

1991 BILL 53

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Third Session, 22nd Legislature, 40 Elizabeth II

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THE LEGISLATIVE ASSEMBLY OF ALBERTA

# **BILL 53**

## **ENVIRONMENTAL PROTECTION AND ENHANCEMENT ACT**

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THE MINISTER OF THE ENVIRONMENT

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First Reading .....

Second Reading .....

Committee of the Whole .....

Third Reading .....

Royal Assent .....

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## BILL 53

1991

### ENVIRONMENTAL PROTECTION AND ENHANCEMENT ACT

(Assented to , 1991)

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#### Schedule

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

#### Definitions

#### 1 In this Act,

- (a) “activity” means an activity listed in the Schedule;
- (b) “adverse effect” means impairment of or damage to the environment, human health or safety or property;
- (c) “analyst” means an analyst designated by the Minister under section 22;
- (d) “animal” means any animal other than man;
- (e) “approval” means an approval issued under this Act in respect of an activity, and includes the renewal of an approval;
- (f) “Board” means the Environmental Appeal Board;
- (g) “certificate of qualification” means a certificate of qualification issued under this Act, and includes the renewal of such a certificate;

- (h) “class of substances” means any 2 or more substances
  - (i) that contain the same portion of chemical structure,
  - (ii) that have similar physico-chemical or toxicological properties, or
  - (iii) that have similar types of uses;
- (i) “conservation” means the planning, management and implementation of an activity with the objective of protecting the essential physical, chemical and biological characteristics of the environment against degradation;
- (j) “Co-ordinating Council” means the Sustainable Development Co-ordinating Council continued under section 6;
- (k) “council”, when used with reference to a local authority, includes a settlement council under the *Metis Settlements Act*;
- (l) “Department” means the Department of the Environment;
- (m) “designated material” means a designated material within the meaning of the regulations;
- (n) “Director” means a person designated as a Director under this Act by the Minister;
- (o) “document” includes a book, sound recording, videotape, film, photograph, chart, graph, map, plan, survey, book of account and any other information that is recorded or stored by means of a device;
- (p) “environment” means the components of the earth and includes
  - (i) air, land and water,
  - (ii) all layers of the atmosphere,
  - (iii) all organic and inorganic matter and living organisms, and
  - (iv) the interacting natural systems that include components referred to in subclauses (i) to (iii);

- (q) “Environmental Protection and Enhancement Fund” means the fund established under section 27;
- (r) “Environmental Protection Security Fund” means the fund continued under section 29;
- (s) “Government” means the Government of Alberta;
- (t) “government agency” means
  - (i) a corporation that is an agent of the Government, or
  - (ii) a corporation, commission, board or other body empowered to exercise quasi-judicial or governmental functions and whose members are appointed by an Act of the Legislature, the Lieutenant Governor in Council or a Minister of the Government, or any combination of them;
- (u) “hazardous recyclable” means hazardous waste that is to be recycled;
- (v) “hazardous substance” means
  - (i) a substance or mixture of substances, other than a pesticide, that exhibits characteristics of flammability, corrosivity, reactivity or toxicity, and
  - (ii) any substance that is designated as a hazardous substance within the meaning of the regulations;
- (w) “hazardous waste” means hazardous waste within the meaning of the regulations;
- (x) “highway” means highway within the meaning of the *Highway Traffic Act*;
- (y) “industrial development” means an industrial development within the meaning of the regulations;
- (z) “inspector” means a person who is an inspector by reason of section 22 or 24;
- (aa) “investigator” means a person who is an investigator by reason of section 22 or 24;

- (bb) “local authority” means
- (i) the corporation of a city, town, village, summer village, county or municipal district,
  - (ii) the board of administrators of a new town,
  - (iii) in the case of an improvement district or special area, the Minister of Municipal Affairs,
  - (iv) a Metis settlement,
  - (v) a regional services commission established under the *Regional Municipal Services Act*, or
  - (vi) the local board of a health unit;
- (cc) “mine” means any opening in, excavation in or working of the surface or subsurface for the purpose of working, recovering, opening up or proving any mineral or mineral-bearing substance, and includes works and machinery at or below the surface belonging to or used in connection with the mine;
- (dd) “minerals” means all naturally occurring minerals, including, without limitation, gold, silver, uranium, platinum, pitchblende, radium, precious stones, copper, iron, tin, zinc, asbestos, salts, sulphur, petroleum, oil, asphalt, bituminous sands, oil sands, natural gas, coal, anhydrite, barite, bauxite, bentonite, diatomite, dolomite, epsomite, granite, gypsum, limestone, marble, mica, mirabilite, potash, quartz rock, rock phosphate, sandstone, serpentine, shale, slate, talc, thenardite, trona and volcanic ash;
- (ee) “Minister” means the Minister of the Environment;
- (ff) “municipal development” means a municipal development within the meaning of the regulations;
- (gg) “municipality” means the geographical area inside the boundaries of the entities described in clause (bb)(i) to (iv);
- (hh) “owner”, with regard to land, means
- (i) the registered owner of the land,

- (ii) a purchaser of the land whose interest as a purchaser is shown on the certificate of title to that land, or
  - (iii) a tenant or other person who is in lawful possession or occupation of the land;
- (ii) “person responsible”, when used with reference to a substance or a thing containing a substance, means
- (i) the owner and a previous owner of the substance or thing,
  - (ii) every person who has or has had charge, management or control of the substance or thing, including the manufacture, sale, handling, use, storage, disposal, transportation, display or method of application of the substance or thing,
  - (iii) any successor, assignee, executor, administrator, receiver, receiver-manager or trustee of a person referred to in subclause (i) or (ii), and
  - (iv) a person who acts as the principal or agent of a person referred to in subclause (i), (ii) or (iii);
- (jj) “pest” means any injurious, noxious or troublesome plant or animal life and includes any injurious, noxious or troublesome organic function of a plant or animal;
- (kk) “pesticide” means
- (i) a substance intended, sold or represented for use in preventing, destroying, repelling or mitigating any insect, nematode, rodent, predatory animal, parasite, bacteria, fungus, weed or other form of plant or animal life or virus, except a virus, parasite, bacteria or fungus in living people or animals,
  - (ii) any substance that is a pest control product within the meaning of the *Pest Control Products Act* (Canada) or is intended for use as such a pest control product,
  - (iii) any substance that is a plant growth regulator, a defoliant or a plant desiccant,

- (iv) a fertilizer within the meaning of the *Fertilizers Act* (Canada) that contains a substance referred to in subclause (i), (ii) or (iii), and
- (v) any other substance designated as a pesticide in the regulations,

but does not include a substance that is intended, sold or represented for use in potable water to prevent or destroy bacteria, parasites or viruses where the substance is not a pest control product within the meaning of the *Pest Control Products Act* (Canada);

(ll) “pipeline” means

- (i) a pipe for the transmission of any substance and installations in connection with that pipe,
- (ii) a sewer or sewage system and installations in connection with that sewer or sewage system, or
- (iii) an underground pipe that contains telecommunication lines;

(mm) “pit” means an excavation in the ground made for the purpose of removing, opening up or proving sand, gravel, clay, marl, peat or any other substance, but does not include a mine or quarry;

(nn) “place” includes any land, building, structure, machine, aircraft, vehicle or vessel;

(oo) “potable water” means water that is supplied by a waterworks system and is used for drinking, cooking, bathing, dish washing or other domestic purposes;

(pp) “private development” means a private development within the meaning of the regulations;

(qq) “reclamation” or “reclaim” includes any or all of the following:

- (i) to remove equipment or buildings or other structures and appurtenances;
- (ii) to conduct investigations to determine the presence of substances;

- (iii) to decontaminate buildings or other structures and other appurtenances, or land or water;
- (iv) to stabilize, contour, maintain, condition or reconstruct the surface of land;
- (rr) “recycle” means to do anything that results in providing a use for a thing that otherwise would be disposed of or dealt with as waste, including collecting, transporting, handling, storing, sorting, separating and processing the thing, but does not include the application of waste to land or the use of a thermal destruction process;
- (ss) “registered owner”, with respect to land, means the person registered in a land titles office as the owner of the fee simple or a life estate in the land;
- (tt) “release” includes to spill, discharge, dispose of, spray, inject, inoculate, abandon, deposit, leak, seep, pour, emit, empty, throw, dump, place and exhaust;
- (uu) “storage” means the holding of a substance or thing for a temporary period at the end of which it is processed, used, transported, treated or disposed of;
- (vv) “storm drainage system” means any system for collecting, storing and disposing of storm drainage, and includes
  - (i) the sewers and pumping stations that make up the storm drainage collection system,
  - (ii) the storm drainage storage, management and treatment facilities that buffer the effects of the peak runoff or improve the quality of the storm water,
  - (iii) the sewers and pumping stations that transport storm drainage to the location where it is treated or disposed of, and
  - (iv) the storm drainage outfall structures;
- (ww) “substance” means
  - (i) any matter that
    - (A) is capable of becoming dispersed in the environment, or

- (B) is capable of becoming transformed in the environment into matter referred to in paragraph (A),
- (ii) any odor, sound, vibration, heat, radiation or form of energy, and
- (iii) any combination of things referred to in subclauses (i) and (ii);
- (xx) “surface water” means water in a watercourse and water at a depth of not more than 15 metres beneath the surface of the ground;
- (yy) “telecommunication line” means a system or arrangement of lines of wire or other conductors by which telephone or other kinds of communications are transmitted and received by electronic means;
- (zz) “this Act” means this Act and the regulations;
- (aaa) “transmission line” means a system or arrangement of lines of wire or other conductors and transformation equipment by which electric energy is transmitted, and includes installations in connection with that system, arrangement or equipment but does not include a power plant or electric distribution system as defined in the *Hydro and Electric Energy Act*;
- (bbb) “treat” means to apply any method, technique or process, including, without limitation, neutralization and stabilization, that is designed to change the physical, chemical or biological character or composition of a substance;
- (ccc) “vehicle” means a device in or by which a person or thing may be transported or drawn on a highway;
- (ddd) “waste management facility” means a facility for the collection, storage, treatment or disposal of waste;
- (eee) “wastewater system” means any system for collecting, treating and disposing of wastewater and includes
  - (i) sewers and pumping stations that make up a wastewater collection system,
  - (ii) sewers and pumping stations that transport untreated wastewater from a wastewater



- collection system to a wastewater treatment plant,
- (iii) wastewater treatment plants,
- (iv) facilities that provide storage for treated wastewater,
- (v) wastewater sludge treatment and disposal facilities,
- (vi) sewers that transport treated wastewater from a wastewater treatment plant to where it is disposed of, and
- (vii) treated wastewater outfall facilities, including the outfall structures to a watercourse or any appurtenances for disposal of treated wastewater to land or to wetlands;
- (fff) “water” means all water on or under the surface of the land;
- (ggg) “water distribution system” means a system of pipes, valves, fittings and appurtenances that is used to convey potable water from a waterworks system to the service connection at property boundaries;
- (hhh) “watercourse” means
  - (i) the bed and shore of a river, stream, lake, creek, lagoon, swamp, marsh or other natural body of water, or
  - (ii) a canal, ditch, reservoir or other man-made surface feature,
 whether it contains or conveys water continuously or intermittently;
- (iii) “waterworks system” means any system providing potable water to a municipality, municipal development, industrial development or private development and includes
  - (i) wells, surface water intakes or infiltration galleries which constitute the water supply,
  - (ii) water supply lines,

- (iii) on-stream and off-stream water storage facilities,
  - (iv) water pumphouses,
  - (v) water treatment plants,
  - (vi) potable water transmission mains,
  - (vii) potable water storage facilities,
  - (viii) potable water pumping facilities, and
  - (ix) watermains and related pumphouses and pressure reducing stations of the water distribution system;
- (jjj) “well”
- (i) when referring to a water well, means an opening in the ground, whether drilled or naturally occurring, that is used for
    - (A) the production of ground water for any purpose,
    - (B) obtaining data on ground water, or
    - (C) recharging an underground formation from which ground water can be recovered,
 and includes any related equipment, buildings, structures and appurtenances, but does not include a dugout;
  - (ii) when referring to a well other than a water well, means any well, whether or not a licence is required in respect of it under the *Oil and Gas Conservation Act*.

**Purpose of Act**

**2** The purpose of this Act is to support and promote the protection, enhancement and wise use of the environment while recognizing the following:

- (a) the protection of the environment is essential to the integrity of ecosystems, human health and the well-being of society;

- (b) the need for Alberta's economic growth and prosperity in an environmentally responsible manner and the need to integrate environmental protection and economic decisions in the earliest stages of planning;
- (c) the principle of sustainable development, which ensures that the utilization of resources and the environment today does not impair prospects for their use by future generations;
- (d) the importance of prevention or mitigation of the environmental impacts of policies, programs and decisions and development activities;
- (e) the need for Government leadership in areas of environmental research, technologies and protection standards;
- (f) the shared responsibility of all Alberta citizens for ensuring the protection, enhancement and wise use of the environment through individual actions;
- (g) the opportunities made available through this Act for citizens to provide advice on decisions affecting our environment;
- (h) the responsibility to work co-operatively with other provinces, the territories and the Government of Canada to prevent and minimize transboundary environmental impacts;
- (i) the responsibility of polluters to pay for the costs of their actions;
- (j) the important role of comprehensive and responsive action in administering and enforcing this Act.

Crown is  
bound

**3** Except where this Act specifically provides to the contrary, the Crown is bound by this Act.

Application

**4** Except where this Act specifically provides to the contrary, this Act applies to all land in Alberta.

## PART 1

### ADMINISTRATION

#### Consultation, Communication and Education

Advisory  
committees,  
experts

**5(1)** The Minister may

- (a) establish advisory committees and retain experts to report to the Minister with respect to
  - (i) the content and administration of this Act, and
  - (ii) any of the policies, programs, services or other matters under the Minister's administration,

and

- (b) specify the functions that the committees and experts are to perform, including the seeking of input from the public, and the manner in which and time period within which those functions are to be performed.

(2) The report of a committee established pursuant to subsection (1), including the recommendations and the reasons for them, shall be made public in the manner provided for in the regulations.

Sustainable  
Development  
Co-ordinating  
Council

**6** The Natural Resources Co-ordinating Council is continued as the Sustainable Development Co-ordinating Council.

Purpose of  
the Co-  
ordinating  
Council

**7(1)** The Co-ordinating Council may co-ordinate, review and make recommendations to the Minister on inter-departmental matters related to sustainable development and the protection of the environment.

(2) The Co-ordinating Council shall make its recommendations and reports to the Minister, who shall in a timely manner submit copies to the Executive Council.

Members of  
Co-ordinating  
Council

**8(1)** The Co-ordinating Council shall consist of

- (a) a Deputy Minister of the following departments of the Government, as designated by the Minister of each of those Departments:

- (i) Agriculture;
- (ii) Economic Development and Trade;
- (iii) Energy;
- (iv) Environment;
- (v) Federal and Intergovernmental Affairs;
- (vi) Forestry, Lands and Wildlife;
- (vii) Health;
- (viii) Municipal Affairs;
- (ix) Public Works, Supply and Services;
- (x) Recreation and Parks;
- (xi) Tourism;
- (xii) Transportation and Utilities;
- (b) the chairman of the Energy Resources Conservation Board;
- (c) the chairman of the Natural Resources Conservation Board;
- (d) the chief executive officer of the Environment Council of Alberta;
- (e) the president of the Alberta Research Council;
- (f) representatives from other government agencies and departments who are designated by the Minister.

(2) The Deputy Minister of the Department of the Environment is the chair of the Co-ordinating Council.

(3) Notwithstanding subsection (1), each member of the Co-ordinating Council may appoint in writing a person to be an alternate member of the Co-ordinating Council to act in that member's place as a member of the Co-ordinating Council in the event of that member's temporary absence or temporary inability to act.

Rules of operation	<p><b>9</b> The members of the Co-ordinating Council</p> <p>(a) may appoint other officers of the Council, and</p> <p>(b) may make rules governing the calling and conduct of meetings of the Council and any other matters pertaining to the conduct of its business and affairs.</p>
Quorum	<p><b>10</b> A majority of the members of the Co-ordinating Council or their respective alternate members constitutes a quorum.</p>
Interdepartmental committees	<p><b>11(1)</b> The Minister may establish one or more interdepartmental committees consisting of employees of the Government or of government agencies to co-ordinate and review matters related to this Act and advise the Minister on matters related to this Act and the protection of the environment generally.</p> <p>(2) The Director may establish one or more interdepartmental committees consisting of employees of the Government or of government agencies to advise the Director on a referral basis on matters related to this Act.</p> <p>(3) An interdepartmental committee may make rules governing its conduct, procedures and meetings.</p> <p>(4) An interdepartmental committee shall make and submit to the Minister or the Director, as the case may be, reports and recommendations on specific matters reviewed by it.</p>
Health issues	<p><b>12</b> The Minister shall, in recognition of the integrated relationship between human health and the environment, co-operate with and assist the Minister of Health in promoting human health through environmental protection.</p>
Powers and duties of Minister	<p><b>13</b> The Minister</p> <p>(a) is responsible for the establishment and co-ordination of the policies, programs, services and administrative procedures of departments of the Government and of government agencies in matters pertaining to the environment;</p> <p>(b) shall, as the representative of the Government, maintain a continuing liaison with the Government of Canada and agencies of that Government, the governments of other provinces and agencies of those governments, and local</p>

authorities in Alberta in relation to matters under the administration of the Minister;

- (c) shall compile, study and assess information related to the environment for the purpose of better carrying out the Minister's functions and responsibilities under this or any other Act with a view to providing that information to departments of the Government, government agencies and the public;
- (d) shall carry out and may participate in research projects related to matters pertaining to the environment;
- (e) shall conduct a continuing review of research related to any matter pertaining to the environment that is being carried out by the Government or government agencies or by others and shall promote the co-ordination of that research and of facilities used for that research;
- (f) shall maintain a library consisting of publications and other information relating to matters pertaining to the environment;
- (g) shall, unilaterally or in co-operation with other departments of the Government and government agencies, develop, publish and distribute educational materials with respect to the environment and shall co-ordinate, develop and deliver educational programs and services to assist Albertans to better understand the environment and become responsibly involved in the protection and wise use of the environment;
- (h) may, in co-operation with other departments of the Government, develop and implement economic and financial instruments and market-based approaches to achieve environmental protection, to achieve environmental quality goals in a cost effective manner and to provide methods of financing programs for environmental purposes;
- (i) shall generally do any acts the Minister considers necessary to promote the protection and wise use of the environment for the benefit of the people of Alberta and future generations.

Development  
of guidelines  
and  
objectives

**14(1)** In order to further the protection and wise use of the environment, the Minister shall, after having complied with any applicable regulations regarding public input or, in the absence of regulations, after having engaged in such public consultation as the

Minister considers appropriate, develop ambient environmental quality objectives in qualitative or quantitative terms for all or part of Alberta and develop regulations under section 116(c), (d), (e) and (h).

(2) For the purposes of subsection (1), the Minister may establish management areas in accordance with the regulations.

(3) In developing objectives and regulations under subsection (1), the Minister shall give due consideration to public input that he has received.

(4) Objectives and regulations developed under subsection (1) shall be made available to the public in accordance with the regulations.

(5) The Minister may develop other guidelines and objectives to meet goals or purposes toward which the Government's environmental protection efforts are directed, including procedures, practices and methods for monitoring, analysis and predictive assessment.

State of the  
environment  
reporting

**15** The Minister shall report annually on the state of the Alberta environment.

### **General Administrative Matters**

Adminis-  
tration of Act

**16** Except as otherwise provided in this Act, the Minister is charged with the administration of this Act.

Delegation

**17(1)** The Minister may in writing delegate to any employee of the Government, of a government agency or of a local authority any power or duty conferred or imposed on the Minister under this Act.

(2) Subsection (1) does not apply to the power or duty to make regulations.

Transfer of  
administration

**18(1)** The Minister may by agreement in writing or by regulation, and after consultation with the other Minister or the government agency or local authority, transfer the administration of a provision of this Act to

(a) another Minister of the Government,



(b) a government agency, or

(c) a local authority

and may specify the terms and conditions under which and subject to which the transfer is made.

