

Bill 89

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

Section 2.1

AMENDMENT:

Insert after section 2:

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

*adp
ll*

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Section 7

AMENDMENT:

Add the following paragraph after paragraph 2:

(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".

*adopté
JA*

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Section 1

AMENDMENT:

Replace by:

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".

*adopte
RC*

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Section 7.1

AMENDMENT:

Insert after section 7:

7.1. 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.”

*Adopté
AC*

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Section 8

AMENDMENT:

Strike out paragraph 4.

*adopte
AC*

Amendment 6 withdrawn (now Am. h)

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Section 9

AMENDMENT:

In proposed section 96.1:

1. Replace "which confirms the imposition of an administrative penalty" by "under section 115.18 and confirming a monetary administrative penalty";
2. Replace "such recourse" by "such a proceeding".

*Accepted
AC*

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Section 10.1

AMENDMENT:

Insert after section 10:

10.1. Section 98 of the Act is amended by replacing "The proceeding" by "A proceeding, except one provided for under section 115.49,".

Adopte
FC

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Section 15

AMENDMENT:

Add the following paragraph at the end of proposed section 114:

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.

*adopté
fo*

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Section 15

AMENDMENT:

Replace the introductory clause of proposed section 114 by:

“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:

*Adopté
AC*

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Section 18

AMENDMENT:

Replace paragraph 2 by:

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

*Adopte
RC*

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Section 21

AMENDMENT:

Insert "make an" after "the power to" in the third paragraph of proposed section 115.2.

*redept
AC*

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Section 21

AMENDMENT:

Replace proposed sections 115.5 to 115.27 by:

“§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:

- adapte*
- (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 115.31;
 - (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 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.

*Adopte
RC*

“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 purposes 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

*Adopte
RC*

(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 115.31;

(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.

*Adopte
RC*

“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);

Adopte par le gouvernement
(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;

(4) in the case of an offence under this Act, the regulations, or a fiscal law, the administrative penalty does not apply unless it is justified by the seriousness or frequency of the offence. *Sam 1*

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

Adopte par le gouvernement
(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 two years from the date it was issued. *Sam 2*

Subparagraph 3 of the first paragraph does not apply to the holder of a certificate of authorization for a project of a class that is subject to a regulation made under subparagraph *k* of the first paragraph of section 31. *Sam 3*

"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 authorization certificate at least 30 days to submit observations in writing. *Sam 4*

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 at least 30 days to submit observations.

Despite this section, the Government or the Minister may, where urgent action is required or there is a danger of irreparable harm or damage being caused, make a decision without being bound by such prior obligations. In such cases, the applicant or holder may, within the time specified, submit observations for a review of the decision.

*Adopte
SE*

“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.

The Minister develops and makes public a general framework for applying such administrative penalties, specifying the following elements:

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SE*

(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;

Sam 5

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

Sam 7

(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;

Sam 6

(4) 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.

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SE*

“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.

*Adopte
RC*

"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.

*Adopte
RC*

"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.

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+ des amendes
RC*

"115.17. The person or municipality may apply in writing for a review of the decision within 60 days after being notified of the notice of claim.

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*Adopte
RC*

"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.

*Adopte
+ des amendes
RC*

"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. That person may confirm, quash or vary the decision under review.

Sam 10

*Adopte
RC*

"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.

*Adopte
+ des amendes
RC*

"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.

Sam 11

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 one year 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.

Adopte AC
"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.

Adopte AC
"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.

Adopte AC
"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,

Adopte AC
(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;

Sam 12

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

(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 advise the Minister without delay of the accidental occurrence in the environment of a contaminant or to take all necessary measures in accordance with subparagraph 3 of the first paragraph of section 31.23;

(4) 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;

Sam 13

Sam 14

(5) 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;

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

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

"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) 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;

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

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

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

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

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

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

(9) 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,

Sam 15

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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.

*Adopte
RC*

"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.

*Adopte
RC*

"115.27.1. 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.

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RC*

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Section 21

AMENDMENT:

Replace "Those penalties may vary to the degree to which standards" in the second paragraph of proposed section 115.33 by "The penalties may vary according to the importance of the standards that".

*adopté
LC*

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Section 21

AMENDMENT:

In proposed section 115.28:

1. Replace paragraph 1 by:
 - (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. Replace everything after "a notice" in paragraph 2 by "after receiving an order to post it under section 120";
3. Insert "or fails to file them within the prescribed time," after "under this Act or the regulations," in paragraph 3;
4. Replace "ou" by "où" after "dans les cas" in paragraph 3 of the French text.

