

1982 BILL 15

Fourth Session, 19th Legislature, 31 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 15

CLEAN WATER AMENDMENT ACT, 1982

MR. PAHL

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 15
Mr. Pahl

BILL 15

1982

CLEAN WATER AMENDMENT ACT, 1982

(Assented to _____, 1982)

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Alberta, enacts as follows:

1 *The Clean Water Act is amended by this Act.*

2 *Section 1(m) is repealed and the following is substituted:*

(m) "water contaminant" means

(i) any solid, liquid or gas, or a combination of any of them, in water,

(ii) heat in water, resulting in a change in the temperature of surface water or underground fresh water;

3 *Section 3(1) is amended*

(a) *in subsection (1)*

(i) *by adding "or continue" after "commence";*

(ii) *in clause (f) by adding "the production and processing of inorganic chemicals," after "derivatives,";*

(iii) *in clause (j) by striking out " , prior to the commencement of construction,".*

(b) *in subsection (10) by striking out "\$1000" and substituting "\$5000".*

Explanatory Notes

1 This Bill will amend chapter C-13 of the Revised Statutes of Alberta 1980.

2 Section 1 presently reads in part:

1 *In this Act*

(m) "water contaminant" means

(i) any solid, liquid, gas or combination of any of them specified in the regulations as a water contaminant, or

(ii) heat in water as a result of the change in temperature of surface water specified in the regulations;

3 Section 3 presently reads in part:

3(1) *Subject to the regulations, no person shall commence the construction of*

(f) *a plant for primary metal production, metal processing, the processing of wood or wood products, the processing of coal, the processing of natural gas or its derivatives, the manufacture of asphalt or ready-mixed concrete or gravel crushing,*

(j) *a plant, structure or thing if the Director of Standards and Approvals has, prior to the commencement of construction, notified that person in writing that the proposed plant, structure or thing will, in the Director of Standards and Approvals' opinion, be a source of water pollution and that it is subject to this section,*

unless the Director of Standards and Approvals issues a permit for it.

4 *Section 4(6) is amended by striking out “and” at the end of clause (a) and by adding the following after clause (a):*

(a.1) specify requirements as to the manner and frequency of recording concentrations of water contaminants discharged or caused by the water facility that is the subject of the licence, and

5 *Section 7 is amended by adding the following after subsection (3):*

(4) The Director of Standards and Approvals may amend the requirements referred to in section 4(6)(a.1) on his own initiative or on application of the person who holds the licence.

6 *Section 14 is amended*

(a) in subsection (1)(a) by striking out “or” at the end of subclause (iii), by adding “or” at the end of subclause (iv) and by adding the following after subclause (iv):

(v) that was deposited or permitted to be deposited in contravention of section 17(1),

(b) in subsection (3) by adding the following after clause (e):

(f) to measure the rate of release or concentration, or both, of the water contaminant;

(g) to report to the Director of Pollution Control with respect to any matter ordered by him pursuant to clauses (a) to (f) in accordance with the directions specified in the order.

(10) A person who fails to comply with a notice given to him under subsection (7) or (9) on service of the notice or subsequently, is guilty of an offence and liable to a fine not exceeding \$1000 for each day during which any construction work was done in contravention of the notice.

4 Section 4(6) presently reads:

(6) The Director of Standards and Approvals may

(a) issue a licence subject to the terms and conditions he prescribes, including, but not limited to, terms and conditions prescribing the contaminants, concentrations, temperatures, amounts or rates of discharge referred to in section 3(1), and

(b) specify requirements as to the manner in which the water facility is to be operated,

but the terms, conditions or requirements must not be less stringent than those imposed by the regulations.

5 Allows the Director of Standards and Approvals to amend a licence with respect to monitoring requirements.

6 Section 14(1) and (3) presently read in part:

14(1) If it appears to the Director of Pollution Control

(a) that any surface water or underground fresh water in any part of Alberta contains a water contaminant

(i) in concentrations that exceed or in the opinion of the Director of Pollution Control will exceed the maximum permissible concentration in water prescribed with respect to that water contaminant by the regulations,

(ii) in concentrations that exceed or in the opinion of the Director of Pollution Control will exceed the maximum permissible calculated concentration prescribed with respect to that water contaminant by the regulations,

(iii) that has a disagreeable appearance, or

(iv) that is or is likely to be detrimental to life or health or to adversely affect property,

(b) that a water contaminant has been discharged or is being discharged into surface water or underground fresh water from a water facility

(i) in concentrations that exceeded, are exceeding or in the opinion of the Director of Pollution Control will exceed the maximum concentration permitted by the regulations to be released from a water facility, or

7 *Section 15(4) is amended by striking out “\$10 000” and substituting “\$50 000”.*

8 *The following is added after section 15:*

15.1 In a prosecution, proceeding or hearing under this Act or the regulations, the production of

(a) a certificate of variance or stop order purporting to have been signed by the Minister,

(b) an order, permit, licence or approval purporting to have been signed by the Director of Standards and Approvals, or

(c) an order or approval purporting to have been signed by the Director of Pollution Control,

or a certified copy of any of the documents referred to in clauses (a), (b) or (c) shall be admitted in evidence as prima facie proof of the facts stated in the document without proof of the signature or official character of the person signing the document.