(2) Where the administration of a provision of this Act has been transferred under subsection (1) and in the Minister's opinion the other Minister, the government agency or the local authority is not properly administering the provision, the Minister may, after serving written notice on the other Minister, the government agency or the local authority, cause inspectors or investigators designated by the Minister to carry out the provision.

(3) The Minister may take any steps that are necessary to revoke a transfer of administration under subsection (1) where the Minister considers it appropriate to do so.

**Agreements**

**19** The Minister may on behalf of the Government enter into agreements relating to any matter pertaining to the environment with

(a) the government of another jurisdiction or a department or agency of such a government,

(b) a government agency, or

(c) any person.

**Emergency  
response  
plan**

**20** The Minister may, in co-operation with representatives of other departments of the Government and government agencies and with other persons, formulate plans for effective co-ordinated action in cases of emergency to prevent, alleviate, control or stop the destruction of, loss of or damage to the environment.

**Agreements  
with land  
owners**

**21(1)** In order to protect and enhance the environment, the Minister may enter into an agreement with the registered owner of land to restrict the purposes for which that land may be used by the registered owner and the successors in title of the registered owner.

(2) An agreement under this section may provide for the payment of compensation by the Government or by the registered owner of the land.

(3) An agreement under this section may be registered under the *Land Titles Act*.

(4) An agreement registered under the *Land Titles Act* runs with the land and the Minister may enforce it whether or not it is positive or negative in nature and notwithstanding that the Government does not have an interest in any land that would be accommodated or benefited by the agreement.

(5) On the expiration or termination of an agreement registered under the *Land Titles Act*, the Registrar of Land Titles shall, on being directed to do so by the Minister, cancel the registration of the agreement.

(6) This section applies notwithstanding section 52 of the *Land Titles Act*.

(7) No agreement under this section shall be deemed to be an encumbrance within the meaning of the *Land Titles Act* or the *Tax Recovery Act*.

**Designation  
of officials**

**22(1)** The Minister may by order designate employees of the Government under the administration of the Minister as Directors for the purposes of all or a part of this Act.

(2) A Director may designate any employee of the Government as an acting Director to act in that Director's place in the case of his temporary absence or inability to act.

(3) The Minister may by order designate as an inspector, investigator or analyst for the purposes of this Act any person who in the opinion of the Minister is qualified to be so designated and is employed by

(a) a department of the Government or a government agency,

(b) a local authority, or

(c) a department or agency of the Government of Canada

in the administration of a law respecting the protection of the environment.

(4) The Minister may not designate a person under subsection (3) without the approval of that person's employer.

(5) A member of the Conservation and Reclamation Council

- (a) is an inspector, and
- (b) may be designated as an investigator by the Minister.

(6) A designation under subsection (3) or (5) may direct that the authority of the inspector, investigator or analyst be exercised subject to any terms and conditions that the Minister prescribes in the designation, including limitations on the scope of the designation.

Powers of  
inspector

**23** For the purposes of acting under this Act an inspector has, subject to any terms and conditions of his designation, all the powers and is subject to all the duties of an investigator under section 187(1)(a) to (e), (f)(ii), (h) and (i), section 187(2), section 191 and section 196.

Local  
authority  
inspectors  
and  
investigators

**24(1)** Each local authority shall designate a sufficient number of inspectors and investigators to carry out the administration of provisions of this Act that are transferred to it under section 18.

(2) A local authority shall immediately advise the Minister in writing of designations and changes to designations under subsection (1).

Identification  
card

**25** The Minister, in the case of an inspector or investigator designated under section 22, and a local authority, in the case of an inspector or investigator designated under section 24, shall furnish the inspector or investigator with an identification card and, on entering any place, the inspector or investigator shall, on request, produce the identification card and identify and explain the nature of the powers or duties the inspector or investigator wishes to carry out.

Designation  
of approved  
laboratories

**26** The Minister may designate laboratories as approved laboratories that may conduct laboratory analyses for the purposes of this Act.

Environ-  
mental Pro-  
tection and  
Enhancement  
Fund

**27(1)** There is hereby established the Environmental Protection and Enhancement Fund to be used for the following purposes:

- (a) to pay for initial expenditures incurred in taking emergency measures under section 110, 136 or 144;
- (b) to pay for the cost of action taken by the Director under section 205 or 232;

- (c) to pay for the costs of conservation and reclamation after the prescribed date referred to in section 126(3);
  - (d) any other purpose prescribed in the regulations.
- (2) There shall be deposited into the Environmental Protection and Enhancement Fund money from the sources prescribed in the regulations.
- (3) The Provincial Treasurer shall on the direction of the Minister transfer to the Environmental Protection and Enhancement Fund money from the Environmental Protection Security Fund in the manner and amounts and at the times provided for in the regulations.
- (4) The Provincial Treasurer shall, on the requisition of the Minister, advance from the General Revenue Fund to the Environmental Protection and Enhancement Fund any money required by the Minister for the purposes referred to in subsection (1).
- (5) The net amount outstanding at any time in respect of advances under subsection (4) shall not exceed the amount prescribed in the regulations.
- (6) As soon as is practicable after the end of each fiscal year, the Minister, for the purposes of section 77 of the *Financial Administration Act*, shall ensure the preparation of financial statements covering the Environmental Protection and Enhancement Fund for the immediately preceding fiscal year and a summary of the Fund's assets and liabilities.
- (7) The financial statements and summary of assets and liabilities shall be audited by the Auditor General.

**28(1)** The Minister shall establish and administer a revolving fund for the purposes of this Act, in accordance with the regulations.

- (2) The Provincial Treasurer, on the requisition of the Minister, may make advances from the General Revenue Fund to the revolving fund of any sums the Minister may require to pay for machinery, equipment, services, stock or materials required by the Department or for any other purposes prescribed in the regulations.
- (3) The net amount of the advances under subsection (2) at any time shall not exceed the amount prescribed in the regulations.

Environ-  
mental Pro-  
tection  
Security Fund

**29(1)** The Surface Reclamation Fund is continued as the Environmental Protection Security Fund.

**(2)** The Environmental Protection Security Fund shall be held and administered by the Provincial Treasurer in accordance with this Act, and the Provincial Treasurer shall maintain a separate accounting record of the Fund.

**(3)** All money required to be deposited with the Government as security in respect of an approval or certificate of qualification or under section 88, 119, 150 or 155 shall be paid into the Environmental Protection Security Fund.

Annual report  
re Environ-  
mental  
Protection  
Security Fund

**30(1)** The Minister shall, as soon as is practicable after the end of each fiscal year, prepare a report regarding the operation of the Environmental Protection Security Fund during the preceding fiscal year.

**(2)** A report prepared under subsection (1) shall be placed by the Minister before the Legislative Assembly if it is then sitting and, if not, within 15 days after the commencement of the next sitting.

Disposition of  
money in En-  
vironmental  
Protection  
Security Fund

**31** The Minister may in accordance with this Act direct the Provincial Treasurer with respect to the return, forfeiture, retention, transfer or expenditure of money paid into the Environmental Protection Security Fund.

Economic  
instruments

**32** The Minister may, in accordance with the regulations, establish programs and other measures for the use of economic and financial instruments and market-based approaches, including without limitation

- (a) emission trading,
- (b) incentives,
- (c) subsidies,
- (d) taxes,
- (e) emission, effluent and waste disposal fees, and
- (f) differential levies,

for the purposes of protecting the environment, achieving environmental quality goals in a cost effective manner and providing methods of financing for environmental purposes.

Disclosure of  
information

**33(1)** Subject to this section, the following information in the possession of the Government that is provided to or created by the Government in the administration of this Act is public information and shall be disclosed to the public in the form and manner provided for in the regulations:

- (a) information in respect of a proposed activity that is provided to the Government for the purposes of Part 2, Division 1 by a proponent within the meaning of that Part and documents and information in the register referred to in section 53;
- (b) information that is provided to the Government by
  - (i) an applicant for an approval or a certificate of variance;
  - (ii) the holder of an approval, in respect of an application to change an activity or to amend a term or condition in an approval or add a term or condition to or delete a term or condition from an approval;
- (c) approvals;
- (d) certificates of qualification;
- (e) certificates of variance;
- (f) environmental and emission monitoring data and the processing information necessary to interpret that data;
- (g) statements of concern;
- (h) notices of objection;
- (i) reclamation certificates;
- (j) enforcement orders;
- (k) environmental protection orders;
- (l) any other information that the Minister considers should be public information.

**(2)** Where information referred to in subsection (1) is provided to the Government and relates to a trade secret, process or technique that the person submitting the information keeps confidential, the

person submitting the information may make a request in writing to the Board that the information be kept confidential and not be disclosed.

(3) Where the Board receives a request for confidentiality under subsection (2), it shall

- (a) approve the request and order that the information be kept confidential and not be disclosed where it considers that the request is well founded, or
- (b) refuse the request where it considers that the request is not well founded.

(4) The Board shall forthwith notify a person who makes a request for confidentiality of the Board's refusal of the request under subsection (3)(b).

(5) Where the Board is considering a request for confidentiality or approves a request for confidentiality, no person involved in the administration of this Act may disclose any of the information to which the request relates except

- (a) to any other person involved in the administration of this Act or of another law related to the protection of the environment or to the government of another jurisdiction or an agency of such a government for the purposes of administering a law related to the protection of the environment,
- (b) to the person who provided the information or any other person with his consent, or
- (c) as required by any other law or by an order of a court.

(6) No person to whom information is disclosed under subsection (5) may further disclose the information or use the information for any purpose other than the purpose for which it was disclosed to that person.

(7) Information relating to a matter that is the subject of an investigation or proceeding under this Act may not be released under subsection (1).

(8) Sections 86(1), (5) and (6) and 87 apply to the Board when acting under this section.

**34** Where any notice, request, order, direction or other communication is required to be given in writing or served under this Act, it shall be deemed to be sufficiently given or served if it is

- (a) personally given to or served on the person to whom it is directed,
- (b) sent by mail addressed to the person to whom it is directed at the last known address for that person, or
- (c) in the case of a registered owner of land, sent by mail to the address for the registered owner shown on the assessment roll.

**35** The Minister may make regulations

- (a) providing for the manner in which reports of advisory committees are to be made public;
- (b) authorizing and providing for the payment of remuneration and expenses to members of advisory committees and to experts;
- (c) providing for any other matter considered necessary to carry out the purposes of advisory committees and experts;
- (d) establishing criteria to be applied by the Director in making any decision that the Director is authorized to make under section 41, 42, 64, 65, 77 or 78;
- (e) respecting the manner of engaging in public consultation in the development of guidelines, objectives and regulations referred to in section 14 and the manner of making the guidelines and objectives available to the public;
- (f) respecting the establishment of management areas for the purposes of sections 14 and 32;
- (g) providing for the form and manner in which information is to be made available to the public for the purposes of section 33(1);
- (h) establishing fees for any information, documents, service or material provided in the course of the administration of this Act and for the filing of any returns, reports or



other documents that are required or permitted to be filed under this Act;

- (i) respecting the establishment and administration of the revolving fund;
- (j) prescribing additional purposes for which money in the revolving fund may be used;
- (k) respecting the administration of the Environmental Protection and Enhancement Fund;
- (l) prescribing forms for the purposes of this Act where the power to prescribe forms is not otherwise specifically provided for.

Lieutenant  
Governor in  
Council  
regulations

**36** The Lieutenant Governor in Council may make regulations

- (a) adding activities to or deleting activities from the Schedule;
- (b) authorizing the Minister to expropriate on behalf of the Government any estate or interest in land if the Minister considers it necessary to do so for the purpose of carrying out this Act;
- (c) authorizing and respecting the establishment of programs and other measures for the purposes of section 32;
- (d) prescribing the money that is to be deposited into the Environmental Protection and Enhancement Fund;
- (e) prescribing additional purposes for which money in the Environmental Protection and Enhancement Fund may be used;
- (f) prescribing the maximum amount of outstanding advances for the purposes of sections 27(5) and 28(3);
- (g) respecting the administration of the Environmental Protection Security Fund.

**PART 2**  
**ENVIRONMENTAL ASSESSMENT PROCESS**  
**AND APPROVALS**

- Definitions**      **37** In this Part,
- (a) “environmental impact assessment report” means an environmental impact assessment report required to be prepared under this Part;
  - (b) “environmental assessment process” means the procedure established under Division 1 for reviewing proposed activities;
  - (c) “mandatory activity” means an activity designated as a mandatory activity under the regulations;
  - (d) “proponent” means a person, a department of the Government, a government agency or a department or agency of a government of another jurisdiction that proposes to undertake an activity.

**Division 1**  
**Environmental Assessment Process**

- Purpose of environmental assessment process**      **38** The purpose of the environmental assessment process is
- (a) to support the goals of environmental protection and sustainable development,
  - (b) to integrate environmental protection and economic decisions at the earliest stages of planning an activity,
  - (c) to predict the consequences of a proposed activity from the environmental, social, economic and cultural perspectives and to develop plans to mitigate any adverse effects;
  - (d) to provide for the involvement of the public, proponents, departments of the Government and government agencies in the review of proposed activities.

Director's  
power to  
require  
assessment

**39** Where any Director of the Department is of the opinion that the potential environmental impacts of a proposed activity warrant further consideration under the environmental assessment process, that Director may by notice refer the proponent to the Director so that the proposed activity may be dealt with under section 41.

Director's  
power to  
require  
environmental  
assessment

**40** Where the Director is of the opinion that the potential environmental impacts of the proposed activity warrant further consideration under the environmental assessment process, the Director may by notice in writing to the proponent advise the proponent that the proposed activity must be dealt with under section 41.

Screening by  
Director

**41(1)** Where a proponent is referred to the Director under section 39, where the Director gives a notice under section 40 or where a proponent on his own initiative consults with the Director in respect of the application of this Division to a proposed activity, the Director shall,

- (a) if the proposed activity is a mandatory activity, direct the proponent by order in writing to prepare and submit an environmental impact assessment report in accordance with this Division, or
- (b) if the proposed activity is not a mandatory activity,
  - (i) ensure that further assessment of the proposed activity is undertaken where the Director is of the opinion that the potential environmental impacts of the proposed activity warrant further consideration under the environmental assessment process, or
  - (ii) exempt the proposed activity from further assessment and, if it is an activity for which an approval is required, advise the proponent that it may apply for the approval.

**(2)** The Director may require a proponent to submit a disclosure document in the form and containing the information required by the Director to assist the Director in making a decision under subsection (1)(b).

**(3)** In making a decision under subsection (1)(b) the Director shall consider the following:

- (a) the location, size and nature of the proposed activity;

- (b) the complexity of the proposed activity and the technology to be employed in it;
- (c) any concerns in respect of the proposed activity that have been expressed by the public and of which the Director is aware;
- (d) the presence of other similar activities in the same general area;
- (e) any other criteria established in the regulations;
- (f) any other factors the Director considers to be relevant.

(4) The Director shall notify the proponent in writing of a decision made under subsection (1)(b).

(5) The proponent shall in accordance with the regulations provide notice of a decision of the Director under subsection (1)(b)(i).

(6) Any person who is directly affected by a proposed activity that is the subject of a decision of the Director under subsection (1)(b)(i) may, within 30 days after the last notice under subsection (5) or within any longer period determined by the Director in the notice, submit a written statement of concern to the Director setting out the person's concerns with respect to the proposed activity.

on  
ental  
ent **42(1)** Where the Director decides under section 41(1)(b)(i) that further assessment of a proposed activity is required, the Director shall on completion of such further assessment

- (a) decide whether preparation of an environmental impact assessment report is required, and
- (b) prepare a screening report summarizing his decision

in accordance with the regulations.

(2) Where the Director decides under subsection (1) that preparation of an environmental impact assessment report is not required, the Director shall advise the proponent of that fact and, if the activity is one for which an approval is required, advise the proponent that it may apply for the approval.

(3) Where the Director decides under subsection (1) that preparation of an environmental impact assessment report is required, the Director shall by order in writing direct the proponent to prepare and submit the report in accordance with this Division.

(4) The Director shall provide notice of his decision regarding preparation of an environmental impact assessment report under subsection (1)(a) in accordance with the regulations.

(5) The Director shall publish or otherwise make available the screening report or a summary of it in accordance with the regulations.

Effect of  
statement of  
concern

**43** The Director shall, in accordance with the regulations, give due consideration to all statements of concern that have been submitted and shall not make a decision under section 42(1)(a) until the applicable period referred to in section 41(6) has expired.

Minister may  
order  
environmental  
impact  
assessment  
report

**44** Notwithstanding that the Director has not ordered an environmental impact assessment report, if the Minister is of the opinion that such a report is necessary because of the nature of a proposed activity, the Minister may by order in writing direct the proponent to prepare and submit the report in accordance with this Division.

Terms of  
reference

**45(1)** Where a proponent is required to prepare an environmental impact assessment report, the proponent shall prepare proposed terms of reference for the preparation of the report in accordance with guidelines provided to the proponent by the Director and shall submit the proposed terms of reference to the Director.

(2) The Director shall publish or otherwise make available or require the proponent to publish or otherwise make available the proposed terms of reference in accordance with the regulations.

(3) After allowing what the Director considers to be a reasonable time for the receipt of comments in respect of the proposed terms of reference, and after giving due consideration to those comments, the Director shall issue final terms of reference for the preparation of the report to the proponent.

(4) The proponent shall publish or otherwise make available the final terms of reference in accordance with the regulations.

Contents of  
environmental  
impact  
assessment  
report

**46** An environmental impact assessment report must be prepared in accordance with the final terms of reference issued by the Director under section 45(3) and must include any of the following information required by the Director:

- (a) a description of the proposed activity and an analysis of the need for the activity;

- (b) an analysis of the site selection procedure for the proposed activity, including a statement of the reasons why the proposed site was chosen and a consideration of alternative sites;
- (c) an identification of existing baseline environmental conditions and areas of major concern that should be considered;
- (d) a description of potential positive and negative impacts of the proposed activity from the environmental, social, economic and cultural perspectives, including cumulative, regional, temporal and spatial considerations;
- (e) an analysis of the significance of the potential impacts as identified under clause (d);
- (f) the plans that have been or will be developed to mitigate the potential negative impacts as identified under clause (d);
- (g) an identification of issues related to human health that should be considered;
- (h) a consideration of the alternatives to the proposed activity, including the alternative of not proceeding with the proposed activity;
- (i) the plans that have been or will be developed to monitor environmental impacts that are predicted to occur and the plans that have been or will be developed to monitor proposed mitigation measures;
- (j) the contingency plans that have been or will be developed in order to respond to unpredicted negative impacts;
- (k) the plans that have been or will be developed for waste minimization and recycling;
- (l) the manner in which the proponent intends to implement a program of public consultation in respect of the undertaking of the proposed activity and to present the results of that program;
- (m) the plans that have been or will be developed to minimize the production or the release into the environment of substances that may have an adverse effect;

- (n) the final terms of reference issued by the Director under section 45(3);
- (o) any other information that the Director considers necessary to assess the proposed activity.

Submission of environmental impact assessment report to Director	<b>47</b> The proponent shall submit the environmental impact assessment report to the Director for review.
Provision of further information	<b>48</b> The Director may, at any time after receipt of an environmental impact assessment report under section 47, require the proponent to submit to the Director any additional information respecting the proposed activity that the Director considers necessary.
Publication of environmental impact assessment report	<b>49</b> The Director shall in accordance with the regulations publish or otherwise make available the environmental impact assessment report or a summary of it, or require the proponent to do so.
Powers of Director	<p><b>50</b> Where in the opinion of the Director an environmental impact assessment report is complete the Director shall</p> <ul style="list-style-type: none"> <li>(a) advise the Energy Resources Conservation Board that the report is complete, in a case where the proposed activity is one in respect of which the approval of the Energy Resources Conservation Board is required,</li> <li>(b) advise the Natural Resources Conservation Board that the report is complete, in a case where the proposed activity is a reviewable project within the meaning of the <i>Natural Resources Conservation Board Act</i>, or</li> <li>(c) in any other case, submit the environmental impact assessment report to the Minister.</li> </ul>
Powers of Minister	<b>51(1)</b> Subject to section 61(1), where the Director submits an environmental impact assessment report to the Minister and the proposed activity is one in respect of which an approval is required, the Minister may advise the proponent that the proponent may apply for an approval.

(2) Notwithstanding anything in this Act, the Minister may refer a proposed activity to the Lieutenant Governor in Council with the recommendation that the Lieutenant Governor in Council make an order prescribing the proposed activity as a reviewable project within the meaning of the *Natural Resources Conservation Board Act*.

