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THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 23

ENVIRONMENTAL PROTECTION AND ENHANCEMENT ACT

THE MINISTER OF THE ENVIRONMENT

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

BILL 23

1992

ENVIRONMENTAL PROTECTION AND ENHANCEMENT ACT

(Assented to , 1992)

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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 or part of 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 23;
- (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) “borehole” means a hole advanced into the ground for the purpose of determining engineering or geological classification and properties or for instrumentation purposes;

- (h) “certificate of qualification” means a certificate of qualification issued under section 78, and includes the renewal of such a certificate;
- (i) “certificate of title” includes a document issued under the *Metis Settlements Act* with respect to land in a settlement area under that Act that is similar in nature to a certificate of title within the meaning of the *Land Titles Act*;
- (j) “certificate of variance” means a certificate of variance issued under section 75;
- (k) “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;
- (l) “Co-ordinating Council” means the Sustainable Development Co-ordinating Council continued under section 5;
- (m) “council”, when used with reference to a local authority, includes a settlement council under the *Metis Settlements Act*;
- (n) “Department” means the Department of the Environment;
- (o) “designated livestock operation” means a designated livestock operation within the meaning of the regulations;
- (p) “designated material” means a designated material within the meaning of the regulations;
- (q) “Director” means, subject to section 40, a person designated as a Director for the purposes of this Act by the Minister;
- (r) “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;
- (s) “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);
- (t) “Environmental Protection and Enhancement Fund” means the fund established under section 28;
- (u) “Environmental Protection Security Fund” means the fund continued under section 30;
- (v) “Government” means the Government of Alberta;
- (w) “Government agency” means
 - (i) a corporation that is an agent of the Government, or
 - (ii) a corporation, commission, board or other body 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;
- (x) “groundwater” means all water under the surface of the ground;
- (y) “hazardous recyclable” means hazardous waste that is to be recycled;
- (z) “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;
- (aa) “hazardous waste” means hazardous waste within the meaning of the regulations;
- (bb) “heavy oil” means a naturally occurring viscous mixture, other than crude bitumen, that consists

mainly of hydrocarbons heavier than pentane, that may contain sulphur compounds and that in its naturally occurring state has a density of more than 900 kilograms per cubic metre;

- (cc) “heavy oil site” means a location at which a facility exists or is to be developed for recovering heavy oil by drilling and includes any injection or pumping facilities and any associated infrastructures and pipelines;
- (dd) “highway” means highway within the meaning of the *Highway Traffic Act*;
- (ee) “industrial development” means an industrial development within the meaning of the regulations;
- (ff) “inspector” means a person who is an inspector by reason of section 23 or 25;
- (gg) “investigator” means a person who is an investigator by reason of section 23 or 25;
- (hh) “land titles office” includes, with respect to land in a settlement area within the meaning of the *Metis Settlements Act*, the Metis Settlements Land Registry established under that Act;
- (ii) “local authority” means
 - (i) the corporation of a city, town, new town, village, summer village, county or municipal district,
 - (ii) with respect to a rural district, the council of the rural district or the Minister of Municipal Affairs, as the case may be,
 - (iii) in the case of an improvement district or special area, the Minister of Municipal Affairs,
 - (iv) a settlement under the *Metis Settlements Act*,
 - (v) a regional services commission established under the *Regional Municipal Services Act*, and
 - (vi) the local board of a health unit,

but for the purposes of sections 12(b), 110, 130(1)(e), 173, 174 and 175 does not include an entity referred to in subclause (v) or (vi), and for the purposes of sections 139(b), 166(n) and 169(b) does not include an entity referred to in subclause (vi);