Sam 1

*A double
de la version
JAC*

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Section 21

AMENDMENT:

In proposed section 115.29:

1. Replace paragraph 1 by:
 - (1) contravenes subparagraph 1, 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 or 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, section 64.2 or 64.10, the second paragraph of section 70.18 or section 123.1;
2. Replace paragraph 2 by:
 - (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. Insert "the first paragraph of section 70.8 or" after "under" in paragraph 4.
4. Insert "119.1," after "119," in paragraph 6.
5. Replace paragraph 7 by:
 - (7) fails to furnish security or establish a trust, or fails to maintain such security or trust for the entire period it is required;
6. Insert the following paragraph after paragraph 7:
 - (7.1) fails to register in the land register as required by this Act or the regulations;

Sam I

7. Add "or upon ceasing an activity," after "works," in paragraph 8.

*Adopte
et amendé
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Section 21

AMENDMENT:

Replace paragraph 1 of proposed section 115.30 by:

(1) contravenes section 21, 22 or 31.1, the first paragraph of section 31.16, subparagraph 3 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, 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, 70.9, 95.1, 95.3, 154 or 189,

Sam I

*A. Coyte
tel. 950.21.1111
H.C.*

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Section 21

AMENDMENT:

In proposed section 115.31:

1. Replace paragraph 1 by:
 - (1) contravenes section 20, 31.11, 31.30, 31.52, 45, 45.1 or 83,
2. Replace "in contravention of" in paragraph 2 by "in violation of".
3. Insert the following paragraph after paragraph 4:

(4.1) fails to take the measures prescribed by an emergency plan formulated by the Minister under section 49 in case of air pollution,
4. Insert "does something or carries on or" at the beginning of paragraph 6.

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*Adopté
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Amendment 19 has been withdrawn and is now called Am j.

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Section 21

AMENDMENT:

Replace "\$7,000" and "\$21,000" in the last portion of proposed section 115.31 by "\$10,000" and "\$30,000".

*adopted
AC*

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Section 21

AMENDMENT:

Replace the third paragraph of proposed section 115.34 by:

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 115.31, 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.

Adopte
AC

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Section 21

AMENDMENT:

Replace "certificate required under section 22, 31.1, 32 or 48" in the second paragraph of proposed section 115.36 by "required under this Act or the regulations".

adapte
AO

Amendment 23 is withdrawn and is now known as AM n.

Amendment 24 is withdrawn and is now known as AM o.

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Section 22

AMENDMENT:

In proposed section 115.40:

1. Replace "aspect" by "feature" in subparagraph 2 of the first paragraph.
2. Strike out "toxic or" in subparagraph 6 of the first paragraph.

*adopted
AL*

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Section 21

AMENDMENT:

Replace "equal to the financial gain" in proposed section 115.41 by "not exceeding the financial benefit".

*adopte
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Section 21

AMENDMENT:

In proposed section 115.42:

1. Strike out "within the time period the Minister determines," in subparagraph 3 of the first paragraph.
2. Replace everything after "to take" in the introductory clause of subparagraph 5 of the first paragraph by "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."

*Adopte
AC*

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Section 21

AMENDMENT:

Insert after subparagraph 6 of the first paragraph of proposed section 115.42:

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

Adopte
HC

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Section 21

AMENDMENT:

In proposed section 115.43:

1. Insert "at least 10 days" after "the offender".
2. Add the following sentence at the end: "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."

*Adopte
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Section 21

AMENDMENT:

In the first paragraph of proposed section 115.45:

1. Insert "de la date" after "à compter" in subparagraph 1 of the French text.
2. Insert "119.1," after "119," in subparagraph *a* of subparagraph 2.
3. Insert "covered by Division VII.1 of Chapter I" after "hazardous materials" in subparagraph *b* of subparagraph 2.

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Section 21

AMENDMENT:

Add the following paragraph at the end of proposed section 115.46:

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

Adopte
AC

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Section 21

AMENDMENT:

Strike out proposed section 115.47.

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Section 21

AMENDMENT:

Replace proposed section 115.48 by:

"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 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.

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AC*

Bill 89

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Section 21

AMENDMENT:

Replace proposed section 115.49 by:

"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

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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, 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.

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NO

"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.

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NO

"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.

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NO

"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.

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NO

"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."