Additional  
power of  
Minister

**52** Where a proposed activity is not one referred to in section 50(a) or (b), the Minister may make any recommendations in respect of the proposed activity that he considers necessary to any person, government agency, department or agency of any government that may thereafter be dealing with the proposed activity.

Register of  
environmental  
assessment  
information

**53** The Director shall establish and maintain in accordance with the regulations a register containing such documents and other information as the regulations require that are provided to the Director or created or issued by the Director under this Division.

Inter-  
jurisdictional  
agreements  
re  
environmental  
assessment

**54** Where an enactment of Canada or of another province contains provisions that operate for substantially the same purpose as corresponding provisions of this Division, the Minister may, with respect to a proposed activity that is governed in part by the laws of Alberta and in part by the laws of Canada or the other province, enter into agreements with any Minister or agency of the Government of Canada or of the other province for any or all of the following purposes:

- (a) to determine what aspects of the activity are governed by the laws of both jurisdictions;
- (b) to provide for the carrying out jointly by both jurisdictions
  - (i) of the environmental assessment process, or any part of it, for the purposes of this Division, or
  - (ii) of the provisions in any enactment of the other jurisdiction that operate for substantially the same purpose as this Division;
- (c) to provide for the adoption by one or both jurisdictions, for the purposes of their environmental assessment requirements, of



- (i) all or part of the environmental assessment or review process of the other jurisdiction, and
- (ii) reports and similar documents prepared by or under the authority of the laws of the other jurisdiction as part of the environmental assessment or review process of that jurisdiction.

Ministerial  
regulations

**55** The Minister may make regulations

- (a) respecting the establishment and maintenance of a register for the purposes of section 53;
- (b) establishing procedures governing the environmental assessment process;
- (c) varying the application of this Division as necessary in a case where an agreement under section 54 is entered into;
- (d) establishing mechanisms and procedures
  - (i) for the publishing, providing or making available of anything required or permitted to be published, provided or made available under this Division, and
  - (ii) for the providing of any notice required or permitted to be provided under this Division;
- (e) respecting the preparation of screening reports for the purposes of section 42;
- (f) respecting the form and content of environmental impact assessment reports;
- (g) respecting the form and content of orders under sections 42(3) and 44;
- (h) respecting proposed and final terms of reference for the purposes of section 45.

Lieutenant  
Governor in  
Council  
regulations

**56** The Lieutenant Governor in Council may make regulations

- (a) designating mandatory activities;

- (b) exempting activities or classes of activities from the application of the environmental assessment process.

## **Division 2 Approvals and Certificates**

Prohibition - mens rea      **57** No person shall knowingly commence or continue any activity designated by the regulations as requiring an approval unless that person holds the appropriate approval.

Prohibition - strict liability      **58** No person shall commence or continue any activity designated by the regulations as requiring an approval unless that person holds the appropriate approval.

Exception      **59** Nothing in section 57 or 58 prohibits the doing of any work that is specified in the regulations as being work that is permitted in order that a proponent can comply with Division 1.

Compliance with other requirements      **60** Unless the regulations provide otherwise, the Director may not issue an approval without being satisfied

(a) that Division 1, if applicable, has been complied with, and

(b) that, in a case where the activity to which the approval relates requires the approval of the Energy Resources Conservation Board or is governed by the *Natural Resources Conservation Board Act*, the applicable requirements of those Boards have been complied with.

No approval on Minister's order      **61(1)** Where the Minister is of the opinion that a proposed activity should not proceed because it is not in the public interest having regard to the purposes of this Act, the Minister may at any time by notice in writing to the proponent, with a copy to the Director, order that no approval be issued in respect of the proposed activity.

**(2)** Where the Minister has made an order under subsection (1) in respect of a proposed activity, the Director may not issue an approval in respect of that activity.

Application  
for approval

**62(1)** An application for an approval must be made in the manner provided for in the regulations and must contain and be accompanied by the information required by the regulations.

(2) The Director may require an applicant for an approval to submit any additional information the Director considers necessary.

Change of  
activity or  
thing subject  
to an  
approval

**63(1)** No person shall in any manner change an activity that is the subject of an approval unless an approval or an amendment to an approval authorizing the change is issued by the Director.

(2) A person who wishes to change an activity under subsection (1) shall apply to the Director in accordance with the regulations.

(3) This section does not apply to adjustments, repairs, replacements or maintenance made in the normal course of operations.

Issue of  
approval

**64(1)** The Director may issue or refuse to issue an approval.

(2) The Director may issue an approval subject to any terms and conditions the Director considers appropriate.

(3) The terms and conditions of an approval may be more stringent, but may not be less stringent, than applicable terms and conditions provided for in the regulations.

(4) In making a decision under this section the Director shall, in addition to any criteria that the Director is required by the regulations to consider, consider any environmental impact assessment reports that have been prepared and any applicable decision of the Energy Resources Conservation Board and the Natural Resources Conservation Board in respect of the subject-matter of the approval.

(5) An approval is valid for the period specified in the approval.

Amendment  
and  
cancellation  
of approvals

**65(1)** On application by an approval holder the Director may

(a) amend a term or condition in an approval or add a term or condition to or delete a term or condition from an approval, or

(b) cancel an approval

if the Director considers it appropriate to do so in accordance with the regulations.

(2) If the Director considers it appropriate to do so, the Director may on his own initiative in accordance with the regulations

- (a) amend a term or condition in an approval or add a term or condition to or delete a term or condition from an approval if an adverse effect that was unforeseen by the Director at the time the approval was issued occurs or may occur,
- (b) amend a term or condition in or add a term or condition to or delete a term or condition from an approval if the term or condition relates to a monitoring or reporting requirement,
- (c) amend a term or condition in or add a term or condition to or delete a term or condition from an approval where the purpose of the amendment, addition or deletion is to address matters related to a temporary suspension of the activity by the approval holder,
- (d) cancel an approval issued in error, or
- (e) correct a clerical error in an approval.

(3) The Director shall give at least 30 days' written notice to the approval holder of any proposed amendment, addition or deletion under subsection (2)(a), (b) or (c).

Director's  
power to  
modify

#### **66** Where the Director

- (a) issues an approval, or
- (b) amends a term or condition in an approval or adds a term or condition to or deletes a term or condition from an approval,

the Director may do so as originally contemplated in the application or proposal or with modifications, having given consideration to the statements of concern submitted and to other relevant information.

Public notice  
of  
applications  
and proposed  
changes

#### **67(1)** Where the Director receives

- (a) an application for an approval under section 62,

- (b) an application under section 63(2) in respect of an approval authorizing a change to an activity, or
- (c) an application under section 65(1)(a) to amend a term or condition in an approval or add a term or condition to or delete a term or condition from an approval,

the Director shall, in accordance with the regulations, provide or require the applicant to provide notice of the application.

(2) Where the Director proposes to make an amendment, addition or deletion pursuant to section 65(2)(a), (b) or (c), the Director shall provide notice to that effect in accordance with the regulations.

(3) Notwithstanding subsection (1) or (2), where the Director is satisfied that

- (a) there is an emergency,
- (b) the activity to which the application relates or the proposed amendment, addition, deletion or change is a routine matter within the meaning of the regulations, or
- (c) adequate notice of the subject-matter of the application or the proposed amendment, addition, deletion or change has already been given,

the Director may waive the notice requirements set out in subsections (1) and (2).

Statement of  
concern

**68(1)** Where notice is provided under section 67(1) or (2), any person who is directly affected by the application, amendment, addition, deletion or change, including the approval holder in a case referred to in section 67(2), may submit to the Director a written statement of concern setting out that person's concerns with respect to the application or the proposed amendment, addition, deletion or change.

(2) A statement of concern must be submitted within 30 days after the last providing of the notice or within any longer period determined by the Director in the notice.

(3) The Director shall give due consideration to all statements of concern submitted under this section before making a decision on the application or proposal.

Notice of  
decision  
taken

**69(1) Where the Director**

- (a) issues an approval,
- (b) makes an amendment, addition or deletion pursuant to an application under section 65(1)(a), or
- (c) makes an amendment, addition or deletion pursuant to section 65(2)(a), (b) or (c)

the Director shall

- (d) where no notice of the application or proposed changes was provided by reason of the operation of section 67(3), provide or require providing of notice of the decision in accordance with the regulations, or
- (e) where notice of the application or proposed changes was provided under section 67(1) or (2), provide notice or require the providing of notice of the decision in accordance with the regulations to every person who submitted a statement of concern.

(2) The Director shall give to the applicant or the approval holder, as the case may be, written notice of any decision made by the Director to issue or refuse to issue an approval or to make or refuse to make an amendment, addition or deletion under this Division.

(3) The Director shall, in accordance with the regulations, provide to any person who submitted a statement of concern notice of any decision made by the Director to refuse to issue an approval or to refuse to make an amendment, addition or deletion under this Division.

Cancellation  
of approval

**70(1)** The Director may cancel or suspend an approval where the Director considers that it is appropriate to do so.

(2) The Director shall immediately on cancelling or suspending an approval under subsection (1)

- (a) give notice in writing of the cancellation or suspension to the approval holder, and
- (b) provide notice of the cancellation or suspension in the manner provided for in the regulations.

Transfer of approval	<p><b>71(1)</b> No person shall transfer, sell, lease, assign or otherwise dispose of an approval except in accordance with the regulations.</p> <p>(2) The Director may impose any terms and conditions on the transfer, sale, lease, assignment or other disposition of an approval that the Director considers appropriate.</p>
New information	<p><b>72</b> An approval holder shall forthwith submit to the Director any new and relevant information respecting any actual or potential adverse effect that results from the activity to which the approval relates and comes to the approval holder's attention after the issuance of the approval.</p>
Certificate of variance	<p><b>73(1)</b> An approval holder and any other person who is engaged in any activity that is governed by the regulations may apply to the Minister for a certificate of variance to vary a term or condition of the approval or a requirement of the regulations.</p> <p>(2) An application for a certificate of variance and a certificate of variance shall be in the form prescribed in the regulations.</p> <p>(3) An application for a certificate of variance shall be accompanied by information that shows the nature and extent of all consultations that the applicant has had with persons who will be directly affected by the proposed variance.</p>
Issuance of certificate of variance	<p><b>74(1)</b> The Minister may issue a certificate of variance if the Minister is of the opinion that</p> <ul style="list-style-type: none"> <li>(a) the activity to which the certificate relates is operating or is likely to operate in contravention of a term or condition of the approval or a requirement of the regulations as a result of factors beyond the control of the applicant,</li> <li>(b) the proposed variance is not likely to result in the release of a substance that may cause a significant adverse effect, and</li> <li>(c) refusal to grant a certificate of variance would result in serious economic hardship to the applicant without an offsetting benefit to others.</li> </ul> <p>(2) The Minister may</p>

- (a) impose any terms and conditions that the Minister considers appropriate with respect to any certificate of variance, and
- (b) specify requirements as to the manner in which the activity to which the certificate of variance relates is to be carried on or operated.

(3) The Minister shall require the holder of the certificate of variance to provide notice of the issuance of the certificate, together with the reasons for the issuance of the certificate, in the form and manner directed by the Minister.

(4) A certificate of variance is in effect only during the period prescribed in it and, notwithstanding anything in this Act or the regulations, during that period

- (a) the terms and conditions set out in the certificate, and
- (b) the terms and conditions of the approval or the requirements of the regulations that are not varied by the certificate

apply to the activity to which the certificate relates.

Certificate of  
qualification  
required

**75** No person shall commence or continue any activity or the use of any thing designated by the regulations as an activity or thing in respect of which a certificate of qualification is required unless that person holds the appropriate certificate of qualification.

Application  
for certificate  
of  
qualification

**76(1)** An application for a certificate of qualification shall be made to the Director in accordance with the regulations.

(2) The Director may require an applicant for a certificate of qualification to submit any additional information the Director considers necessary.

Issuance of  
certificate of  
qualification

**77(1)** The Director may issue or refuse to issue a certificate of qualification in accordance with the regulations.

(2) The Director may issue a certificate of qualification subject to any terms and conditions the Director considers appropriate.

(3) The terms and conditions of a certificate of qualification may be more stringent, but may not be less stringent, than applicable terms and conditions provided for in the regulations.



(4) A certificate of qualification is valid for the term prescribed in the regulations.

Amendment  
and  
cancellation

**78(1)** The Director may in accordance with the regulations

- (a) amend a term or condition in a certificate of qualification or add a term or condition to or delete a term or condition from a certificate of qualification if the Director considers it appropriate to do so,
- (b) cancel a certificate of qualification if the Director considers that it is appropriate to do so,
- (c) correct a clerical error in a certificate of qualification, or
- (d) cancel a certificate of qualification on application of the person who holds the certificate of qualification.

(2) The Director shall give notice in writing to the holder of a certificate of qualification in writing at least 30 days in advance of making a deletion, amendment or addition to the terms and conditions of a certificate of qualification under subsection (1)(a).

Security

**79(1)** If required by the regulations, an applicant for or a holder of an approval or certificate of qualification shall provide financial or other security and carry insurance in respect of the activity or thing to which the approval or certificate of qualification relates.

(2) Subsection (1) does not apply to the Government or a government agency.

Ministerial  
regulations

**80(1)** The Minister may make regulations

- (a) designating activities or classes of activities in respect of which an approval is required, and specifying the kind of approval required;
- (b) exempting any activities or classes of activities related to storing and processing designated material from all or any of the provisions of this Part or of the regulations, for a period of time or permanently, with or without conditions;
- (c) designating activities or things or classes of activities or things in respect of which a certificate of qualification is required, and specifying the kind of certificate of qualification that is required;

- (d) respecting the procedure for the submission of applications for approvals and certificates of qualification, the form and content of the applications, the conditions required to be met by applicants for approvals and certificates of qualification and the kinds of plans and specifications that must accompany applications;
  - (e) providing for the acceptance of certificates and qualifications from other jurisdictions as equivalents to certificates and qualifications required under this Act;
  - (f) establishing the administrative and referral procedures by which applications for approvals and certificates of qualification may be dealt with;
  - (g) specifying requirements as to the manner in which an activity that is the subject of the approval is to be tested or operated before normal operations commence;
  - (h) specifying work that is permitted for the purposes of section 59;
  - (i) respecting the transfer, sale, lease, assignment or other disposition of approvals;
  - (j) requiring operators of equipment that may have an impact on the environment to meet specified eligibility requirements as to training or experience or both;
  - (k) respecting the taking of samples of any thing and regulating the frequency, methods and procedures in respect of the sampling;
  - (l) respecting the submission of reports and returns in respect of activities;
  - (m) respecting the records to be kept in respect of an activity, the form of them and the person by whom, the place at which and the length of time they are to be kept;
  - (n) requiring the submission of records to the Director and providing for the inspection of records by the Director.
- (2) A regulation may be made under subsection (1)(j), (k), (l), (m) or (n) whether or not it relates to an activity in respect of which an approval is required.

Lieutenant  
Governor in  
Council  
regulations

**81(1)** The Lieutenant Governor in Council may make regulations

- (a) respecting the terms and conditions on which approvals and certificates of qualification may be granted and to which they are subject;
- (b) prescribing the length of time for which approvals and certificates of qualification may be issued and permitting the Director to issue an approval or certificate of qualification for a shorter period of time than prescribed in the regulations;
- (c) respecting the form and amount of financial or other security to be given and insurance to be carried by an applicant for or a holder of an approval or a certificate of qualification;
- (d) respecting the manner in which and the conditions under which any money that is deposited as security by an approval holder or the holder of a certificate of qualification may be forfeited or returned, in whole or part;
- (e) governing and prohibiting any activity or the use of any thing for the purposes of the protection of the environment, including regulations governing the design, construction, maintenance or use of the activity or thing;
- (f) referring to, incorporating or adopting in whole or part or with modifications, documents that set out guidelines for or relate to environmental quality, the prevention or control of the release of substances, the carrying on of an activity or the design, construction, maintenance or use of any thing;
- (g) regulating and prohibiting the manufacture, sale or use of any equipment, device or service designed or provided for any purpose related to the protection of the environment;
- (h) respecting the manner in which notice under sections 67(1) and (2) and 69(1) is to be provided;
- (i) establishing or providing for the means of establishing what is a routine matter for the purposes of section 67(3)(b);
- (j) generally, providing for any other matters necessary for the purposes of this Part.

(2) A regulation may be made under subsection (1)(e), (f), (g) or (j) whether or not it relates to an activity in respect of which an approval is required.

### PART 3

#### ENVIRONMENTAL APPEAL BOARD

Environment-  
al Appeal  
Board  
established

**82(1)** There is hereby established the Environmental Appeal Board consisting of persons appointed by the Lieutenant Governor in Council.

(2) The Board shall hear appeals as provided for in this Part.

(3) Where a panel is convened under section 85(1), the panel thereafter has all the powers of the Board and is subject to all the same duties the Board is subject to, and a reference to the Board shall be read as a reference to the panel.

Notice of  
objection

**83(1)** A notice of objection may be submitted to the Board by the following persons in the following circumstances:

- (a) where the Director
  - (i) issues an approval,
  - (ii) makes an amendment, addition or deletion pursuant to an application under section 65(1)(a), or
  - (iii) makes an amendment, addition or deletion pursuant to section 65(2)(a), (b) or (c),the notice of objection may be submitted
- (iv) by the approval holder or by any person who previously submitted a statement of concern, in a case where notice of the application or proposed changes was provided under section 67(1) or (2), or
- (v) by the approval holder or by any person who is directly affected by the Director's decision, in a case where no notice of the application or proposed changes was provided by reason of the operation of section 67(3);

- (b) where the Director refuses to issue an approval or to make an amendment, addition or deletion pursuant to an application under section 65(1)(a), the applicant may submit the notice of objection;
  - (c) where the Director cancels or suspends an approval under section 70(1), the approval holder may submit the notice of objection;
  - (d) where the Director cancels a certificate of qualification under section 78(1)(b), the holder of the certificate of qualification may submit the notice of objection;
  - (e) where the Director issues an enforcement order under section 201(1)(a), (b) or (c), the person to whom the order is directed may submit the notice of objection;
  - (f) where an inspector issues an environmental protection order regarding conservation and reclamation under section 124 or 125, or where the Director issues an environmental protection order, except an environmental protection order directing the performance of emergency measures under section 109, 135 or 143, the person to whom the order is directed may submit the notice of objection;
  - (g) where an inspector issues a reclamation certificate under section 121, the operator and any person who receives a copy of the certificate under section 129 may submit the notice of objection;
  - (h) where the Director designates an area of land a contaminated site under section 112, the owner of the land may submit the notice of objection;
  - (i) where the Director serves notice of the imposition of an administrative penalty under section 225, the person to whom the notice is directed may submit the notice of objection.
- (2) Notwithstanding subsection (1)(b), where the Director refuses to issue an approval pursuant to an order of the Minister under section 61, no notice of objection may be submitted in respect of that refusal.
- (3) A notice of objection must be submitted to the Board
- (a) not later than 7 days after receipt of a copy of the enforcement order or the environmental protection order, in a case referred to in subsection (1)(e) or (f),

- (b) not later than one year after receipt of a copy of the reclamation certificate, in a case referred to in subsection (1)(g), or
- (c) not later than 30 days after receipt of notice of the decision objected to or the last providing of notice of the decision objected to, as the case may be, in any other case.

(4) The Board may, on application made before or after the expiry of the period referred to in subsection (3), extend that period, where the Board is of the opinion that there are sufficient grounds to do so.

(5) A notice of objection must contain the information and be made in the manner provided for in the regulations.

(6) A notice of objection operates as an appeal of the decision objected to.

Additional  
information

**84** Where the Board receives a notice of objection it may by written notice given to the person who submitted the notice of objection require the submission of additional information specified in the written notice by the time specified in the written notice.

Hearing of  
appeal

**85(1)** Subject to subsection (2), on receipt of a notice of objection the Board shall, within the period of time prescribed in the regulations,

- (a) convene a panel of Board members to hear the appeal and appoint a person to chair the panel, and
- (b) set a date for the hearing of the appeal, such date not to be later than a date established for that purpose in accordance with the regulations.

(2) The Board may, on application by any person who has submitted a notice of objection or of its own motion, before or after the date for the hearing of the appeal has been set, extend that date, where the Board is of the opinion that there are sufficient grounds to do so.