- (jj) “mine” means any opening in, excavation in or working of the surface or subsurface for the purpose of working, recovering, opening up or proving coal, a coal bearing substance, oil sands or an oil sands bearing substance, and includes any associated infrastructure;
- (kk) “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;
- (ll) “Minister” means the Minister of the Environment;
- (mm) “municipal development” means a municipal development within the meaning of the regulations;
- (nn) “municipality” means the geographical area of a city, town, new town, village, summer village, county, municipal district, improvement district, special area, rural district or settlement area within the meaning of the *Metis Settlements Act*;
- (oo) “oil sands” means
 - (i) sands and other rock materials containing crude bitumen,
 - (ii) the crude bitumen contained in those sands and other rock materials, and
 - (iii) any other mineral substances, other than natural gas, in association with that crude bitumen or those sands and other rock materials referred to in subclauses (i) and (ii);

- (pp) “oil sands site” means a location at which a facility exists or is to be developed for recovering oil sands by drilling or other in situ recovery operations, and includes
- (i) any injection or pumping facility, storage facility or tailings storage or disposal site that exists or is to be developed, and
 - (ii) any permanent access or haul road, railway, telecommunication line or pipeline on the location for the transmission of synthetic crude oil;
- (qq) “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;
- (rr) “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, treatment, 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);
- (ss) “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;

(tt) “pesticide” means

- (i) a substance that is 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 if the substance is not a pest control product within the meaning of the *Pest Control Products Act* (Canada);

(uu) “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;

- (vv) “pit” means an excavation in the surface made for the purpose of removing, opening up or proving sand, gravel, clay, marl, peat or any other substance, and includes any associated infrastructure, but does not include a mine or quarry;
- (ww) “place” includes any land, building, structure, machine, aircraft, vehicle or vessel;
- (xx) “potable water” means water that is supplied by a waterworks system and is used for drinking, cooking, bathing, dish washing or other domestic purposes;
- (yy) “privately owned development” means a privately owned development within the meaning of the regulations;
- (zz) “private utility” means a private utility within the meaning of the regulations;
- (aaa) “quarry” means any opening in, excavation in or working of the surface for the purpose of working, recovering, opening up or proving any mineral other than coal, a coal bearing substance, oil sands or an oil sands bearing substance, and includes any associated infrastructure;
- (bbb) “reclamation” means any or all of the following:
 - (i) the removal of equipment or buildings or other structures or appurtenances;
 - (ii) the conducting of investigations to determine the presence of substances;
 - (iii) the decontamination of buildings or other structures or other appurtenances, or land or water;
 - (iv) the stabilization, contouring, maintenance, conditioning or reconstruction of the surface of land;
 - (v) any other procedure, operation or requirement specified in the regulations;
- (ccc) “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;

(ddd) “registered owner”, with respect to land, means

- (i) the person registered in a land titles office as the owner of the fee simple or a life estate in the land, and
- (ii) in the case of patented land within the meaning of the *Metis Settlements Act*, includes a person registered in a Metis title register established under that Act;

(eee) “regulatory board” means a regulatory board established by a regulation under section 35;

(fff) “release” includes to spill, discharge, dispose of, spray, inject, inoculate, abandon, deposit, leak, seep, pour, emit, empty, throw, dump, place and exhaust;

(ggg) “revolving fund” means the revolving fund established under section 29;

(hhh) “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;

(iii) “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;

(jjj) “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 sound, vibration, heat, radiation or other form of energy, and
- (iii) any combination of things referred to in subclauses (i) and (ii);
- (kkk) “surface water” means water in a watercourse and water at a depth of not more than 15 metres beneath the surface of the ground;
- (lll) “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;
- (mmm) “this Act” means this Act and the regulations;
- (nnn) “transmission line” means a system or arrangement of lines of wire or other conductors and transformation equipment, wholly within Alberta, whereby electric energy, however produced, is transmitted in bulk, and includes
 - (i) transmission circuits composed of the conductors that form the minimum set required to transmit the electric energy,
 - (ii) insulating and supporting structures,
 - (iii) substations,
 - (iv) operational and control devices, and
 - (v) all property used for the purpose of, or in connection with, the operation of the transmission line,

but does not include a power plant or electric distribution system as defined in the *Hydro and Electric Energy Act*;

