 October 2011 continues to apply to a failure to comply with the regulations.

**62.** This Act comes into force on 4 November 2011, except

(1) sections 13 and 16 and sections 115.13 to 115.28, enacted by section 26, which come into force on 1 February 2012;

(2) sections 47, 48 and 49, which come into force respectively on the date or dates of coming into force of sections 35, 36 and 37 of the Act to affirm the collective nature of water resources and provide for increased water resource protection (R.S.Q., chapter C-6.2).