(3) The extension under subsection (2) may be to a date that is later than the date that is established in accordance with the regulations referred to in subsection (1)(b).

Powers and  
duties of  
Board

**86(1)** The Board has all the powers of a commissioner under the *Public Inquiries Act*.

(2) The Board

(a) may dismiss a notice of objection if

- (i) it considers the notice of objection to be frivolous or vexatious, or
- (ii) the person who submitted the notice of objection fails to comply with a written notice under section 84,

and

(b) shall dismiss a notice of objection where all matters referred to in the notice of objection have been dealt with in a review by the Energy Resources Conservation Board or the Natural Resources Conservation Board.

(3) Where a notice of objection has not been dismissed under subsection (2)(b), the Board shall consider only those matters referred to in the notice of objection that the Energy Resources Conservation Board or the Natural Resources Conservation Board has not dealt with.

(4) The Board shall discontinue its proceedings in respect of a notice of objection if the notice of objection is withdrawn.

(5) The Board shall, consistent with the principles of natural justice, give the opportunity to make representations on the matter before the Board to any persons who the Board considers should be allowed to make representations.

(6) Subject to the regulations, the Board may establish its own rules and procedures for dealing with matters before it.

Costs

**87** The Board may award costs of and incidental to any proceedings before it on a final or interim basis and may, in accordance with the regulations, direct by whom and to whom any costs are to be paid.

Stay of  
decision

**88(1)** Subject to subsection (2), a notice of objection does not operate as a stay of the decision objected to.

(2) The Minister may, on the application of a party to a proceeding before the Board, stay a decision in respect of which a notice of objection has been submitted.

(3) Where an application for a stay relates to the issuing of an enforcement order or an environmental protection order and is made by the person to whom the order was directed, the Minister may, if he is of the opinion that an immediate and significant adverse effect may result if certain terms and conditions of the order are not carried out,

- (a) order the Director to take whatever action the Director considers to be necessary to carry out those terms and conditions and to determine the costs of doing so,
- (b) order that person to provide security in the form and amount the Minister considers necessary to cover the costs referred to in clause (a) in accordance with the regulations,
- (c) make any direction regarding the forfeiture of security for the costs incurred under clause (a) if the Minister confirms the Director's decision to issue the enforcement order or environmental protection order under section 90.

**Report to  
Minister**

**89(1)** Within 30 days after the completion of the hearing of the appeal, the Board shall submit a report to the Minister, together with its recommendations and the representations that were made to it.

(2) The Minister may, on application by the Board before or after the expiry of the 30-day period referred to in subsection (1), extend the period.

**Decision by  
Minister**

**90(1)** On receiving the report of the Board the Minister may, by order, confirm, reverse or vary the decision appealed and may make any decision that the person whose decision was appealed could make and may make any further order the Minister considers necessary for the purposes of carrying out the decision.

(2) The Minister shall immediately give notice of any decision made under this section to all persons who submitted notices of objection or made representations to the Board and to all other persons who the Minister considers should receive notice of the decision.



Publication of Board's report      **91** On complying with section 90, the Minister shall publish or otherwise make available the Board's report and recommendations or a summary of them and a notice of his decision in the manner the Minister considers appropriate.

Regulations by Minister      **92** The Minister may make regulations

- (a) respecting proceedings before the Board;
- (b) respecting the form and content of a notice of objection;
- (c) prescribing the period of time for the purposes of section 85(1) and providing for the establishment of the date for the purposes of section 85(1)(b);
- (d) governing the conduct of proceedings before the Board;
- (e) prescribing the criteria to be considered by the Board in directing interim or final costs to be paid;
- (f) generally for regulating the conduct and work of the Board.

Regulations by Lieutenant Governor in Council      **93** The Lieutenant Governor in Council may make regulations

- (a) governing the membership of the Board and providing for the remuneration and travel and living expenses that are payable to members of the Board;
- (b) respecting financial or other security for the purposes of section 88(3).

#### **PART 4**

#### **RELEASE OF SUBSTANCES**

Definitions      **94** In this Part,

- (a) "owner of a substance" means the owner of the substance immediately before or during the release of the substance;
- (b) "person having control of a substance" means the person having charge, management or control of the substance;
- (c) "release", for the purposes of sections 99, 100, 102, 103, 104, 105, 106, 107, 108, 109 and 110, includes the

presence of a substance, and without limitation, substances in containers.

### **Division 1**

#### **Releases Authorized by an Approval or the Regulations**

**Application**      **95** This Division applies only to releases that are authorized by an approval or the regulations or both.

**Excess release prohibited - mens rea**      **96** No person shall knowingly release or permit the release of a substance into the environment in an amount, concentration or level in excess of that expressly prescribed by an approval or the regulations.

**Excess release prohibited - strict liability**      **97** No person shall release or permit the release of a substance into the environment in an amount, concentration or level in excess of that expressly prescribed by an approval or the regulations.

**Conflict**      **98** For the purposes of sections 96 and 97, if there is a conflict between the approval and the regulations as to an amount, concentration or level of a substance, the most stringent requirement prevails.

**Environmental protection order**      **99(1)** Where

- (a) a release of a substance into the environment may occur, is occurring or has occurred,
- (b) the release of the substance into the environment is expressly authorized by and is in compliance with an approval or the regulations,
- (c) the Director is of the opinion that the release may cause, is causing or has caused an adverse effect, and
- (d) the adverse effect was unforeseen by the Director at the time the approval was issued, or the regulations were made, as the case may be,

the Director may issue an environmental protection order to the person responsible for the substance.

**(2)** An environmental protection order may order the person to whom it is directed to take any measures that the Director

considers necessary, including, but not limited to, any or all of the following:

- (a) investigate the situation;
- (b) take any action specified by the Director to prevent the release;
- (c) measure the rate of release or the ambient concentration, or both, of the substance;
- (d) minimize or remedy the effects of the substance on the environment;
- (e) restore the area affected by the release to a condition satisfactory to the Director;
- (f) monitor, measure, contain, remove, store, destroy or otherwise dispose of the substance, or lessen or prevent further releases of or control the rate of release of the substance into the environment;
- (g) install, replace or alter any equipment or thing in order to control or eliminate on an immediate and temporary basis the release of the substance into the environment;
- (h) construct, improve, extend or enlarge the plant, structure or thing if necessary to control or eliminate on an immediate and temporary basis the release of the substance into the environment;
- (i) report on any matter ordered to be done in accordance with directions set out in the order.

Emergency  
environmental  
protection  
order

**100** Where

- (a) a release of a substance into the environment may occur, is occurring or has occurred,
- (b) the release of a substance into the environment is expressly authorized by and is in compliance with an approval or the regulations, and
- (c) an inspector, investigator or Director is of the opinion that the release may cause, is causing or has caused an immediate and significant adverse effect,

the inspector, investigator or Director may issue an environmental protection order to the person responsible for the substance

directing the performance of emergency measures that the inspector, investigator or Director considers necessary.

## **Division 2**

### **Unlawful, Unauthorized and Accidental Releases**

- |  |   |
|--|---|
| Application                              | <b>101</b> This Division applies only to releases that are not authorized by an approval or the regulations, unless they are exempted from the application of this Division by the regulations.   |
| Release prohibited -<br>mens rea         | <b>102</b> No person shall knowingly release or permit the release of a substance into the environment that may cause, is causing or has caused a significant adverse effect.   |
| Release prohibited -<br>strict liability | <b>103</b> No person shall release or permit the release of a substance into the environment that may cause, is causing or has caused a significant adverse effect.   |
| Exception                                | <b>104</b> No person shall be convicted of an offence under section 102 or 103 if he establishes that the release occurred in accordance with the laws of Alberta or the Parliament of Canada.  |
| Duty to report                           | <b>105(1)</b> A person, other than the person having control of the substance, who releases or causes or permits the release of a substance into the environment that may cause, is causing or has caused an adverse effect shall, as soon as that person knows or ought to know of the release, report it to <ul style="list-style-type: none"><li>(a) the Director,</li><li>(b) the owner of the substance, where the person reporting is not the owner and knows or is readily able to ascertain the identity of the owner,</li><li>(c) the person having control of the substance, where the person reporting is not the person having control of the substance and knows or is readily able to ascertain the identity of the person having control, and</li><li>(d) any other person who the person reporting knows or ought to know may be directly affected by the release.</li></ul> <p><b>(2)</b> The person having control of a substance that is released into the environment that may cause, is causing or has caused an</p> |

adverse effect shall, immediately on becoming aware of the release, report it to the persons referred to in subsection (1)(a), (b) and (d) unless the person having control has reasonable grounds to believe that those persons already have knowledge of the release.

(3) A police officer or employee of a local authority or other public authority who is informed of or who investigates a release of a substance into the environment that may cause, is causing or has caused an adverse effect shall immediately notify the Director of the release unless the police officer or employee has reasonable grounds to believe that it has been reported by another person.

**Manner of reporting**

**106(1)** A person who is required to report to the Director pursuant to section 105 shall report in person or by telephone and shall include the following in the report, where the information is known or can be readily obtained by that person:

- (a) the location and time of the release;
- (b) a description of the circumstances leading up to the release;
- (c) the type and quantity of the substance released;
- (d) the details of any action taken and proposed to be taken at the release site;
- (e) a description of the location of the release and the immediately surrounding area.

(2) In addition to a report under subsection (1), a person shall report in writing where required to do so by the regulations.

(3) A person who reports under subsection (1) or (2) shall give to the Director any additional information in respect of the release that the Director requires.

**Duty to take remedial measures**

**107** Where a substance that may cause, is causing or has caused an adverse effect is released into the environment, the person responsible for the substance shall, as soon as that person becomes aware or ought to have become aware of the release, shall

- (a) take all reasonable measures to
  - (i) repair, remedy and confine the effects of the substance, and

- (ii) remove or otherwise dispose of the substance in such a manner as to effect maximum protection to human life, health and the environment,

and

- (b) restore the environment to a condition satisfactory to the Director.

Environmental protection order

**108 Where**

- (a) a release of a substance into the environment may occur, is occurring or has occurred, and
- (b) the Director is of the opinion that the release may cause, is causing or has caused an adverse effect,

the Director may issue an environmental protection order to the person responsible for the substance to take any measures that the Director considers necessary, including but not limited to any or all of the measures that are referred to in section 99(2).

Emergency environmental protection order

**109 Where**

- (a) a release of a substance into the environment may occur, is occurring or has occurred, and
- (b) an inspector or investigator or the Director is of the opinion that the release may cause, is causing or has caused an immediate and significant adverse effect,

the inspector or investigator or the Director may issue an environmental protection order to the person responsible for the substance directing the performance of emergency measures that the inspector, investigator or Director considers necessary.

Emergency measures and notification

**110(1) Where**

- (a) a release of a substance into the environment may occur, is occurring or has occurred, and
- (b) an inspector or investigator or the Director is of the opinion that the release of the substance into the environment may cause, is causing or has caused an immediate and significant adverse effect,

the inspector, investigator or Director may take any emergency measures that the inspector, investigator or Director considers necessary to protect human life or health or the environment.

(2) The inspector, investigator or Director shall forthwith notify Alberta Public Safety Services, the local authority and the medical officer of the health unit in the area where the substance is located of the emergency measures taken by the inspector, investigator or Director under subsection (1).

### **Division 3 Contaminated Sites**

**Definition**            **111** In this Division, “person responsible for the contaminated site” means a person responsible for the contaminated site within the meaning of the regulations.

**Designation of contaminated sites**            **112(1)** The Director may designate any area of the environment as a contaminated site where the Director is of the opinion that a substance that may cause, is causing or has caused a significant adverse effect is present in the environment.

(2) Subsection (1) applies notwithstanding that any or all of the following may apply:

- (a) a reclamation certificate has been issued in respect of the contaminated site;
- (b) an administrative or enforcement remedy has been pursued under this Act or under any other law in respect of the contaminated site;
- (c) the substance was released in accordance with this Act or any other law;
- (d) the release of the substance was not prohibited under this Act;
- (e) the substance originated from a source other than the contaminated site.

(3) The Director may cancel a designation of a contaminated site.

**Environmental protection order re a contaminated site**            **113(1)** Where the Director designates a contaminated site, the Director may issue an environmental protection order to a person responsible for the contaminated site.

(2) An environmental protection order made under subsection (1) may

- (a) require the person to whom the order is directed to do any work or carry out any measures the Director considers necessary to restore or secure the contaminated site and the environment affected by the contaminated site, including, but not limited to, any or all of the measures specified in section 99, and
- (b) in accordance with the regulations, regulate or prohibit the use of the contaminated site or the use of any product that comes from the contaminated site.

Notice of  
decision

**114** The Director shall give notice of his decision to designate an area of the environment as a contaminated site under section 112 and of the issuance of an environmental protection order under section 113 to any of the persons responsible for the contaminated site that the Director considers appropriate and to the local authority of the municipality in which the contaminated site is located.

Compensa-  
tion

**115** The Minister may

- (a) in accordance with any applicable regulations, or
- (b) in the absence of any applicable regulations, in the manner and amount he considers appropriate

pay compensation to the owner of land who suffers loss or damage as a result of the application of this Division.

#### **Division 4 Regulations**

Regulations  
by Minister

**116** The Minister may make regulations

- (a) classifying releases for the purposes of Division 2 and exempting any release or any class of release from the application of that Division, and attaching terms and conditions to any such exemption;
- (b) establishing when a report of a release for the purposes of section 106 must be in writing and respecting its contents;



- (c) prescribing the concentration, including the maximum concentration, of a substance that may be released into the environment;
- (d) prescribing the amount, including the maximum amount, of a substance that may be released into the environment;
- (e) prescribing the rate of release, including the maximum rate of release, of a substance into the environment;
- (f) respecting the method or type of method or instrument for measuring or determining
  - (i) the concentration of a substance released into the environment,
  - (ii) the weight of a substance released into the environment,
  - (iii) the rate of release of a substance into the environment, and
  - (iv) visible emissions;
- (g) prescribing the point at which a measurement pursuant to the regulations is to take place;
- (h) prescribing the maximum visible emissions permitted to be released;
- (i) establishing a program for the certification of visible emission readers, including regulations respecting
  - (i) the manner in which visible emission readers are taught and certified,
  - (ii) the issuing, suspension and cancellation of certificates of qualification, and
  - (iii) the regulation of the activities of visible emission readers;
- (j) regulating and prohibiting the use of a contaminated site or the use of any product that comes from a contaminated site.

**117** The Lieutenant Governor in Council may make regulations

- (a) regulating and prohibiting the removal or rendering ineffective of any device, procedure or thing that reduces or prevents or is intended to reduce or prevent the release of any substance and is attached or connected to or forming part of any thing;
- (b) respecting the measures including levels of remedial requirements that may be required in an environmental protection order for the purposes of section 99(2)(e) including the incorporation or adoption for that purpose of documents that set out restoration guidelines;
- (c) regulating the quantity and purity of water to be applied to land for the purpose of irrigation or watering of plant life, if the water so applied may directly or indirectly cause an adverse effect;
- (d) regulating or prohibiting any use of land or any action in respect of land whereby any substance is released on or under any land, including land
  - (i) adjacent to or underlying a watercourse, or
  - (ii) adjacent to or overlying an aquifer;
- (e) defining “person responsible for the contaminated site” for the purposes of this Part;
- (f) authorizing the payment of compensation by the Government to any person for loss or damage suffered by that person as a result of the application of Division 3 to that person, including regulations respecting
  - (i) the circumstances under which compensation will be paid, and
  - (ii) the manner in which a claim for compensation is assessed and made and the determination of the amount payable;
- (g) generally, for the protection of the environment and the regulation of sources of substances.

## PART 5

### CONSERVATION AND RECLAMATION

#### Definitions

**118** In this Part,

- (a) “agricultural operation” means the production or any step in the production of livestock, grain, forage crops, poultry, furs, honey or any other agricultural product, but does not include any other type of business operation carried on by a farmer;
- (b) “expropriation board” means the board, person or other body having the power to order termination of a right of entry order as to the whole or part of any land affected by the order;
- (c) “operator” means
  - (i) an approval holder who carries on an activity in respect of specified land,
  - (ii) any person who carries on or who has carried out an activity in respect of specified land other than pursuant to an approval,
  - (iii) a successor, assignee, executor, administrator, receiver, receiver-manager or trustee of a person referred to in subclause (i) or (ii), and
  - (iv) a person who acts as principal or agent of a person referred to in subclause (i), (ii) or (iii);
- (d) “reclamation certificate” means a reclamation certificate issued under this Part;
- (e) “reclamation inquiry” means a reclamation inquiry conducted under this Part;
- (f) “right of entry order” means
  - (i) an order granting right of entry that is made
    - (A) by the Surface Rights Board under the *Surface Rights Act*, or
    - (B) under a former Act within the meaning of that term in the *Surface Rights Act*;

- (ii) an order for the expropriation of land or an interest in land required for the purposes of a pipeline or transmission line that is made by the Surface Rights Board, the Public Utilities Board or a predecessor of either of them;
- (g) “specified land” means land in respect of which an activity is carried on and that is designated as specified land in the regulations, but does not include
  - (i) land used solely for the purposes of an agricultural operation,
  - (ii) subdivided land that is used or intended to be used solely for residential purposes, or
  - (iii) any part of any unsubdivided land that is the site of a residence and the land used in connection with that residence solely for residential purposes;
- (h) “surface lease” means a lease, easement, licence, agreement or other instrument granted or made before or after the commencement of this Part and under which the surface of land has been or is being held;
- (i) “surrender” means a surrender, relinquishment, quit claim, release, notice, agreement or other instrument by which a surface lease is discharged or otherwise terminated as to the whole or part of the land affected by the surface lease;
- (j) “termination” means the termination of a right of entry order by an expropriation board as to the whole or part of the land affected by the order.

Security by  
operator

**119(1)** If required by the regulations, an operator shall provide financial or other security and carry insurance in respect of the activity carried on by the operator on specified land.

(2) Subsection (1) does not apply to the Government or a government agency.

Duty to  
reclaim

**120(1)** An operator must conserve and reclaim specified land and secure a reclamation certificate in respect of the conservation and reclamation.

(2) Where this Act requires that specified land must be conserved and reclaimed, the conservation and reclamation must be carried out in accordance with

- (a) the terms and conditions in any applicable approval,
- (b) the terms and conditions of any environmental protection order regarding conservation and reclamation that is issued under this Part,
- (c) the directions of an inspector, and
- (d) this Act.

Issuance of  
reclamation  
certificate

**121(1)** An application for a reclamation certificate must be made by the operator to the Director in the form and manner provided for in the regulations.

(2) An inspector may issue a reclamation certificate to the operator if the inspector is satisfied that the conservation and reclamation have been completed in accordance with section 120(2).

(3) An inspector may issue a reclamation certificate with respect to all or only a part of the specified land, and in the latter case section 120(1) continues to apply with respect to the remaining specified land.

Reclamation  
inquiry

**122** An inspector shall, when required to do so by the regulations, conduct a reclamation inquiry in accordance with the regulations.

Amendment  
and  
cancellation  
of certificate

**123(1)** The Director may

- (a) amend a term or condition in a reclamation certificate or add a term or condition to or delete a term or condition from a reclamation certificate if the Director considers it appropriate to do so,
- (b) cancel a reclamation certificate issued in error, or
- (c) correct a clerical error in a reclamation certificate.

(2) The Director shall promptly give notice of any amendment, addition, deletion or cancellation to the same persons to whom a copy of the original reclamation certificate was given under section 129.

Environmental protection order before reclamation certificate

**124** Subject to any applicable approval and the regulations an inspector may at any time before the issuance of a reclamation certificate issue an environmental protection order regarding conservation and reclamation to an operator directing the performance of any work or the suspension of any work that in the inspector's opinion is necessary in order to properly conserve and reclaim specified land.

Environmental protection order re off-site damage

**125** Where, after conducting a reclamation inquiry in accordance with the regulations, an inspector is satisfied that an operator

- (a) has done or permitted to be done anything that has caused an adverse effect in a location other than the specified land in respect of which the operator is or was carrying on the activity, or
- (b) has caused or allowed a substance to leave or escape from the specified land in respect of which the operator is or was carrying on the activity,

the inspector may issue an environmental protection order regarding conservation and reclamation in respect of the matter to the operator in accordance with the regulations.