- (ooo) “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;
- (ppp) “vehicle” means a device in or by which a person or thing may be transported or drawn on a highway;
- (qqq) “waste management facility” means a facility for the collection, storage, treatment or disposal of waste;
- (rrr) “wastewater system” means a 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 the place 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;
- (sss) “water” means all water on or under the surface of the ground;
- (ttt) “water distribution system” means a system of pipes, valves, fittings and appurtenances, including associated pressure reducing stations, that is used to convey potable water in a waterworks system to the service connection for a property;

(uuu) “water well” means an opening in the ground, whether drilled or altered from its natural state, that is used for

- (i) the production of groundwater for any purpose,
- (ii) obtaining data on groundwater, or
- (iii) recharging an underground formation from which groundwater can be recovered,

and includes any related equipment, buildings, structures and appurtenances, but does not include a dugout;

(vvv) “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;

(www) “waterworks system” means any system providing potable water to a municipality, municipal development, industrial development, privately owned development or private utility, and includes

- (i) water wells, surface water intakes or infiltration galleries that 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) water distribution systems;
- (xxx) “well” means, except in Part 6, 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 and human health and to 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 use of resources and the environment today does not impair prospects for their use by future generations;
- (d) the importance of preventing and mitigating the environmental impact of development and of government policies, programs and decisions;
- (e) the need for Government leadership in areas of environmental research, technology 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 the environment;
- (h) the responsibility to work co-operatively with other provinces 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 this Act.

Crown is bound

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

PART 1

ADMINISTRATION

Consultation, Communication and Education

Advisory committees, experts

4(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

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

Purpose of the Co-ordinating Council

6(1) The Co-ordinating Council may co-ordinate, review and make recommendations to the Minister on interdepartmental 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 submit copies in a timely manner to the members of the Executive Council.

Members of
Co-ordinating
Council

7(1) The Co-ordinating Council shall consist of

- (a) a Deputy Minister of each of the following departments of the Government, as designated by the Minister of each department:
 - (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) Tourism, Parks and Recreation;
 - (xi) 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 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**

8 The members of the Co-ordinating Council

- (a) may appoint other officers of the Council, and
- (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.

Quorum

9 A majority of the members of the Co-ordinating Council or their respective alternate members constitutes a quorum.

**Interdepart-
mental
committees**

10(1) 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 to advise the Minister on matters related to this Act and the protection of the environment generally.

(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 matters related to this Act that are referred to the committees.

(3) An interdepartmental committee may make rules governing its conduct, procedures and meetings.

(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.

Health issues

11 The Minister shall, in recognition of the integral relationship between human health and the environment, co-operate with and assist the Minister of Health in promoting human health through environmental protection.

**Powers and
duties of
Minister**

12 The Minister

- (a) is responsible for the establishment of the policies, programs, services and administrative procedures of the Department, and for co-ordination with other departments of the Government and with Government agencies of matters pertaining to the environment;

- (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 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.

Economic
instruments

13 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 programs and other measures for environmental purposes.

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.

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

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

(4) 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

Administration
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

- (a) the Government or a Government agency,
- (b) the Government of Canada or an agency or department of that Government, or
- (c) 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.

(3) Prior to making a delegation under subsection (1) the Minister shall consult with the appropriate Minister under whose administration the employee is, or with the Government agency, the agency of the Government of Canada or the local authority, as the case may be.

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.

Delegation to
regulatory
board

19(1) The Minister may by order and with the approval of the Lieutenant Governor in Council

- (a) delegate to a regulatory board any of the rights, powers or duties of an inspector, investigator or Director under this Act,
- (b) impose any conditions on the regulatory board's exercise of the delegated rights, powers or duties that the Minister considers appropriate, and
- (c) amend or revoke the order.

(2) Where the Minister makes a delegation under subsection (1), a reference in this Act to an inspector, investigator or Director with respect to the delegated right, power or duty is to be read as if it were a reference to the regulatory board to whom the delegation was made.