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tel que demandé -
NO

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Section 21

AMENDMENT:

Replace everything after "unless the party establishes" in proposed section 115.38 by "that it exercised due diligence and took all necessary precautions to prevent the offence."

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Section 21

AMENDMENT:

In proposed section 115.39:

1. Replace everything after "unless it is established" by "that the director or officer exercised due diligence and took all necessary precautions to prevent the offence."
2. Add the following paragraph:

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.

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AC*

Bill 89

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Section 24

AMENDMENT:

Replace by:

24. Section 118.1 of the Act is repealed.

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Bill 89

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Section 25

AMENDMENT:

Replace by:

25. 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.

adopted
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Section 25.1

AMENDMENT:

Insert after section 25:

25.1. 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 Ministers 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.”

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Section 5

AMENDMENT:

Replace by:

5. 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.”

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Section 26

AMENDMENT:

1. Replace paragraph 1 by:

(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. In paragraph 2, replace proposed subparagraph 2 by the following subparagraph:

(2) carry out any necessary excavation or drilling or have such excavation or drilling carried out on any premises;

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Section 27

AMENDMENT:

1. Replace "an act described in section 119" in paragraph 1 by "any act described in section 119 that, without such authorization, would constitute an unreasonable search or seizure".
2. Replace "referred to in the first paragraph" in paragraph 6 by "described in section 119".

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Section 28.1

AMENDMENT:

Insert after section 28:

28.1. Section 121 of the Act is amended by inserting "119.1," after "119," in the first paragraph.

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AM 44
s. 29 (121.1)

Bill 89

**An Act to amend the Environment
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compliance**

Section 29

AMENDMENT:

Insert "119.1," after "119," in proposed section 121.1.

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AM 45
s. 35 (123.1)

Bill 89

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Section 35

AMENDMENT:

Strike out.

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Bill 89

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Section 38.1

AMENDMENT:

Insert after the heading "AMENDING PROVISIONS":

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

38.1. 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.

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Section 41

AMENDMENT:

1. Replace "115.49" in the paragraph proposed by paragraph 2 by "115.57".
2. Replace "of the Act" in the paragraph proposed by paragraph 2 by "of that Act".

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AM 48
s. 41 (4)

Bill 89

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compliance**

Section 41

AMENDMENT:

Replace "115.30" in paragraph 1 by "115.31".

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compliance**

Section 38.2

AMENDMENT:

Insert after section 38.1:

38.2. 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 115.30 and 115.31;”.

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Bill 89

**An Act to amend the Environment
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compliance**

Section 43

AMENDMENT:

Replace "115.30" by "115.31".

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AM 51
s. 44 (37)

Bill 89

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compliance**

Section 44

AMENDMENT:

Replace "115.49" by "115.57".

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Bill 89

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compliance**

Section 45

AMENDMENT:

Strike out.

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AC*

Bill 89

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compliance**

Section 47.1

AMENDMENT:

Insert after section 47:

47.1. Any penal provision of a regulation made by the Minister under section 109.1 of the Environment Quality Act before (*insert the date that is 30 days after the date of assent to this Act*) is valid even if the regulation was made by the Minister rather than the Government.

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Bill 89

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compliance**

Section 46

AMENDMENT:

1. Replace “of the Regulation” in the introductory clause by “of the Regulation respecting mandatory reporting of certain emissions of contaminants into the atmosphere (Order of the Minister of Sustainable Development, Environment and Parks, 2007, G.O. 2, 2833)”.
2. Insert “data or” after “inaccurate” in proposed section 8.

Adopted

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compliance**

Section 50

AMENDMENT:

Replace by:

50. 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 (*insert the date of the day preceding the date of assent to this Act*) continues to apply to a failure to comply with the regulations.

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Bill 89

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Section 2.0.1

AMENDMENT:

Insert after section 2:

2.0.1. Section 31.23 of the Act is amended by replacing "5" in subparagraph 2 of the first paragraph by "6".

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Bill 89

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compliance**

Section 2.0.2

AMENDMENT:

Insert after section 2:

2.0.2. 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;”.

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Bill 89

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compliance**

Section 24.1

AMENDMENT:

Insert after section 24:

24.1. Section 118.3.2 of the Act is amended by replacing everything after "pursuant to" in paragraph 1 by "this Act;".

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Bill 89

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compliance**

Section 26.1

AMENDMENT:

Insert after section 26:

26.1. 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.”

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Bill 89

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compliance**

Section 39.1

AMENDMENT:

Insert before section 40:

39.1. 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.”