Environmental protection order after reclamation certificate

**126(1)** When, after a reclamation certificate has been issued under section 121, the Director is of the opinion that further work may be necessary to properly conserve and reclaim the specified land to which the certificate relates, the Director may cause an inspector to conduct a reclamation inquiry in accordance with the regulations.

(2) If, following the reclamation inquiry, the Director is of the opinion that further work is necessary to conserve and reclaim the specified land and the work relates to matters that were not apparent to the inspector at the time the inspector issued the reclamation certificate, the Director may issue an environmental protection order regarding conservation and reclamation to the person to whom the reclamation certificate was issued directing the performance of any work that the Director considers is necessary to properly conserve and reclaim the land.

(3) No environmental protection order regarding conservation and reclamation may be issued under this section after the date prescribed in or determined in accordance with the regulations for the purposes of this section, but in such a case the Director may carry out any work that, but for this section, could have been

ordered in an environmental protection order regarding conservation and reclamation.

(4) The costs of performing work under subsection (3) are the responsibility of the Government.

Emergency  
environmental  
protection  
order

**127** Where an inspector is of the opinion that an immediate and significant adverse effect may occur, is occurring or has occurred on specified land as a result of the carrying on of an activity on specified land, the inspector may issue an environmental protection order to the operator directing the suspension of any work on the specified land.

No surrender  
or termination  
without  
reclamation  
certificate

**128(1)** Notwithstanding anything in any other Act or any surface lease or right of entry order,

- (a) no surrender of a surface lease is effective or binding on any person, and
- (b) no expropriation board shall order the termination of a right of entry order

insofar as the surrender or termination relates to any interest of the registered owner, until a reclamation certificate has been issued in respect of the specified land affected by the surrender or termination.

(2) Subsection (1), insofar as it relates to right of entry orders, applies only to

- (a) right of entry orders pertaining to transmission lines in effect after August 15, 1978, and
- (b) right of entry orders of any other kind, where the lease or order is in effect on or after June 1, 1963.

(3) Notwithstanding subsection (1), an expropriation board may order the termination of a right of entry order without a reclamation certificate in any case where

- (a) the parties to the order have entered into a surface lease with respect to the specified land affected by the order and have requested the termination,
- (b) the specified land affected by the order has been acquired or expropriated by the Government or by a municipal corporation, or

- (c) the expropriation board is satisfied that the operator has not exercised any rights under the order.

(4) The surrender or termination of a surface lease or right of entry order as to all or any part of the specified land in respect of which a reclamation certificate is issued is not affected by an appeal under section 83(1)(g).

Copies of  
orders and  
certificates

**129** Where an environmental protection order regarding conservation and reclamation or a reclamation certificate is issued under this Part, in addition to giving a copy of the order or certificate to the operator, the person issuing the order or certificate

- (a) shall immediately give a copy of the order or certificate to the owner of the land concerned, and
- (b) may give a copy of the certificate to any other person whom the person issuing the certificate considers to be directly affected by the activity to which the certificate relates.

Conservation  
and  
Reclamation  
Council

**130(1)** The Land Surface Conservation and Reclamation Council is continued as the Conservation and Reclamation Council, consisting of the following persons:

- (a) an employee in the Department of the Environment, who shall be the chair of the Council and shall be appointed by the Minister;
- (b) 2 employees in the Department of Forestry, Lands and Wildlife, who shall be deputy chairs of the Council and shall be designated by the Minister of Forestry, Lands and Wildlife and appointed by the Minister of the Environment;
- (c) employees under the administration of the Minister who are appointed by the Minister;
- (d) other employees of the Government or of government agencies who are appointed by the Minister;
- (e) persons appointed by local authorities in accordance with the regulations.

(2) The Council shall carry out the functions and duties relating to conservation and reclamation of land that are assigned to it in the regulations.



Regulations  
by Lieutenant  
Governor in  
Council

**131** The Lieutenant Governor in Council may make regulations

- (a) respecting the manner in which specified land must be conserved and reclaimed;
- (b) respecting the establishment of standards or criteria to be used in order to determine whether conservation and reclamation have been completed in a satisfactory manner including, without limitation, the standard of reclamation of specified land to its equivalent capability;
- (c) respecting the manner in which any kind of activity on or in respect of specified land may be conducted for purposes in connection with or incidental to the conservation and reclamation of the land;
- (d) requiring and governing the suspension of work that is necessary in order to conserve and reclaim specified land;
- (e) prescribing the circumstances under which a reclamation inquiry may be conducted by inspectors other than those appointed by local authorities;
- (f) prescribing the numbers and kinds of inspectors who may conduct a reclamation inquiry;
- (g) providing for procedures respecting the conduct of reclamation inquiries;
- (h) respecting the form and amount of financial or other security to be given and insurance to be carried by operators;
- (i) respecting the manner in which and the conditions under which any money that is deposited as security by an operator may be forfeited or returned, in whole or in part;
- (j) requiring an operator to give notice of the suspension of or ceasing an activity on specified land, and respecting the time at which and the manner in which such a notice must be given;
- (k) designating land as specified land;
- (l) respecting the terms and conditions that may be contained in an environmental protection order regarding

conservation and reclamation and in a reclamation certificate;

- (m) prescribing dates or the manner of determining dates for the purposes of section 126(3), generally or in respect of different classes of specified land or activities, such dates not to be more than 25 years after the date that the reclamation certificate is issued;
- (n) providing for the appointment by local authorities of persons as members of the Conservation and Reclamation Council;
- (o) governing the payment of remuneration and expenses to members of the Conservation and Reclamation Council appointed under section 130(1)(e);
- (p) assigning to the Conservation and Reclamation Council functions and duties relating to conservation and reclamation of land, or providing for the manner of assigning those functions and duties;
- (q) governing the practice and procedure of the Conservation and Reclamation Council and general matters relating to the administration of the affairs of the Council.

## **PART 6**

### **WATER WELLS**

#### **Definitions**

**132** In this Part,

- (a) “abandon” means, with regard to a well, to leave unattended or not to maintain for future use;
- (b) “drill” means to drill, bore or otherwise make, construct, extend, alter or recondition;
- (c) “driller” means a person who is authorized under this Act to drill or reclaim a well;
- (d) “drilling machine” means a machine that is designed to be used or is used to drill a well;
- (e) “ground water” means all water under the surface of the ground;

- (f) “inactive well” means a well that is not currently being used but is being maintained for future use;
- (g) “person responsible for a well” means a person responsible for a well within the meaning of the regulations;
- (h) “reconditioning” means flushing, cleaning, recasing, relining, rescreening or redeveloping an existing well by means of a drilling machine for the purpose of improving water production or the quality of the water produced by the well.

Return of  
tags, etc.

**133** When an approval issued for the drilling of wells is cancelled or suspended under section 70 or by an enforcement order under section 201, the approval holder shall, on the request of the Director, forthwith return to the Director the tags, decals, plates, devices, documents or other things that serve as evidence that a drilling machine is being operated under an approval.

Environ-  
mental pro-  
tection orders

**134(1)** The Director may issue an environmental protection order directed to the person responsible for a well in the following cases:

- (a) with regard to a problem well, an order requiring
  - (i) that the well be reclaimed, or
  - (ii) that remedial action be taken with respect to the well
 in accordance with the regulations;
- (b) where the Director is of the opinion that any actions related to the drilling of a well may cause, are causing or have caused an adverse effect, an order
  - (i) specifying any action which must be taken to prevent, repair or remedy the adverse effect, and
  - (ii) ordering the modification, suspension or stopping of any of the actions.

(2) Where the Director is of the opinion that any drilling of any kind that is prescribed in the regulations may cause, is causing or has caused an adverse impact on ground water, the Director may issue an environmental protection order directed to the person in

charge of the drilling, as provided for in the regulations, directing either or both of the following:

- (a) action that must be taken to prevent, repair or remedy the adverse impact;
- (b) the modification, suspension or stopping of the drilling or any actions related to the drilling.

Emergency  
environmental  
protection  
order

**135** Where an inspector, an investigator or the Director

- (a) is of the opinion that an immediate and significant adverse effect may occur, is occurring or has occurred due to a problem well or from any actions related to the drilling of a well, the inspector, investigator or Director may issue an environmental protection order to the person responsible for the well directing the performance of emergency measures that the inspector, investigator or Director considers necessary, or
- (b) is of the opinion that any drilling referred to in section 134(2) may cause, is causing or has caused an immediate and significant adverse impact on ground water, the inspector, investigator or Director may issue an environmental protection order to the person in charge of the drilling directing the performance of emergency measures that the inspector, investigator or Director considers necessary.

Emergency  
measures

**136** Where an inspector, an investigator or the Director is of the opinion that an immediate and significant adverse effect may occur, is occurring or has occurred due to a problem well or from any actions related to the drilling of a well, the inspector, investigator or Director may take the emergency measures he considers necessary to protect human life or health or the environment.

Regulations  
by Minister

**137** The Minister may make regulations

- (a) respecting the qualifications for drillers;
- (b) providing for the issuing of tags, decals, plates, documents or other devices to an approval holder to serve as evidence that a drilling machine is being operated under an approval;
- (c) providing for the display or production of a tag, decal, plate, document or other device referred to in clause (b);

- (d) prohibiting the use of a drilling machine unless a tag, decal, plate, document or other device referred to in clause (b) has been issued in respect of that drilling machine;
- (e) requiring and governing the taking of samples, tests, analyses, surveys and logs and other well data and the submission of them to the Director;
- (f) governing official well names and their registration;
- (g) governing the reclamation of wells and the methods and requirements to be observed in reclamation operations;
- (h) defining “problem well” for the purposes of this Part and the regulations;
- (i) governing remedial action to be taken in respect of problem wells;
- (j) governing the control of flowing wells;
- (k) respecting the methods of drilling wells and of determining sources of ground water;
- (l) respecting the precautions and measures to be taken before a well is commenced and during the drilling and development of a well;
- (m) respecting the casing, anchorage, equipment, materials and installations to be used in the drilling, completion, operation, reconditioning and production of wells;
- (n) governing the maintenance of inactive wells;
- (o) governing the ongoing maintenance and operation of active wells.

Regulations  
by the  
Lieutenant  
Governor in  
Council

**138** The Lieutenant Governor in Council may make regulations

- (a) requiring that written notification be sent to the Controller of Water Resources under the *Water Resources Act* before commencing the drilling of a well or a well that is of a particular class or type;
- (b) prohibiting drilling through water, oil, gas, coal or any other mineral unless adequate measures are taken to confine the water, oil, gas or other mineral to its original stratum and to protect that stratum or any coal seam or

other mineral deposit or any workings therein from infiltration, inundation, migration or injury;

- (c) prescribing the nature and extent of the measures referred to in clause (b) that are to be taken;
- (d) respecting drilling and persons in charge of drilling for the purposes of section 134(2);
- (e) defining “person responsible for a well” for the purposes of this Part.

## **PART 7**

### **POTABLE WATER**

#### **Definitions**

**139** In this Part,

- (a) “disinfection” means a process that has as its objective destroying or inactivating pathogenic micro-organisms in water;
- (b) “person responsible for a waterworks system” means
  - (i) the owner of the waterworks system,
  - (ii) the operator of the waterworks system,
  - (iii) the local authority that contracts to obtain potable water from the waterworks system,
  - (iv) the local authority that grants a franchise for the waterworks system to supply potable water,
  - (v) any successor, assignee, executor or administrator, receiver, receiver-manager or trustee of a person referred to in subclause (i), (ii), (iii) or (iv), and
  - (vi) any person who acts as the principal or agent of a person referred to in subclause (i), (ii), (iii), (iv) or (v).

#### **Release of substances prohibited**

**140** No person shall release a substance or permit the release of a substance into any part of a waterworks system

- (a) that may cause, is causing or has caused the potable water supplied by the system to be unfit for any of its intended uses, or
- (b) that may cause, is causing or has caused the concentration of the substance or of any other substance in the potable water supplied by the system to vary from the specified concentration for the substance set out in any applicable approval or the regulations.

Duty of person responsible

**141** The person responsible for a waterworks system shall ensure that the potable water supplied by the system does not contain a substance in a concentration that varies from the specified concentration for the substance set out in any applicable approval or the regulations.

Environmental protection order

**142(1)** Notwithstanding that an approval has been issued and that the approval holder is in compliance with the terms and conditions of the approval, the Director may issue an environmental protection order to the person responsible for a waterworks system where, in the opinion of the Director, the waterworks system is being operated or maintained in a manner that

- (a) may cause, is causing or has caused the potable water supplied by that system to be unfit for any of its intended uses, or
- (b) may cause, is causing or has caused the concentration of a substance in the potable water supplied by the system to vary from the specified concentration for the substance set out in any applicable approval or the regulations.

**(2)** In an environmental protection order issued under subsection (1), the Director may require the person responsible for the waterworks system to take any or all of the following measures:

- (a) to construct, improve, extend or enlarge the waterworks system or any part of the waterworks system or to install, replace, repair or alter any equipment or thing relating to the waterworks system;
- (b) to operate or maintain the waterworks system according to any terms and conditions that the Director considers necessary;
- (c) to take any other action the Director considers necessary to protect or restore the quality of the potable water;

- (d) to report on any matter relating to the construction or operation of the waterworks system.

Emergency  
environmental  
protection  
order

**143** Where an inspector, an investigator or the Director is of the opinion that any potable water supplied by a waterworks system may cause, is causing or has caused an immediate and significant adverse effect on human life or health, the inspector, investigator or Director may issue an environmental protection order to the person responsible for the waterworks system directing the performance of emergency measures that the inspector, investigator or Director considers necessary.

Emergency  
measures

**144** Where an inspector, an investigator or the Director is of the opinion that any potable water supplied by a waterworks system may cause, is causing or has caused an immediate and significant adverse effect on human life or health, the inspector, investigator or Director may take the emergency measures he considers necessary to protect human life or health.

Regulations  
by Minister

**145** The Minister may make regulations

- (a) defining “industrial development”, “municipal development” and “private development” for purposes of this Act;
- (b) prescribing substances for the purposes of this Part and providing for the establishment of specified concentrations for those substances in potable water;
- (c) prescribing methods for determining the concentration of a substance in potable water;
- (d) governing the design, construction, maintenance or operation of
  - (i) any type of waterworks system or part of a waterworks system, or
  - (ii) any equipment, device or apparatus used in connection with any type of waterworks system;
- (e) governing the purity of potable water;



- (f) governing and prohibiting the manufacture, sale or use of any equipment, process, chemical, substance or thing to be used in the treatment or disinfection of potable water.

## **PART 8**

### **WASTE MINIMIZATION AND RECYCLING**

- |                                   |  |
|-----------------------------------|--|
| Definitions                       | <p><b>146</b> In this Part,</p> <ul style="list-style-type: none"><li>(a) “depot” means a place established or operated as a business by any person for the collection of designated material;</li><li>(b) “package” means a container in which a commodity is sold and includes, but is not limited to, a wrapper, bag, box, tray, bottle or can;</li><li>(c) “recycle docket” means a register or label respecting the contents of a shipment of a hazardous recyclable made in accordance with the regulations;</li><li>(d) “retailer” means a person who sells designated material and includes anyone acting or purporting to act on behalf of such a person.</li></ul> |
| Prohibition                       | <p><b>147</b> No person shall consign for shipment any hazardous recyclable unless</p> <ul style="list-style-type: none"><li>(a) the material is accompanied by a recycle docket, and</li><li>(b) the material is being consigned to a facility in respect of which an approval has been issued authorizing it to recycle that material.</li></ul>   |
| Surcharge for designated material | <p><b>148(1)</b> A person who manufactures or distributes a designated material for sale in Alberta or sells a designated material in Alberta shall</p> <ul style="list-style-type: none"><li>(a) collect the surcharge prescribed for the designated material in the regulations, and</li><li>(b) deposit the surcharge in a recycling fund approved by the Minister.</li></ul>   |

(2) The money in a recycling fund shall be used and transferred in the manner and for the purposes provided in the regulations.

Collection of  
designated  
material

**149** A person who manufactures or distributes a designated material for sale in Alberta or sells a designated material in Alberta shall provide in Alberta in the manner provided for in the regulations depots or other methods for the recovery of designated material.

Security

**150** If required by the regulations, a manufacturer or distributor of a designated material for sale in Alberta shall provide financial or other security and carry insurance in respect of his operations in Alberta.

Ministerial  
regulations

**151** The Minister may make regulations

- (a) respecting the establishment and operation of depots, including the qualifications of persons who may operate them;
- (b) respecting the advertising of surcharges;
- (c) requiring the keeping of records in respect of designated material, including who must keep them, the manner in which they must be kept and what they must contain;
- (d) respecting the provision of information in respect of designated material, including what information must be provided, who must provide it, the person to whom it must be provided and the manner in which and the time at which it must be provided;
- (e) respecting the completion, filing, retention, use and disposition of recycle dockets, and any other documents used under this Part.

Regulations  
by Lieutenant  
Governor in  
Council

**152** The Lieutenant Governor in Council may make regulations

- (a) designating designated material for the purposes of this Part and creating different classes of designated material for different purposes;
- (b) requiring that designated material be recycled;
- (c) requiring a retailer or depot operator to pay for designated material returned for recycling;

- (d) specifying designated material for which payment must be made by a retailer or depot operator on its return for recycling;
- (e) specifying the amount that a retailer or depot operator is to pay for designated material returned for recycling;
- (f) requiring a local authority to provide a collection system for designated material;
- (g) prohibiting the manufacture, sale or distribution of specified designated material;
- (h) prohibiting the distribution of a designated material where no recycling fund has been established in respect of that designated material;
- (i) requiring a person who distributes or wishes to distribute a designated material in Alberta to register with the Director and respecting requirements for registration and all matters related to the system of registration;
- (j) respecting terms and conditions that must be met by a person who wishes to distribute a designated material in Alberta;
- (k) requiring manufacturers or distributors of designated material to collect the designated material and specifying the manner in which the collection is to be carried out;
- (l) requiring manufacturers or distributors to pay depot operators and retailers in respect of the collection of designated material and prescribing the amount of the payments or the manner in which they are calculated;
- (m) respecting surcharges for the purposes of section 148, including, without limitation, regulations setting out the classes of designated material for which surcharges are payable, prescribing the amount of a surcharge or the method of determining it, providing for the refunding of surcharges, providing for the use of surcharges collected and providing for the manner in which and the times at which surcharges are to be collected and paid;
- (n) respecting the establishment, transfer, operation and forfeiture of recycling funds and respecting the manner in which and the purposes for which money in a recycling fund may be used, including, without limitation,

- (i) waste minimization and recycling programs and initiatives,
  - (ii) education programs related to waste minimization and recycling,
  - (iii) research and development activities related to waste minimization and recycling,
  - (iv) the promotion and development of activities and economic instruments to encourage waste minimization, and
  - (v) the appropriate disposal of designated material as waste;
- (o) respecting the form and amount of financial or other security to be given and insurance to be carried by a manufacturer or distributor of designated material for sale in Alberta;
  - (p) respecting the manner in which and the conditions under which any money that is deposited as security by a manufacturer or distributor of designated material for sale in Alberta may be forfeited or returned, in whole or in part;
  - (q) requiring the development and implementation of a waste minimization, recycling or recovery plan for designated material by manufacturers and distributors of the designated material or by any other person;
  - (r) respecting methods for the recovery of designated material;
  - (s) respecting the number and kind of designated material a retailer is required to accept at the retailer's place of business;
  - (t) governing the packaging and labelling of designated material;
  - (u) governing the post-consumer waste content of commodities;
  - (v) respecting and prohibiting the use of packaging materials including, without limitation, regulations
    - (i) imposing requirements on manufacturers and distributors of commodities with respect to the

type, size and composition of packaging that may or must be used and with respect to the disposal of packaging,

- (ii) to reduce or mitigate the adverse effects created by packaging,
  - (iii) to establish measures to encourage source reduction and reuse and recycling of packaging, and
  - (iv) to establish standards and codes with respect to packaging and labelling of commodities;
- (w) respecting the recycling of hazardous recyclables and how hazardous recyclables are to be dealt with when they are no longer recyclable and must be treated as hazardous waste.