(ii) in amounts that exceeded, are exceeding or in the opinion of the Director of Pollution Control will exceed the maximum amount or the maximum rate of discharge permitted by the regulations to be released from a water facility,

or

(c) that any surface water or underground fresh water has undergone or is likely to undergo a change in temperature in contravention of the regulations,

the Director of Pollution Control may issue one or more water quality control orders directed at persons owning or operating a water facility or plants, structures or things that the Director of Pollution Control considers to be the source of or one of the sources of the water contaminant or the change in temperature.

(3) The Director of Pollution Control may, in a water quality control order, order the person to whom it is directed

(e) to install, replace or alter any equipment or thing designed to control or eliminate the discharge of the water contaminant or the source of the heat.

7 Section 15(4) presently reads:

(4) A person to whom a stop order is directed and who, on and after the service of a copy of it on him, fails to comply with the order is guilty of an offence and liable to a fine of not more than \$10 000 for each day that the offence continues or to a term of imprisonment of not more than 12 months or to both fine and imprisonment.

8 Documentary evidence.

9 Section 16(4) is amended by striking out “\$1000” and substituting “\$5000”.

10 Section 17 is amended

(a) by repealing subsection (1) and substituting the following:

17(1) Subject to subsection (2), no person shall deposit or permit the deposit of a water contaminant

(a) in a watercourse,

(b) in surface water,

(c) in underground fresh water, or

(d) in any place under any conditions where that water contaminant or any other water contaminant that results from the deposit of the water contaminant may enter any watercourse, surface water or underground fresh water,

if it degrades, alters or forms part of or is likely to degrade, alter or form part of the process of degradation or alteration of the chemical or biological quality of water, so that the water in the watercourse, surface water or underground fresh water is or is likely to be rendered harmful to human health or life, fish, wildlife, livestock or plants.

(b) in subsection (2) by striking out “deleterious substance” and substituting “water contaminant”.

(c) by repealing subsections (5), (7) and (8).

9 Section 16(4) presently reads:

(4) A person who fails to comply with a direction given to him pursuant to subsection (3) within the time limited in the direction is guilty of an offence and liable to a fine of not more than \$1000 for each day that the contravention continues.

10 Section 17 presently reads in part:

17(1) Subject to subsection (2), no person shall deposit or permit the deposit of a deleterious substance of any type in a watercourse or in surface water or in any place under any conditions where the deleterious substance or any other deleterious substance that results from the deposit of the deleterious substance may enter any watercourse or any surface water.

(2) Subsection (1) does not apply to the deposit of a deleterious substance of a type, in a quantity and under terms and conditions stated

(a) in an approval or certificate issued by the Provincial Board of Health pursuant to the Public Health Act or regulations under it,

(5) In a prosecution for an offence under this section it is sufficient proof of the offence to establish that it was committed by an employee or agent of the person accused whether or not the employee or agent is identified or has been prosecuted for the offence, unless the person accused establishes that the offence was committed without his knowledge or consent and that he exercised all due diligence to prevent its commission.

(7) In this section, "deleterious substance" means

(a) any substance that, if added to any water, would degrade or alter or form part of the process of degradation or alteration of the quality of that water so that it is rendered deleterious to fish, wildlife, livestock or domestic animals,

(b) any surface water that contains a substance in a quantity or concentration, or that has been so treated, processed or changed, by heat or other means from a natural state that it would, if added to any other water, degrade or alter or form part of a process of degradation or alteration of the quality of that water so that it is rendered deleterious to fish, wildlife, livestock or domestic animals,

and without limiting the generality of the foregoing includes

(c) a substance or substance that is part of a class of substances prescribed pursuant to subsection (8)(a),

(d) surface water that contains a substance or a substance that is part of a class of substances in a quantity or concentration that is equal to or in excess of a quantity or concentration prescribed in respect of that substance or class of substances pursuant to subsection (8)(b), and

(e) water that has been subjected to a treatment, process or change prescribed pursuant to subsection (8)(c).

(8) The Minister may make regulations prescribing

11 Section 19 is amended by striking out “\$5000” and substituting “\$25 000”.

12 Section 21 is amended

(a) by repealing clause (b.1) and substituting the following:

(b.1) exempting any source of water contaminants from any or all of the provisions of this Act or the regulations;

(b) in clause (c) by striking out “sections 3, 4 and 5” and substituting “all or any of the provisions of this Act or the regulations”.

(c) by adding the following after clause (l):

(l.1) respecting the submission to the Director of Pollution Control or to any person designated by him of reports respecting releases of water contaminants;

(l.2) authorizing the Director of Pollution Control to prescribe the nature of the content of reports referred to in clause (l.1);

In accordance with section 4(1) of the Interpretation Act, this Bill comes into force on the date it receives Royal Assent.

- (a) substances and classes of substances,*
 - (b) quantities or concentrations of substances and classes of substances in water, and*
 - (c) treatments, processes and changes of water temperature,*
- for the purposes of subsection (7)(c), (d) and (e).*

11 Section 19 presently reads:

19 A person who is guilty of an offence under this Act or the regulations for which no penalty is expressly provided, is liable to a fine not exceeding \$5000 and in default of payment to a term of imprisonment not exceeding 3 months.

12 Section 21 presently reads in part:

21 The Lieutenant Governor in Council may make regulations

(b.1) exempting any water facility or class of water facilities from the operation of sections 3, 4 and 5;

(c) specifying a water facility or the type or class of water facilities that is subject to sections 3, 4 and 5;

(l) empowering the Director of Standards and Approvals to order a municipal corporation or other person to construct, improve, replace, extend, enlarge or modify any water facility or any part of a water facility, and prescribing the powers and duties of the municipal corporations or other persons to whom the orders are directed;