Adopté
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compliance**

Section 40

AMENDMENT:

Replace by:

40. 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;”.

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Section 51

AMENDMENT:

Replace by:

51. This Act comes into force on (*insert the date that is 30 days after the date of assent to this Act*), except

(1) sections 9 and 11 and sections 115.13 to 115.27, enacted by section 21, which come into force on 1 February 2012;

(2) sections 42, 43 and 44, 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 (2009, chapter 21).

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SAM 1
AM 13
s. 21 (115.9)

Bill 89

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Section 21

AMENDMENT:

Withdraw paragraph 4.

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SAM 2
AM 13
s. 21 (115.10)

Bill 89

**An Act to amend the Environment
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compliance**

Section 21

AMENDMENT:

Replace "two years" in paragraph 3 of proposed section 115.10 by "one year".

*Adopted
RA*

SAM 3
AM 13
s. 21 (115.10)

Bill 89

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

Section 21

AMENDMENT:

Withdraw the second paragraph of proposed section 115.10.

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compliance**

Section 21

AMENDMENT:

Replace by:

"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.

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Subamendment 5 was withdrawn and is now called SAM d.

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Section 21

AMENDMENT:

In proposed section 115.13:

1. Insert "in connection with penal proceedings" after "penalties" in the introductory clause of the second paragraph;
2. Add the following paragraph:

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

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SAM 7
AM 13
s. 21 (115.13)

Bill 89

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compliance**

Section 21

AMENDMENT:

Add "For the purposes of the first paragraph," at the beginning of the second paragraph of proposed section 115.13.

adopted
AC

Bill 89

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Section 21

AMENDMENT:

Insert the following subparagraph after subparagraph 3 of the second paragraph of proposed section 115.13:

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

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SAM 9
AM 13
s. 21 (115.17)

Bill 89

**An Act to amend the Environment
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compliance**

Section 21

AMENDMENT:

Replace "60" in proposed section 115.17 by "30".

adopted
AC

SAM 10
AM 13
s. 21 (115.19)

Bill 89

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compliance**

Section 21

AMENDMENT:

Add “, unless the person deems it necessary to proceed in some other manner” at the end of the first sentence of proposed section 115.19.

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SAM 11
AM 13
s. 21 (115.21)

Bill 89

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compliance**

Section 21

AMENDMENT:

Replace "within one year after" in the second paragraph of proposed section 115.21 by "within two years after".

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SAM 12
AM 13
s. 21 (115.24)

Bill 89

**An Act to amend the Environment
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Section 21

AMENDMENT:

Strike out “, or fails to take decontamination measures” in subparagraph 2 of the first paragraph of proposed section 115.24.

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compliance**

Section 21

AMENDMENT:

Add the following paragraph after paragraph 7 of proposed section 115.25:

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

Adopted
AC

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compliance**

Section 21

AMENDMENT:

In proposed section 115.25,

1. Insert after paragraph 2:

(2.1) 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;

(2.2) 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;

2. Strike out paragraph 3.

3. Insert after paragraph 6:

(6.1) 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;

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Section 21

AMENDMENT:

Insert after subparagraph 1 of the first paragraph of proposed section 115.26:

(1.1) 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;

*Accepted
AC*

Bill 89

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compliance**

Section 21

AMENDMENT:

Replace paragraph 2 of proposed section 115.28 by:

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

*adopted
AC*

Bill 89

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Section 21

AMENDMENT:

In proposed section 115.29:

1. Strike out “1,” after “contravenes subparagraph”;
2. Insert “the first paragraph of section” after “31.63 or”;
3. Replace everything that follows “64.2” by “, 64.10 or 123.1”.

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Bill 89

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Section 21

AMENDMENT:

In paragraph 1 of proposed section 115.30:

1. Replace "subparagraph 3" by "subparagraph 1";
2. Insert "the second paragraph of section 31.83," after "31.57,";
3. Replace "70.9," by "section 70.9, the second paragraph of section 70.18, or section".

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SAM 1
AM 18
s. 21 (115.31)

Bill 89

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compliance**

Section 21

AMENDMENT:

Insert "subparagraph 3 of the first paragraph of section 31.23, or section" after "31.11," in paragraph 1 of proposed section 115.31.

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SAM 1
AM 34
s. 21 (115.53)

Bill 89

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compliance**

Section 21

AMENDMENT:

Add "or the review decision" after "the Minister's decision" in the first paragraph of proposed section 115.53.

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