## **PART 9**

### **WASTE MANAGEMENT**

#### **Definitions**

**153** In this Part,

- (a) “public land” means land of the Government, other than a highway;
- (b) “unsightly property” means any property on which there is waste that causes the property to look unsightly;
- (c) “waste” means, for the purposes of sections 158 to 163 and section 167(h), (i) and (j),
  - (i) any solid or liquid material or product or combination thereof, including, but not limited to,
    - (A) rubbish, refuse, garbage, paper, packaging, containers, bottles, cans, manure, human or animal excrement, sewage or the whole or a part of an animal carcass, or
    - (B) the whole or part of any article, raw or processed material, vehicle or other machinery that is disposed of

and

- (ii) any other thing that is designated as waste in the regulations.

Identification  
number  
required for  
hazardous  
waste

**154(1)** No person shall

- (a) generate hazardous waste and permit that hazardous waste to leave the premises where it was generated,
- (b) collect hazardous waste from the premises referred to in clause (a),
- (c) consign or transport hazardous waste, or
- (d) accept hazardous waste for transportation, treatment or disposal, or store or provide storage facilities for hazardous waste where the hazardous waste is generated by another person,

unless the person first referred to or that person's employer has been issued a personal identification number by the Director.

(2) An application for a personal identification number must be made in the form and manner provided for in the regulations.

Security

**155** If required by the regulations, the holder of a personal identification number shall provide financial or other security and carry insurance in respect of his operations in Alberta.

Cancellation  
of identifica-  
tion number

**156** The Director may cancel a personal identification number where the Director considers it appropriate to do so.

Manifest  
required for  
hazardous  
wastes

**157** No person shall consign or transport or accept for transportation, storage, treatment or disposal any hazardous waste unless the waste is accompanied by a manifest that

- (a) is completed in accordance with the regulations,
- (b) accurately identifies the quantity, composition and points of origin and destination of the hazardous waste, and
- (c) contains the personal identification number of each person consigning, transporting or accepting the waste.

Waste on  
public land

**158** No person shall dispose of waste on public land except

- (a) in a container placed for the purpose of collecting it, or
- (b) in accordance with the *Forest and Prairie Protection Act*, the regulations under that Act and the regulations under this Act.

Waste on  
highways

**159(1)** No person shall dispose of waste on a highway except in a container placed for the purpose of collecting it.

(2) No person shall transport waste in or on a vehicle on a highway unless the waste is adequately contained, secured or covered to prevent it from falling off or being blown off the vehicle while being transported.

(3) If waste is disposed of from a vehicle, other than a bus or taxi, and it cannot be determined which of 2 or more occupants of the vehicle transporting the waste is responsible for the disposal, the operator of the vehicle is deemed to be the person who disposed of the waste.

(4) If waste is disposed of from a vehicle, other than a bus or taxi, and it cannot be determined who is the operator of the vehicle transporting the waste, the owner of the vehicle shall be deemed to be the person who disposed of the waste unless the owner proves to the satisfaction of a court that at the time of the offence the vehicle was not being operated or parked or left by him or by any other person with his consent, express or implied.

Waste on  
land owned  
by local  
authority

**160** No person shall dispose of waste on any land owned or administered by a local authority or owned by the Government and administered by the Minister of Municipal Affairs except

- (a) at a waste management facility established pursuant to the regulations made under the *Public Health Act*,
- (b) through a refuse disposal system established by a local authority,
- (c) in a container placed for the purpose of collecting it,
- (d) by burning it
  - (i) in accordance with a permit, licence or other consent issued by a local authority, or
  - (ii) pursuant to an approval under this Act,

or

(e) in any other manner specified in the regulations.

Waste on  
water or ice

**161** No person shall dispose of waste on, into or under water or ice except in accordance with an approval or as otherwise provided for under this Act.

Waste on  
another  
person's land

**162** No person shall dispose of waste on any land owned by another person unless the owner of that land agrees to the disposal of the waste.

Environ-  
mental pro-  
tection order  
to clean up  
unsightly  
property

**163(1)** If an inspector considers any property when viewed from a highway to be unsightly property, the inspector may issue an environmental protection order to clean up the unsightly property.

(2) The environmental protection order shall be issued to

- (a) the registered owner, or
- (b) the person in control

of the property that is the subject of the environmental protection order.

(3) The environmental protection order may require the person to whom it is issued to do any or all of the following within a period of time specified in the order, which must not be more than 60 days from the date of the making of the order:

- (a) remedy the condition of the property in the manner and to the extent directed in the order;
- (b) demolish or remove any waste causing or contributing to the unsightliness of the property;
- (c) construct any thing to prevent the property from being visible from a highway;
- (d) do any other thing to remedy the unsightliness of the property.

Liability of  
local authority  
for costs of  
cleaning up

**164(1)** When an environmental protection order under section 163 is issued in respect of land that is located in a municipality and the person to whom it is issued fails to comply with the order, the



Director may, in writing, direct the local authority of that municipality to perform any work required under the order.

(2) When expenses are incurred by a local authority for any work performed as a result of a direction by the Director under subsection (1), the local authority may serve a statement of the expenses, together with a demand for payment,

- (a) on the occupant and on the registered owner of the land, and
- (b) in the case of unoccupied land, on the registered owner.

(3) A copy of the statement of expenses and demand for payment that is served pursuant to subsection (2) shall be served on the council of the local authority in a case where the local authority is a city, town, new town, village, summer village, municipal district or county or a Metis settlement.

Collection of  
expenses as  
taxes

**165** If the person on whom the statement of expenses and demand for payment are served fails to pay the amount set out in the statement within 30 days, the local authority may cause the amount paid by it to be placed on the tax roll as an additional tax against the land concerned and the amount may be collected in the same manner as taxes are collected.

Review of  
environmental  
protection  
orders to  
clean up

**166(1)** Where an environmental protection order is issued under section 163, the person to whom the order is issued may submit a request to the local authority of the municipality in which the property is located for a review of the order.

(2) A request for review must be made in writing within 21 days of the date the person requesting the review receives the order.

(3) A request for review shall be heard by a committee appointed by

- (a) the Minister of Municipal Affairs, where the land concerned is located in an improvement district or special area, or
- (b) the council of the city, town, new town, village, summer village, municipal district, county or Metis settlement, where the land concerned is located in such a municipality.

(4) A committee appointed under subsection (3)(b) must include at least one elected member of the council of the local authority referred to in subsection (3)(b).

(5) The committee may confirm, rescind or vary the order reviewed.

Regulations  
by Lieutenant  
Governor in  
Council

**167** The Lieutenant Governor in Council may make regulations

- (a) exempting any person from the application of all or any of the provisions of this Part or the regulations under this Part;
- (b) designating any thing as hazardous waste for the purposes of this Act, including designating classes of hazardous waste;
- (c) respecting the application for and the issuance of personal identification numbers for the purposes of section 154;
- (d) respecting the form and amount of financial or other security to be given and insurance to be carried by a holder of a personal identification number;
- (e) respecting the manner in which and the conditions under which any money that is deposited as security by the holder of a personal identification number may be forfeited or returned, in whole or in part;
- (f) respecting the completion, retention, use, disposition and filing of manifests and copies of manifests, and prescribing the form of the manifest;
- (g) respecting the storage, collection, transportation, treatment and disposal of hazardous waste;
- (h) designating anything as waste for the purposes of section 153(c);
- (i) respecting the provision of waste collection containers;
- (j) respecting the disposal of waste on public land;
- (k) respecting the procedure relating to requests for review of environmental protection orders to clean up unsightly property and the conduct of the review.

**PART 10**  
**HAZARDOUS SUBSTANCES AND PESTICIDES**

Definitions

**168** In this Part,

- (a) “apply” includes deposit, add, emit and discharge;
- (b) “certificate of registration” means a certificate issued under the authority of the *Pest Control Products Act* (Canada) or the *Fertilizers Act* (Canada) indicating that a substance is registered under either of those Acts;
- (c) “extermination”, with respect to a pest, means the destruction, prevention or control of the pest by means of a pesticide;
- (d) “label” means, with respect to a pesticide, a label within the meaning of the *Pest Control Products Act* (Canada) or the *Fertilizers Act* (Canada);
- (e) “sell” includes keep for sale, display for sale, offer for sale and advertise for sale.

**Hazardous Substances and Pesticides Generally**

Storing and  
handling

**169** A person who keeps, stores or transports a hazardous substance or pesticide shall do so in a manner that

- (a) ensures that the hazardous substance or pesticide does not come into contact with or contaminate animals or plants or food or drink for human consumption, and
- (b) prevents the hazardous substance or pesticide from coming directly or indirectly into contact with human, animal or plant life in any manner that may be injurious to that life.

Environ-  
mental pro-  
tection order  
regarding  
contaminated  
matter

**170** The Director may issue an environmental protection order

- (a) to any person, prohibiting or restricting, either permanently or for any length of time the Director considers necessary, the sale, handling, use or distribution of any crop, food, feed, animal, plant, water, produce, product or other matter that has been or may

have been contaminated by a hazardous substance or pesticide specified in the environmental protection order;

- (b) to any person, ordering any crop, food, feed, animal, plant, water, produce, product or other matter that has been or may have been contaminated by a hazardous substance or pesticide specified in the environmental protection order to be destroyed, decontaminated or otherwise rendered harmless;
- (c) to any person, requiring the replacement of a hazardous substance or pesticide specified in the order with another substance;
- (d) to the seller of a hazardous substance or pesticide specified in the order, requiring the seller to accept the return of the hazardous substance or pesticide;
- (e) to any person, requiring the taking of any other measures with regard to a hazardous substance or pesticide as the Director considers appropriate in order to protect human life or health or the environment.

Sale or  
distribution  
prohibited

**171** No person shall, without the consent of the Minister, sell or distribute any crop, food, feed, animal, plant, water, produce, product or other matter which contains a hazardous substance or pesticide in excess of the permissible concentrations as established by this Act or the *Food and Drugs Act* (Canada) or the *Pest Control Products Act* (Canada).

Environ-  
mental pro-  
tection order  
where  
approval or  
regulations  
exist

**172** Where

- (a) the manufacture, use, handling, transportation, storage, sale, disposal or method of application of a hazardous substance or pesticide may occur, is occurring or has occurred,
- (b) the manufacture, use, handling, transportation, storage, sale, disposal or method of application of the hazardous substance or pesticide is expressly authorized by an approval or the regulations,
- (c) the Director is of the opinion that the manufacture, use, handling, transportation, storage, sale, disposal or method of application of the hazardous substance or pesticide may cause, is causing or has caused an adverse effect, and

- (d) the adverse effect was unforeseen by the Director at the time the approval was issued or the regulations were made, as the case may be,

the Director may issue an environmental protection order to the person responsible for the manufacture, use, handling, transportation, storage, sale, disposal or method of application of a hazardous substance or pesticide.

Environ-  
mental pro-  
tection order  
where no  
approval or  
regulations

**173 Where**

- (a) the manufacture, use, handling, transportation, storage, sale, disposal or method of application of a hazardous substance or pesticide may occur, is occurring or has occurred,
- (b) the manufacture, use, handling, transportation, storage, sale, disposal or method of application is not authorized by an approval or the regulations, and
- (c) the Director is of the opinion that the manufacture, use, handling, transportation, storage, sale, disposal or method of application may cause, is causing or has caused an adverse effect,

the Director may issue an environmental protection order to the person responsible for the manufacture, use, handling, transportation, storage, sale, disposal or method of application of the hazardous substance or pesticide.

Contents of  
environmental  
protection  
order

**174 In an environmental protection order under section 172 or 173 the Director may order the person responsible to do any or all of the following:**

- (a) stop, limit or control the manufacture of the hazardous substance or pesticide, the application of the hazardous substance or pesticide or the release of the hazardous substance or pesticide into the environment
  - (i) permanently,
  - (ii) for a specified period of time, or
  - (iii) in the circumstances set out in the environmental protection order;
- (b) comply with any directions of the Director relating to the manner in which the hazardous substance or

pesticide or any thing in which the hazardous substance or pesticide is or was contained may be used, handled, transported, stored, sold, manufactured or disposed of;

- (c) comply with any directions of the Director with regard to the clean-up of the hazardous substance or pesticide or the clean-up or restoration of any site affected by the hazardous substance or pesticide.

Emergency  
environmental  
protection  
order

**175** An inspector or investigator may issue an environmental protection order to any person directing the performance of emergency measures specified in the order when the inspector or investigator is of the opinion that an immediate and significant adverse effect may occur, is occurring or has occurred as a result of the manufacture, use, handling, transportation, storage, sale, disposal or display or method of application of a hazardous substance or pesticide.

Ministerial  
regulations

**176** The Minister may make regulations

- (a) generally for carrying out the purposes and provisions of this Part regarding information on and assessment of hazardous substances;
- (b) classifying hazardous substances for the purposes of this Act;
- (c) respecting the quantity or concentration of a hazardous substance that may be released into the environment either alone or in combination with any other substance from any source;
- (d) respecting the manner and conditions under which a hazardous substance may be released into the environment, either alone or in combination with any other substance;
- (e) respecting the manner in which and conditions under which a hazardous substance may be stored, displayed, handled, transported or offered for transport;
- (f) requiring and respecting the submission to the Minister of information relating to a hazardous substance;
- (g) respecting the conducting of sampling, analyses, tests, measurements or monitoring of a hazardous substance and the submission of the results to the Minister;

- (h) recalling products or materials containing a hazardous substance.

Lieutenant  
Governor in  
Council  
regulations

**177** The Lieutenant Governor in Council may make regulations

- (a) designating anything as a hazardous substance for the purposes of this Act;
- (b) respecting the places or areas where a hazardous substance may be released into the environment;
- (c) respecting the commercial, manufacturing or processing undertaking in the course of which a hazardous substance may be released into the environment;
- (d) respecting the quantity of a hazardous substance that may be imported into Alberta or that may be manufactured, processed, used or sold;
- (e) respecting the purposes for which a hazardous substance or a product containing the hazardous substance may be imported into Alberta or may be manufactured, processed, used or sold;
- (f) respecting and prohibiting the importation into Alberta or the manufacturing, processing, use or sale of a hazardous substance or a product containing a hazardous substance;
- (g) respecting the quantity or concentration in which a hazardous substance may be used;
- (h) respecting the quantity or concentration of a hazardous substance that may be contained in any product that is imported into Alberta or that is manufactured, processed, used or sold;
- (i) respecting the packaging and labelling of a hazardous substance;
- (j) requiring and respecting the submission of samples of a hazardous substance to the Minister;
- (k) respecting circumstances or conditions under which the Minister may, for the administration of this Part, modify
  - (i) any requirement of the regulations for sampling, analyses, tests, measurements or monitoring, or

- (ii) the methods and procedures specified in the regulations for conducting any required sampling, analyses, tests, measurements or monitoring;
- (l) providing for any other matter that is necessary to carry out the purposes of this Part.

## Pesticides

Prohibitions  
re sale, use  
and disposal

**178(1)** Subject to subsection (2), no person shall sell, distribute, use, apply, handle, store or transport a pesticide or operate any machinery, equipment or vehicle in connection with the sale, distribution, use, application, handling, storage or transportation of a pesticide in a manner other than a manner prescribed

- (a) in the regulations with respect to that pesticide, and
- (b) on the label filed with the certificate of registration for that pesticide.

(2) If there is a conflict between any applicable provision of the regulation and the provision on the label referred to in subsection (1)(b), the most stringent provision prevails.

(3) No person shall dispose of a pesticide, a mixture containing a pesticide, a thing that is treated or contaminated with a pesticide or a container that has been used to hold a pesticide in a manner other than the manner prescribed in the regulations.

Information  
on  
alternatives

**179** Where under the regulations an approval is required in respect of the use or application of a pesticide, the Director may require the applicant for the approval to submit information justifying the use or application of the pesticide where there are alternative pest control methods that could be used.

Ministerial  
regulations

**180** The Minister may make regulations

- (a) designating substances as pesticides for the purposes of this Act;
- (b) classifying pesticides and making any provision of the regulations applicable to pesticides generally or to a class of pesticides;



- (c) governing and prohibiting the sale, distribution, packaging, storage, handling and transportation of pesticides;
- (d) requiring that any pesticide be registered before being sold, supplied or used;
- (e) respecting the submission to the Minister of information relating to pesticides;
- (f) prescribing the forms of notices to be given and the procedures to be followed in
  - (i) the carrying out of exterminations in buildings, structures or vehicles, and
  - (ii) the carrying out of any activity respecting the application of a pesticide for which an approval is required;
- (g) respecting the labelling of pesticides and pesticide containers;
- (h) respecting containers for pesticides, other than containers in which pesticides are sold or offered for sale;
- (i) governing signs, markings or other identification to be used
  - (i) on vehicles and equipment used in pesticide application or in extermination or the transportation of pesticides, and
  - (ii) on facilities used to store pesticides;
- (j) respecting the use and cleaning of vehicles, aircraft, watercraft, machines, equipment and containers used in connection with the use, application, storage, handling or transportation of pesticides;
- (k) regulating the construction of any enclosed space in which movable property may be placed for storage during the period of pesticide application and extermination and airing out;
- (l) respecting the records to be kept by persons responsible for the transportation of pesticides in or on a vehicle operated on a highway;

- (m) respecting the minimization of pesticide waste and the recycling of pesticide containers;
- (n) respecting the disposal of pesticide waste not designated as hazardous waste, and the disposal of packaging, containers and equipment used in connection with a pesticide;
- (o) providing for any other matter that is necessary to carry out the purpose of this Part as it relates to pesticides.

Lieutenant  
Governor in  
Council  
regulations

**181** The Lieutenant Governor in Council may make regulations

- (a) governing and prohibiting the use or application of pesticides;
- (b) exempting any person, land, water or thing or class thereof from the application of sections 178 and 179 or the regulations under section 180.

Adoption of  
federal  
requirements

**182** Regulations under sections 180 and 181 may adopt any or all of the requirements prescribed by the *Pest Control Products Act* (Canada) and the regulations under that Act as the requirements for the purposes of this Part in respect of the labelling, selling, handling, use, transportation and storage of pesticides.

## PART 11

### ENFORCEMENT

Definitions

**183** In this Part,

- (a) “justice” means a justice within the meaning of the *Criminal Code* (Canada);
- (b) “loss or damage” includes personal injury, loss of life, loss of use or enjoyment of property and pecuniary loss, including loss of income;
- (c) “order to enter and inspect” means an order granted under section 191;
- (d) “peace officer” means peace officer within the meaning of the *Police Act*;
- (e) “search warrant” means a search warrant issued under the *Criminal Code* (Canada).

## Investigations and Inspections

Establishment of programs by Minister	<p><b>184</b> The Minister may establish programs to promote the reporting of</p> <ul style="list-style-type: none"><li>(a) acts or omissions that are detrimental to the environment, and</li><li>(b) offences under this Act.</li></ul>
Application for investigation	<p><b>185(1)</b> Any 2 persons ordinarily resident in Canada who are not less than 18 years of age and who are of the opinion that an offence has been committed under this Act may apply to the Director to have an investigation of the alleged offence conducted.</p> <p>(2) The application shall be accompanied by a solemn declaration</p> <ul style="list-style-type: none"><li>(a) stating the names and addresses of the applicants,</li><li>(b) stating the nature of the alleged offence and the name of each person alleged to be involved in its commission, and</li><li>(c) containing a concise statement of the evidence supporting the allegations of the applicants.</li></ul>
Investigation on receipt of application	<p><b>186(1)</b> On receipt of an application under section 185, the Director shall acknowledge receipt of the application and shall investigate all matters that the Director considers necessary for a determination of the facts relating to the alleged offence.</p> <p>(2) Within 90 days after receiving the application, the Director shall report to the applicant on the progress of the investigation and the action, if any, proposed to be taken in respect of the alleged offence.</p> <p>(3) The Director may discontinue an investigation if the Director is of the opinion that the alleged offence does not require further investigation.</p> <p>(4) Where an investigation is discontinued the Director shall</p> <ul style="list-style-type: none"><li>(a) prepare a statement in writing stating the reasons for its discontinuance, and</li><li>(b) send a copy of the statement to the applicants and to any person whose conduct was investigated.</li></ul>

Right of entry  
and  
inspection

**187(1)** For the purpose of the administration of this Act, an investigator may, without a search warrant or order to enter and inspect and subject to section 188, at any reasonable time do any or all of the following:

- (a) enter and inspect any place to determine
  - (i) the extent, if any, to which a substance may cause, is causing or has caused an adverse effect,
  - (ii) the cause of any adverse effect that may occur, is occurring or has occurred, and
  - (iii) how an adverse effect may be prevented, eliminated or ameliorated and the environment protected or restored;
- (b) enter and inspect any place in which the investigator reasonably believes waste can be found;
- (c) enter and inspect any place in or from which the investigator reasonably believes a substance is being, has been or may be released into the environment;
- (d) enter and inspect any place that the investigator reasonably believes is likely to contain documents related to
  - (i) an activity or thing that is or is required to be the subject of an approval, certificate of variance, reclamation certificate, environmental protection order or enforcement order under this Act, or
  - (ii) the release of a substance into the environment;
- (e) enter and inspect any place that the investigator reasonably believes is, or is required to be, the subject of or referred to in an approval, certificate of variance, reclamation certificate, environmental protection order or enforcement order under this Act;
- (f) stop and inspect any vehicle, aircraft or vessel that the investigator reasonably believes
  - (i) is being operated in contravention of this Act,

- (ii) is releasing or has released a substance that causes or is likely to cause an adverse effect, or
- (iii) is being used in the commission of an offence under this Act;
- (g) stop and inspect any vehicle, aircraft or vessel to ascertain whether it or the manner in which it is being operated complies with this Act;
- (h) enter any place for the purpose of carrying out any duty imposed or order or direction made or given under this Act, where there has been a release of a substance;
- (i) require the production of any documents that are required to be kept under this Act or any other documents that are related to the purpose for which the investigator is exercising any power under clauses (a) to (h).

(2) In the course of exercising powers under subsection (1) the investigator may do any or all of the following:

- (a) require that any thing be operated, used or set in motion under conditions specified by the investigator;
- (b) use any machine, structure, material or equipment in the place he is inspecting in order to carry out the inspection;
- (c) take samples of any substance or thing;
- (d) conduct tests or take measurements;
- (e) make copies of or take extracts from any documents referred to in subsection (1)(i);
- (f) use any computer system at any place to examine any data contained in or available to the computer system;
- (g) record or copy any information by any method;
- (h) reproduce any record from data in the form of a printout or other intelligible output;
- (i) take a printout or other output for examination or copying;
- (j) use any copying equipment to make copies;

- (k) take any photographs or audio-video records;
- (l) make reasonable inquiries of any person, orally or in writing.

(3) An investigator may remove documents that he is entitled to examine or copy or otherwise reproduce but shall give a receipt to the person from whom they were taken and shall promptly return them on completion of the examination.

(4) An investigator who exercises the power set out in subsection (2)(l) may exclude from the questioning any person except counsel for the individual being questioned.

Private  
dwelling  
place

**188** An investigator may not enter a private dwelling place or any part of a place that is designed to be used and is being used as a permanent or temporary private dwelling place except

- (a) with the consent of the occupant of the place, or
- (b) under the authority of an order to enter and inspect or a search warrant.

Duty to stop  
a vehicle or  
vessel

**189** The operator of a vehicle or vessel shall stop the vehicle or vessel when required to do so by an investigator who is readily identifiable as such.

Order to  
detain a thing

**190(1)** Where any thing may release, is releasing or has released into the environment a substance that may cause, is causing or has caused an adverse effect, an investigator may, for the purposes of this Act, without an order to enter and inspect or a search warrant,

- (a) issue to the person having charge, management or control of the thing or the owner of it an order requiring that the thing be detained at the place where it is found, or
- (b) remove the thing or cause it to be removed from the place where it is found and give a receipt for it.

(2) An investigator may not detain or remove a thing under subsection (1) for more than 5 days, excluding holidays, without the consent of the person having charge, management or control of it or the owner of it, except under the authority of an order issued under subsection (3).

(3) Where a justice is satisfied on evidence under oath by an investigator that there is reasonable ground to believe that a thing detained or removed under subsection (1) should be detained or removed for longer than 5 days, excluding holidays, to protect or conserve the environment, the justice may issue or renew an order authorizing an investigator to detain or remove the thing for the period of time set out in the order.

(4) An investigator who applies for an order under subsection (3) shall give reasonable notice of the application to the person having charge, management or control of the thing to be detained or removed or the owner of it.

Order to  
enter and  
inspect

**191(1)** Where a justice is satisfied on evidence under oath by an investigator

- (a) that there is reasonable ground for believing that it is appropriate for the administration of this Act for the investigator to do anything set out in section 187, and
- (b) that the investigator may not be able to effectively carry out duties under this Act without an order under this section because
  - (i) no person is present to grant access to a place that is locked or otherwise inaccessible,
  - (ii) a person has prevented the investigator from doing anything set out in section 187,
  - (iii) there is reasonable ground to believe that a person may prevent an investigator from doing anything set out in section 187,
  - (iv) it is impractical, because of the remoteness of the place to be inspected or because of any other reason, for the investigator to obtain an order under this section without delay if access is denied, or
  - (v) there is reasonable ground to believe that an attempt by the investigator to do anything set out in section 187 without the order might defeat the purpose of that section or endanger human life or health or the environment,

the justice may issue an order to enter and inspect authorizing the investigator to do anything set out in section 187 and specified in the order for the period of time set out in the order.

(2) The period of time referred to in subsection (1) may not extend beyond 30 days after the date on which the order is made, but may be renewed for any reason set out in subsection (1) for one or more periods each of which is not more than 30 days.

(3) An application under subsection (2) may be made before or after the expiry of the period.

(4) An order under this section may be issued or renewed on application without notice.

Powers to be  
exercised at  
reasonable  
time

**192** An inspector or investigator exercising powers under section 191 must do so at a reasonable time unless otherwise authorized in the order under that section.

Seizure  
without order  
or warrant

**193(1)** An investigator may, without a court order or a search warrant seize any thing that is produced to the investigator, or that is in plain view, during an inspection under section 187 or 191 if the investigator has reasonable grounds to believe that there has been an offence committed under this Act and that the thing will afford evidence as to the commission of the offence.

(2) The investigator may remove the thing seized or may detain it in the place where it is seized.

(3) The investigator shall inform the person from whom the thing was seized as to the reason for the seizure and shall give the person a receipt for it.

Search and  
seizure  
without a  
warrant

**194(1)** An investigator may without obtaining a search warrant exercise with respect to a place any powers he could exercise if he had obtained such a warrant if the investigator has reasonable grounds to believe that

- (a) an offence has been committed under this Act,
- (b) there is in the place any thing that will afford evidence as to the commission of the offence, and
- (c) because of circumstances that require immediate action it would not be practical to obtain the warrant.

(2) For the purposes of subsection (1), “circumstances that require immediate action” includes circumstances in which the delay necessary to obtain a search warrant could result in a significant adverse effect or the loss or destruction of evidence.



Bringing seized thing before judge	<b>195</b> An investigator who seizes any thing under the authority of section 193 or 194 shall deal with it in accordance with Part XV of the <i>Criminal Code</i> (Canada).
Assistance by peace officer	<b>196</b> An investigator may, while exercising powers or carrying out duties under this Part, be accompanied by a peace officer.
Disposal of things seized	<p><b>197(1)</b> Where a person is convicted of an offence under this Act and any thing relating to the conviction that was seized under this Part or pursuant to a search warrant is then being detained, the thing shall, on the expiration of the time for taking an appeal from the conviction or on the final conclusion of the proceedings, as the case may be,</p> <ul style="list-style-type: none"> <li>(a) be forfeited to the Government, if the court so directs, or</li> <li>(b) be restored to the person from whom it was seized or to any other person who is entitled to possession of it, subject to any terms and conditions imposed by the court.</li> </ul> <p>(2) Where a thing is forfeited under subsection (1)(a),</p> <ul style="list-style-type: none"> <li>(a) the Minister may dispose of or destroy the thing, and</li> <li>(b) the costs of the forfeiture and disposal or destruction are recoverable from the offender.</li> </ul>
Assistance to inspectors and investigators	<p><b>198</b> The owner of and every person found in any place in respect of which an inspector or investigator is exercising powers or carrying out duties under this Part shall</p> <ul style="list-style-type: none"> <li>(a) give the inspector or investigator all reasonable assistance to enable the inspector or investigator to exercise those powers and carry out those duties, and</li> <li>(b) furnish all information relative to the exercising of those powers and the carrying out of those duties that the inspector or investigator may reasonably require.</li> </ul>
Interference	<b>199</b> No person shall interfere with an inspector or an investigator or the Director who is exercising powers or carrying out duties, or attempting to do so, under this Act.

Court order  
re  
interference

**200** If a person interferes with an inspector or investigator or the Director contrary to section 199, the inspector, investigator or Director may apply to the Court of Queen's Bench for an order prohibiting that person from so interfering and the Court may make any order it considers appropriate.

### Enforcement Orders

Enforcement  
orders by  
Director

**201(1)** Where in the Director's opinion a person has contravened or is contravening this Act or a term or condition of an approval or certificate of qualification, the Director may issue an enforcement order ordering any of the following:

- (a) the suspension or cancellation of the approval or certificate of qualification;
- (b) the stopping or shutting down of any activity or thing either permanently or for a specified period;
- (c) the ceasing of the construction or operation of any activity or thing until the Minister is satisfied the activity or thing will be constructed or operated in accordance with this Act, the approval or the certificate of qualification, as the case may be;
- (d) the doing or refraining from doing of any thing referred to in section 99(2), 113, 124, 134, 142, 163(3), 172, 174 or 229, as the case may be, in the same manner as if the matter were the subject of an environmental protection order;
- (e) specifying the measures that must be taken in order to effect compliance with this Act, the approval or the certificate of qualification;
- (f) setting out measures referred to in clause (e), which may be more stringent requirements than the applicable requirements in the regulations.

**(2)** An enforcement order issued under subsection (1) shall contain the reasons for making it and, subject to subsection (1)(f), shall be in the form and contain the material required by the regulations.

Enforcement  
order  
concerning  
waste

**202(1)** An investigator who has reason to believe that a person has contravened or is contravening section 158, 159, 160, 161 or 162 may issue an enforcement order to that person in the form and containing the matters provided for in the regulations.

(2) If a person to whom an enforcement order is issued under subsection (1) complies with the order, no prosecution may be commenced for the offence under section 158, 159, 160, 161 or 162, as the case may be, in respect of the facts that gave rise to the order.

Amendment  
and  
cancellation  
of  
enforcement  
orders

**203(1)** The Director may

- (a) amend a term or condition in an enforcement order or add a term or condition to or delete a term or condition from an enforcement order,
- (b) cancel an enforcement order, or
- (c) amend a clerical error in an enforcement order.

(2) The Director may exercise powers under subsection (1) notwithstanding that the original enforcement order was issued by an investigator.

(3) A copy of an enforcement order issued under subsection (1) must be served on the same person to whom the original order was issued.

Court order  
for  
compliance

**204(1)** If the person to whom an enforcement order is directed fails to comply with the enforcement order, the Minister may apply to the Court of Queen's Bench for an order of the Court directing that person to comply with the enforcement order.

(2) If the person to whom the enforcement order is directed fails to comply with the enforcement order immediately on service of a copy of an order made under subsection (1), the failure to comply with the enforcement order may be dealt with by the Court as a case of a civil contempt of Court.

(3) This section applies whether or not a conviction has been adjudged for an offence under this Act.

Failure to  
comply with  
enforcement  
order

**205(1)** If the person to whom an enforcement order is directed fails to comply with the order, the Director may take whatever action the Director considers necessary to carry out the terms of the order.

(2) Costs under this section

- (a) may be paid out of the Environmental Protection and Enhancement Fund or the revolving fund, and

- (b) are recoverable by the Government
  - (i) in an action in debt against the person to whom the enforcement order was directed, or
  - (ii) by order of the Minister directing any person who has purchased land from the person to whom the enforcement order was directed to pay to the Minister instead of to the vendor an amount not exceeding the amount owing in respect of the costs.

(3) For the purposes of this section the costs referred to in subsection (2) include, without limitation,

- (a) any costs incurred in investigating and responding to any matter to which an enforcement order relates or to a violation of an enforcement order, and
- (b) in a case where the enforcement order relates to a contaminated site under section 112, compensation paid to a person in accordance with section 115.

(4) A purchaser who pays an amount to the Minister under subsection (2)(b)(ii) is discharged from any obligation to pay that amount to the vendor.

Joint and  
several  
liability

**206** Where an enforcement order is issued to more than one person, all persons named in the order are jointly responsible for carrying out the terms of the order and are jointly and severally liable for payment of the costs under section 205(2) that are incurred by the Director in carrying out the terms of the order.

## Civil Remedies

Other civil  
remedies  
unaffected

**207** Subject to sections 209 and 237, no civil remedy for an act or omission is suspended or affected by reason only that the act or omission is an offence under this Act or gives rise to a civil remedy under this Act, and nothing in this Act shall be construed so as to repeal, remove or reduce any remedy available to any person at common law or under any Act of Parliament or of a provincial legislature.

Civil cause of  
action

**208** Any person who suffers loss or damage as a result of conduct that is contrary to this Act may, in a court of competent jurisdiction, sue for and recover from the person who engaged in

the conduct an amount equal to the loss or damage proved to have been suffered by the person.

Protection  
from liability

**209** Except in the case of an application for judicial review or an action or proceeding that is specifically provided for with respect to a person referred to in this subsection, in any Act or in a regulation under this or any other Act, no action or other proceeding for damages or otherwise shall be instituted against

- (a) an employee of the Department of the Environment,
- (b) an employee within the meaning of the *Public Service Act* who is acting under the direction of an employee of the Department of the Environment,
- (c) a member of the Environmental Appeal Board, or
- (d) a member of the Conservation and Reclamation Council,

for any act done in good faith in the execution or intended execution of any duty or authority under this Act or for any alleged neglect or default in the execution in good faith of any such duty or authority.

Injunction re  
commission  
of offence

**210(1)** Where, on the application of the Director, it appears to the Court of Queen's Bench that a person has done or is about to do any act or any thing constituting or directed toward the commission of an offence under this Act, the Court may issue an injunction ordering any person named in the application

- (a) to refrain from doing any act or thing that it appears to the Court may constitute or be directed toward the commission of an offence under this Act, or
- (b) to do any act or thing that it appears to the Court may prevent the commission of an offence under this Act.

(2) At least 48 hours' notice of the application must be given to the party or parties named in the application unless the Court is of the opinion that the urgency of the situation is such that giving of notice would not be in the public interest.

Recovery of  
costs by the  
Government

**211** The Government may recover in an action in debt against any person who is convicted of an offence under this Act the costs incurred by the Government

- (a) in administering, investigating and responding to any matter related to the contravention, and
- (b) in compensating a person in accordance with section 115 where the compensation is payable as a result of the contravention.

Injunction re  
loss or  
damage

**212** Any person who suffers or is about to suffer loss or damage as a result of conduct that is contrary to this Act may apply to the Court of Queen's Bench for an injunction ordering the person engaged in the conduct to

- (a) refrain from doing any act that it appears to the Court causes or will cause the loss or damage, or
- (b) do any act or thing that it appears to the Court prevents or will prevent the loss or damage.

### Offences and Penalties

Limitation  
period

**213** A prosecution for an offence under this Act may not be commenced more than 2 years after the later of

- (a) the date on which the offence was committed, or
- (b) the date on which evidence of the offence first came to the attention of the Director.

Offences

**214** A person who

- (a) knowingly provides false or misleading information pursuant to a requirement under this Act to provide information,
- (b) provides false or misleading information pursuant to a requirement under this Act to provide information,
- (c) fails to provide information as required under this Act,
- (d) knowingly contravenes a term or condition of an approval, a certificate of variance or a certificate of qualification,
- (e) contravenes a term or condition of an approval, a certificate of variance or a certificate of qualification,

- (f) knowingly contravenes an enforcement order,
- (g) contravenes an enforcement order,
- (h) knowingly contravenes an environmental protection order,
- (i) contravenes an environmental protection order, or
- (j) contravenes section 57, 58, 63, 71, 72, 75, 96, 97, 102, 103, 105(1) or (2), 106, 107, 120(1), 133, 140, 141, 147, 148, 149, 154, 157, 158, 159, 160, 161, 162, 169, 171, 178, 198 or 199

is guilty of an offence.

#### Penalties

**215(1)** A person who commits an offence referred to in section 57, 96, 102 or 214(a), (d), (f) or (h) is liable

- (a) in the case of an individual, to a fine of not more than \$100 000 or to imprisonment for a period of not more than 2 years, or to both fine and imprisonment, or
- (b) in the case of a corporation, to a fine of not more than \$1 000 000.

**(2)** A person who commits an offence referred to in section 58, 63, 71, 72, 75, 97, 103, 105(1) or (2), 106, 107, 120(1), 140, 141, 147, 148, 149, 154, 157, 169, 171, 178, 198, 199 or 214(b), (c), (e), (g) or (i) is liable

- (a) in the case of an individual, to a fine of not more than \$50 000, or
- (b) in the case of a corporation, to a fine of not more than \$500 000.

**(3)** A person who commits an offence referred to in section 133, 158, 159, 160, 161 or 162 is liable

- (a) in the case of an individual, to a fine of not more than \$250, or
- (b) in the case of a corporation, to a fine of not more than \$1000.

Offence  
charged, part  
only proved

**216(1)** A count in an information is divisible and where the commission of the offence charged, as described in this Act or as charged in the count, includes the commission of another offence, the person charged may be convicted of an offence so included that is proved, notwithstanding that the whole offence that is charged is not proved.

(2) For greater certainty, where a count charges

- (a) an offence under section 57 arising out of the commencement or continuation of an activity, and the evidence does not prove that offence but does prove an offence under section 58, the accused may be convicted of an offence under section 58;
- (b) an offence under section 96 arising out of the release of a substance in an amount in excess of a prescribed amount, and the evidence does not prove that offence but does prove an offence under section 97, the accused may be convicted of an offence under section 97;
- (c) an offence under section 102 arising out of the release of a substance that may cause, is causing or has caused an adverse effect, and the evidence does not prove that offence but does prove an offence under section 103, the accused may be convicted of an offence under section 103;
- (d) an offence under section 214(a) arising out of the provision of false or misleading information, and the evidence does not prove that offence but does prove an offence under section 214(b), the accused may be convicted of an offence under section 214(b);
- (e) an offence under section 214(d) arising out of the contravention of a term or condition of an approval, a certificate of variance or a certificate of qualification, and the evidence does not prove that offence but does prove an offence under section 214(e), the accused may be convicted of an offence under section 214(e);
- (f) an offence under section 214(f) arising out of the contravention of an enforcement order, and the evidence does not prove that offence but does prove an offence under section 214(g), the accused may be convicted of an offence under section 214(g);
- (g) an offence under section 214(h) arising out of the contravention of an environmental protection order, and



the evidence does not prove that offence but does prove an offence under section 214(i), the accused may be convicted of an offence under section 214(i).

Additional fine where monetary benefits acquired by offender

**217** Where an offender has been convicted of an offence under this Act and the court is satisfied that as a result of the commission of the offence monetary benefits accrued to the offender, the court may order the offender to pay, in addition to a fine under section 215, a fine in an amount equal to the court's estimation of the amount of those monetary benefits.

Continuing offences

**218** Every person who is guilty of an offence under this Act is liable on conviction for each day or part of a day on which the offence occurs or continues.

Liability of directors and officers

**219** Where a corporation commits an offence under this Act, any officer, director or agent of the corporation who directed, authorized, assented to, acquiesced in or participated in the commission of the offence is guilty of the offence, and is liable to the punishment provided for the offence, whether or not the corporation has been prosecuted for or convicted of the offence.

Liability of public officials

**220** Where a person commits an offence under this Act, any Minister of the Government, official of the Government, mayor, reeve or member of a council or commissioner who knowingly directed, authorized, assented to, acquiesced in or participated in the commission of the offence is guilty of the offence and is liable to the punishment provided for the offence, whether or not the other person has been prosecuted for or convicted of the offence.

Court orders relating to penalty

**221(1)** When a person is convicted of an offence under this Act, in addition to any other penalty that may be imposed under this Act, the court may, having regard to the nature of the offence and the circumstances surrounding its commission, make an order having any or all of the following effects:

- (a) prohibiting the offender from doing anything that may result in the continuation or repetition of the offence;
- (b) directing the offender to take any action the court considers appropriate to remedy or avoid any harm to the environment that results or may result from the act or omission that constituted the offence;

- (c) directing the offender to publish, in the prescribed manner and at the offender's cost, the facts relating to the conviction;
- (d) directing the offender to notify any person aggrieved or affected by the offender's conduct of the facts relating to the conviction, in the prescribed manner and at the offender's cost;
- (e) directing the offender to post a bond or pay money into court in an amount that will ensure compliance with any order made pursuant to this section;
- (f) on application to the court by the Minister made within 3 years after the date of conviction, directing the offender to submit to the Minister any information with respect to the conduct of the offender that the court considers appropriate in the circumstances;
- (g) directing the offender to compensate the Minister, in whole or in part, for the cost of any remedial or preventive action taken by or caused to be taken on behalf of the Minister as a result of the act or omission that constituted the offence;
- (h) directing the offender to perform community service;
- (i) requiring the offender to comply with any other conditions the court considers appropriate in the circumstances for securing the offender's good conduct and for preventing the offender from repeating the same offence or committing other offences.

(2) Where an offender contravenes an order made under subsection (1)(c), the Minister may publish the facts in compliance with the order.

(3) Where the court makes an order under subsection (1)(g) or the Minister incurs publication costs under subsection (2), the costs constitute a debt due to the Government.

(4) An order made under subsection (1) comes into force on the day on which it is made or on any other day specified in the order and continues in force for the period specified in the order, not to exceed 3 years.

Compensation for loss of property

**222(1)** Where a person is convicted of an offence under this Act, the court may, at the time sentence is imposed and on the application of a person aggrieved, order the offender to pay to the

person an amount by way of satisfaction or compensation for loss of or damage to property suffered by that person as a result of the commission of the offence.

(2) A person in whose favour an order is made under subsection (1) may file the order with the clerk of the Court of Queen's Bench and, on filing, the order may be enforced as if it were a judgment of the Court of Queen's Bench in civil proceedings.

Variation of  
court orders

**223(1)** Subject to subsection (2), where a court has made an order under section 221, the court may, on application by the offender or the Attorney General, require the offender to appear before it and, after hearing the offender and the Attorney General, may make any or all of the following orders if it considers that the circumstances of the offender have changed so as to warrant such an order:

- (a) an order changing the original order or the conditions specified in it;
- (b) an order relieving the offender absolutely or partially from compliance with any or all of the order;
- (c) an order reducing the period for which the original order is to remain in effect;
- (d) an order extending the period for which the original order is to remain in effect for an additional period not to exceed one year.

(2) Before making an order under subsection (1), the court may direct that notice be given to any persons the court considers to be interested and the court may hear any such persons.

(3) Where an application made under this section in respect of an offender has been heard by a court, no other application under this section may be made with respect to the offender except with leave of the court.

Due diligence  
defence

**224** No person shall be convicted of an offence under section 58, 63, 71, 75, 97, 103, 105, 106, 107, 120(1), 140, 141, 147, 148, 149, 157, 169, 171, 178, 198, 199, 214(b), 214(c), 214(e), 214(g), 214(i) or 220 if that person establishes that he exercised all due diligence to prevent its commission on a balance of probabilities.

Administrative  
penalties

**225(1)** Where the Director is of the opinion that a person has contravened this Act, the Director may, subject to the regulations, by notice in writing given to that person require that person to pay

to the Government an administrative penalty in the amount set out in the notice for each day the contravention continues.

(2) A person who pays an administrative penalty in respect of a contravention may not be charged under this Act with an offence in respect of that contravention.

Ministerial  
regulations

**226** The Minister may make regulations

- (a) governing the form, issuance, content and nature of enforcement orders issued under this Act;
- (b) governing the form, issuance and content of orders under section 190;
- (c) governing the establishment of programs for the purposes of section 184.

Lieutenant  
Governor in  
Council  
regulations

**227** The Lieutenant Governor in Council may make regulations

- (a) providing with respect to any provision of the regulations that its contravention constitutes an offence;
- (b) prescribing penalties, including imprisonment, in respect of offences created under clause (a);
- (c) prescribing the manner in which facts relating to convictions are to be published and notice is to be given for the purposes of section 221(1)(c) and (d);
- (d) prescribing the form and content of notices of administrative penalties for the purposes of section 225;
- (e) prescribing contraventions in respect of which an administrative penalty may be imposed and prescribing the amounts of the administrative penalties that may be imposed, not to exceed \$5000 for each contravention;
- (f) prescribing limitation periods for the giving of notices of administrative penalties;
- (g) respecting any other matter necessary for the administration of the system of administrative penalties.

## PART 12

### MISCELLANEOUS PROVISIONS

#### Environmental Protection Orders

Joint and  
several  
liability under  
environmental  
protection  
orders

**228** Where an environmental protection order is issued to more than one person, all persons named in the order are jointly responsible for carrying out the terms of the order and are jointly and severally liable for payment of the costs under section 232(2) that are incurred by the Director in carrying out the terms of the order.

General  
requirements  
of  
environmental  
protection  
orders

**229(1)** In addition to any other requirements that may be included in an environmental protection order issued under this Act, such an order may contain provisions

- (a) requiring the person to whom it is directed
  - (i) to maintain records on any relevant matter,
  - (ii) to report periodically to the Director,
  - (iii) to provide environmental audits to the Director,
  - (iv) to submit to the Director any information, proposal or plan setting out any action to be taken by the person with respect to the subject-matter of the order as specified by the Director, and
  - (v) to take any other measure that the person making the order considers necessary to
    - (A) facilitate compliance with the order, or
    - (B) protect or restore the environment,
- (b) fixing the manner or method of, or the procedures to be used in, carrying out the measures required by the order, and
- (c) fixing the time within which any measure required by the order is to be commenced and the time within which the order or any portion of the order is to be complied with.

(2) An environmental protection order shall be in the form and contain the material required by the regulations.

Amendment  
and cancel-  
lation of  
environmental  
protection  
orders

**230(1)** The Director may

- (a) amend a term or condition in an environmental protection order or add a term or condition to or delete a term or condition from an environmental protection order,
- (b) cancel an environmental protection order, or
- (c) amend a clerical error in an environmental protection order.

(2) The Director may exercise powers under subsection (1) notwithstanding that the original environmental protection order was issued by an inspector or investigator.

(3) A copy of an environmental protection order amended under subsection (1) must be served on the same person to whom the original order was issued.

Court order  
for  
compliance

**231(1)** If the person to whom an environmental protection order is directed fails to comply with the environmental protection order, the Minister may apply to the Court of Queen's Bench for an order of the Court directing that person to comply with the environmental protection order.

(2) If the person to whom the environmental protection order is directed fails to comply with the environmental protection order immediately on service of a copy of a court order made under subsection (1), the failure to comply with the court order may be dealt with by the Court as a case of a civil contempt of Court.

(3) This section applies whether or not a conviction has been adjudged for an offence under this Act.

Failure to  
comply with  
environmental  
protection  
order

**232(1)** If the person to whom an environmental protection order is directed fails to comply with the order, the Director may take whatever action the Director considers necessary to carry out the terms of the order.

(2) Costs incurred by the Director under this section

- (a) may be paid out of the Environmental Protection and Enhancement Fund or the revolving fund, and

- (b) are recoverable by the Government
  - (i) in an action in debt against the person to whom the environmental protection order was directed, or
  - (ii) by order of the Minister directing any person who has purchased land from the person to whom the environmental protection order was directed to pay to the Minister instead of to the vendor an amount not exceeding the amount owing in respect of the costs.

(3) For the purposes of this section the costs referred to in subsection (2) include, without limitation,

- (a) any costs incurred in administering, investigating and responding to any matter to which an environmental protection order relates or to a violation of an environmental protection order, and
- (b) in a case where the environmental protection order relates to a contaminated site under section 112, compensation paid to a person under section 115.

(4) A purchaser who pays an amount to the Minister under subsection (2)(b)(ii) is discharged from any obligation to pay that amount to the vendor.

Environ-  
mental pro-  
tection order  
where person  
unidentifiable

**233(1)** Where this Act authorizes the issuance of an environmental protection order but none of the persons to whom the order could be issued are identifiable, the Director may nevertheless issue the order and take whatever action the Director considers necessary to carry out the terms of the order.

(2) The costs of carrying out the terms of an environmental protection order under this section may be paid out of the Environmental Protection and Enhancement Fund or the revolving fund and are recoverable in accordance with section 232(2)(b) against any person to whom the environmental protection order referred to in subsection (1) could have been issued, where the identity of such a person becomes known to the Director after the order is issued.

General  
requirements  
re emergency  
environmental  
protection  
order

**234(1)** An inspector or investigator shall make all reasonable efforts to consult with the Director before issuing an environmental protection order directing the performance of emergency measures under section 100, 109, 135, 143 or 175.

(2) An environmental protection order directing the performance of emergency measures under section 100, 109, 135, 143 or 175 shall contain the reasons for making it and where it is issued by an inspector or investigator, the inspector or investigator shall submit a copy of it to the Director immediately after issuing it.

Recovery of  
costs for  
emergency  
measures

**235** The costs of carrying out emergency measures under section 110, 136 or 144 may be paid out of the Environmental Protection and Enhancement Fund or the revolving fund and are recoverable in an action in debt against the person who is responsible for the need to take the emergency measures.

### Miscellaneous

Use of  
assistants

**236(1)** An inspector or investigator or the Director, in carrying out any duties or exercising any powers under this Act, may be accompanied by any persons who are employees or agents of the Government, a government agency or a local authority that the inspector, investigator or Director considers necessary to enable the inspector, investigator or Director to carry out those duties and exercise those powers.

(2) A person referred to in subsection (1) may enter any place without being accompanied by an inspector or investigator or the Director without incurring liability for doing so when authorized to do so by the inspector, investigator or Director.

Right of entry

**237(1)** An inspector or investigator or the Director, in carrying out any duties or exercising any powers under this Act, may, without incurring liability for doing so, enter any place for the purposes of carrying out the duties or exercising the powers.

(2) An inspector who is authorized to conduct a reclamation inquiry may, without incurring liability for doing so, enter any place for the purposes of conducting the inquiry.

(3) Where a judge of the provincial court is satisfied on evidence under oath that a person has been prevented from entering a place that person is authorized to enter under this section, the judge may issue an order authorizing that person to enter the place for the



purposes of carrying out any duties or exercising any powers under this Act.

(4) A person referred to in subsection (1) or (2) shall, before entering any place pursuant to those subsections, give reasonable prior notice of intention to enter to the occupant of the place or, if there is no occupant, to the owner if it is practicable in the circumstances to do so.

Vicarious  
responsibility

**238** For the purposes of this Act and the regulations, an act or thing done or omitted to be done by a director, officer, official, employee or agent of a corporation in the course of his employment or in the exercise of his powers or the performance of his duties shall be deemed also to be an act or thing done or omitted to be done by the corporation.

Documentary  
evidence

**239(1)** In any proceeding under this Act,

- (a) an analyst's certificate or an analyst's report of the results of an analysis purporting to be signed by an analyst,
- (b) a certificate purporting to be signed by a person authorized to issue an approval, a certificate of qualification or a certificate of variance stating that on a specified day or during a specified period a person named in the certificate was or was not the holder of an approval, a certificate of qualification or a certificate of variance,
- (c) a certificate setting out with reasonable particularity the conviction and sentence of a person for an offence under this Act purporting to be signed by
  - (i) the person who made the conviction, or
  - (ii) the clerk of the court in which the conviction was made,

and

- (d) a statement purporting to be signed by the Director setting out the day on which the Director became aware of the subject-matter of any proceedings

shall be admitted in evidence as prima facie proof of the contents of the certificate, report or statement, without proof of the signature

or official character of the person signing the certificate, report or statement.

(2) A notice, approval, environmental protection order, enforcement order, certificate of variance, certificate of qualification or consent purporting to be signed by the person authorized to issue, make or give it is admissible in evidence without proof of the signature or official character of the person signing it.

Certificate of  
analyst

**240(1)** No certificate or report of an analyst may be received in evidence unless the party intending to produce it has given to the party against whom it is intended to be produced reasonable notice of that intention together with a copy of the certificate.

(2) The party against whom a certificate or report of an analyst is produced may, with the leave of the court, require the attendance of the analyst for the purpose of cross-examination.

## PART 13

### TRANSITIONAL, CONSEQUENTIAL, REPEAL AND COMMENCEMENT

Transitional

**241** *A regulation made under this Act that provides for the issuing of an approval may contain any transitional provisions that the regulation-making authority considers necessary for the purpose of facilitating*

(a) *the incorporation under this Act of licences, permits, consents, certificates or other documents in the nature of an approval that were granted under an Act listed in section 243 and are in effect on the coming into force of the regulation, or*

(b) *the issuing of approvals to replace such licences, permits, consents, certificates or other documents.*

Consequen-  
tial amend-  
ments

**242(1)** *The Agricultural Pests Act is amended in section 8(c) by striking out "Agricultural Chemicals Act" and substituting "Environmental Protection and Enhancement Act".*

(2) *The Department of the Environment Act is amended by repealing sections 1(a) and (b), 2, 7, 11, 12, 13, 14, 17 and 18.*

(3) *The Energy Resources Conservation Act is amended*

(a) *in section 1 by adding the following after clause (c):*

(d) “environment” means the components of the earth and includes

(i) air, land and water,

(ii) all layers of the atmosphere,

(iii) all organic and inorganic matter and living organisms, and

(iv) the interacting natural systems that include components referred to in subclauses (i) to (iii).

(b) *by adding the following after section 2:*

**2.1** Where by any other enactment the Board is charged with the conduct of a hearing, inquiry or other investigation in respect of a proposed energy resource project, it shall, in addition to any other matters it may or must consider in conducting the hearing, inquiry or investigation, give consideration to whether the project is in the public interest, having regard to the social and economic effects of the project and the effects of the project on the environment.

(c) *by repealing section 31(1) and substituting the following:*

**31(1)** In this section, “local intervener” means a person or a group or association of persons who, in the opinion of the Board, are or may be directly affected by a decision of the Board or as a result of proceedings before it but, unless otherwise authorized by the Board, does not include a person or a group or association of persons whose business includes the trading in or transportation or recovery of any energy resource.

(4) *The Environment Council Act is amended in section 4(1) by adding “or” at the end of clause (a) and repealing clause (b).*

(5) *The Expropriation Act is amended by repealing section 70(4) and substituting the following:*

(4) If the expropriated estate or interest is one to which Part 5 of the *Environmental Protection and Enhancement Act* applies, the court or the Board, as the case may be, shall not

make an order under subsection (3) unless a reclamation certificate has been issued under that Act.

(6) *The Local Authorities Board Act is amended in section 76 by striking out “a permit has first been obtained under the Clean Water Act” and substituting “any approval required under the Environmental Protection and Enhancement Act has been issued”.*

(7) *The Municipal Government Act is amended*

- (a) *in section 198 by striking out “Clean Water Act” and substituting “Environmental Protection and Enhancement Act”;*
- (b) *in section 338(1)(f) by striking out “the permit under the Clean Water Act” and substituting “any approval under the Environmental Protection and Enhancement Act”.*

(8) *The Natural Resources Conservation Board Act is amended in section 1*

(a) *by repealing clause (d) and substituting the following:*

(d) “environmental impact assessment report” means an environmental impact assessment report ordered under section 41(1)(a), 42(3) or 44 of the *Environmental Protection and Enhancement Act*;

(b) *in clauses (e)(ii), (f) and (h) by adding “report” after “assessment”.*

(9) *The Soil Conservation Act is amended by repealing section 2 and substituting the following:*

**2** This Act does not apply in respect of the use of specified land within the meaning of Part 5 of the *Environmental Protection and Enhancement Act*.

(10) *The Special Waste Management Corporation Act is amended in section 1(d) by striking out “as defined in the Hazardous Chemicals Act” and substituting “within the meaning of the Environmental Protection and Enhancement Act”.*

(11) *The Surface Rights Act is amended in section 31(4) and (5) by striking out “the Land Surface Conservation and Reclamation Act” and substituting “Part 5 of the Environmental Protection and Enhancement Act”.*

Repeal

**243** *The following Acts are repealed:*

- (a) *Agricultural Chemicals Act;*
- (b) *Beverage Container Act;*
- (c) *Clean Air Act;*
- (d) *Clean Water Act;*
- (e) *Ground Water Development Act;*
- (f) *Hazardous Chemicals Act;*
- (g) *Land Surface Conservation and Reclamation Act;*
- (h) *Litter Act.*

Coming into  
force

**244** *This Act comes into force on Proclamation.*

#### **SCHEDULE OF ACTIVITIES**

1 The release of substances that cause or may cause an adverse effect.

2 The construction, operation or reclamation of a plant, structure or thing for

- (a) the manufacture or processing of petroleum products,
- (b) the manufacture or processing of natural gas, its products or its derivatives,
- (c) the manufacture or processing of chemical and allied products,
- (d) the manufacture or processing of pulp and paper products,
- (e) the manufacture or processing of stone, clay or glass products,
- (f) the manufacture or processing of cement and lime products,
- (g) the manufacture or processing of fertilizer products,

- (h) the manufacture or processing of primary metal or metal products,
- (i) the manufacture or processing of wood or wood products,
- (j) the manufacture of asphalt or ready-mixed concrete,
- (k) the processing of coal, heavy oil, oil sands or minerals,
- (l) the removal of oil from in situ oil sands and heavy oil schemes by means of either primary or enhanced recovery,
- (m) the processing of food,
- (n) the manufacture or processing of secondary food products, beverages or animal by-products,
- (o) the generating of thermal electric power or steam,
- (p) the generating of hydro-electric power,
- (q) the processing of wastewater sludges,
- (r) the application to land of non-livestock generated wastes, wastewaters and wastewater sludges,
- (s) the manufacture of animal feed,
- (t) seed cleaning or forage drying,
- (u) the storage, treatment, processing or disposal of hazardous waste,
- (v) the combustion of solid, liquid or gaseous fuels or wastes,
- (w) the storing and processing of hazardous recyclables,
- (x) the storing and processing of designated material,
- (y) the manufacture or use of biotechnology products,
- (z) the manufacture or processing of explosives,
- (aa) the manufacture or processing of sulphur products,
- (bb) the storage, treatment, processing or disposal of batteries,

- (cc) the processing or mining of salt,
  - (dd) the surface storage of brine associated with hydrocarbon storage facilities,
  - (ee) the coating of pipe or wire,
  - (ff) the cleaning of containers,
  - (gg) the blending of chemicals and paints,
  - (hh) the preserving of wood,
  - (ii) the process of electroplating, or
  - (jj) any other industrial, manufacturing or processing purpose.
- 3 The drilling, construction, operation or reclamation of a well other than a water well.
- 4 The drilling or reclamation of a water well.
- 5 The construction, operation or reclamation of
- (a) a pipeline, transmission line, telecommunication line or battery,
  - (b) a mine or pit and any associated infrastructure,
  - (c) a waste management facility,
  - (d) industrial landfills and landfarms for petroleum, drilling or other waste,
  - (e) a highway, railway or aircraft landing strip,
  - (f) an incinerator,
  - (g) a waterworks system,
  - (h) a wastewater system,
  - (i) a storm drainage system,
  - (j) any facility for the control of water, air or land contamination or for the control of the quality of water, air or land,

- (k) a site for subsurface disposal of solid or liquid waste, except private subsurface sewage disposal systems,
- (l) facilities for recreational or tourism purposes,
- (m) intensive livestock operations,
- (n) intensive aquaculture operations,
- (o) bulk distribution facilities,
- (p) research facilities,
- (q) analytical laboratories,
- (r) automotive repair shops,
- (s) a site for the demolition of automobiles,
- (t) a site where scrap metal is stored,
- (u) aircraft maintenance facilities, or
- (v) any structure forming part of a broadcasting undertaking as defined in the *Broadcasting Act* (Canada), including a microwave tower.

6 Exploration operations that result or may result in surface disturbance.

7 The excavation and removal of topsoil or peat for the purpose of sale.

8 The application of a pesticide, the distribution and selling of a pesticide at wholesale and at retail levels or the offering of a service to use or apply a pesticide.

9 Any activity that requires an approval under the *Water Resources Act*.

10 The disposal of snow.

11 Any other undertaking or thing defined as an activity in the regulations.