(3) A regulatory board may make by-laws

- (a) respecting the conduct of the business and affairs of the board;
- (b) respecting the calling of meetings of the members and the conduct of business at those meetings;
- (c) respecting the appointment, removal, functions, powers, duties, remuneration and benefits of officers and employees of the board;
- (d) delegating to the officers of the board or any committee of it any powers of the board required to manage the business and affairs of the board, except the power to make by-laws;
- (e) respecting the establishment, membership, duties and functions of special, standing and other committees.

(4) A by-law made by a regulatory board is not effective until it is approved by the Minister.

(5) The *Regulations Act* does not apply to a by-law of a regulatory board.

Agreements

20 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

21 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

22(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* or the regulations under the *Metis Settlements Act*, as the case may be.

(4) An agreement that is registered as provided for in subsection (3) runs with the land and the Minister may enforce it whether 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 that is registered as provided for in subsection (3), the Registrar of Land Titles or the Registrar of the Metis Settlements Land Registry, as

the case may be, 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*.

Designation of
officials

23(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 under the administration of the Minister as an acting Director to act in that Director's place in the event of his temporary absence or temporary 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 who 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) Each 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	<p>24 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 sections 186(1)(a) to (e), (f)(ii) and (i), 186(5), 189, 190, 191 and 196.</p>
Local authority inspectors and investigators	<p>25(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.</p> <p>(2) A local authority shall immediately advise the Minister in writing of designations and changes to designations under subsection (1).</p>
Identification card	<p>26 The Minister, in the case of an inspector or investigator designated under section 23, and a local authority, in the case of an inspector or investigator designated under section 25, 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.</p>
Designation of approved laboratories	<p>27 The Minister may designate laboratories as approved laboratories that may conduct laboratory analyses for the purposes of this Act.</p>
Environmental Protection and Enhancement Fund	<p>28(1) There is hereby established the Environmental Protection and Enhancement Fund to be used for the following purposes:</p> <ul style="list-style-type: none"> (a) to pay for expenditures incurred in taking emergency measures under section 104, 136 or 144; (b) to pay for the cost of action taken by the Director under section 202, 229 or 230; (c) to pay for the costs of conservation and reclamation under section 126(2)(b); (d) to pay for the cost of machinery, equipment, services, materials and stock that are provided or used for the purposes of the revolving fund. <p>(2) The Environmental Protection and Enhancement Fund shall be held and administered by the Provincial Treasurer in accordance</p>

with this Act, and the Provincial Treasurer shall maintain a separate accounting record of the Fund.

(3) The Provincial Treasurer shall, on the requisition of the Minister, make payments out of the Environmental Protection and Enhancement Fund for the purposes of the Fund.

(4) The following shall be paid into the Environmental Protection and Enhancement Fund:

- (a) money transferred from the Environmental Protection Security Fund under subsection (10);
- (b) money recovered by the Government under section 202, 229 or 232;
- (c) money advanced by the Provincial Treasurer from the General Revenue Fund under subsection (7);
- (d) money from a supply vote appropriated for the purposes of the Environmental Protection and Enhancement Fund;
- (e) payments made by the Government of Canada for the purposes of the Environmental Protection and Enhancement Fund;
- (f) gifts, donations, bequests and transfers to the Environmental Protection and Enhancement Fund.

(5) The Provincial Treasurer may be designated as a depositor on behalf of the Environmental Protection and Enhancement Fund in the Consolidated Cash Investment Trust Fund.

(6) Investment income earned on deposits of the Environmental Protection and Enhancement Fund accrues to and forms part of the General Revenue Fund.

(7) The Provincial Treasurer may advance from the General Revenue Fund to the Environmental Protection and Enhancement Fund money required for the purposes of the Environmental Protection and Enhancement Fund, but the amount of the advances outstanding at any time shall not exceed \$25 000 000.

(8) If at any time it appears to the Provincial Treasurer that there is money in the Environmental Protection and Enhancement Fund that is not required for the purposes of the Fund, the Provincial Treasurer may transfer the money to the General Revenue Fund.

(9) Any outstanding advances to the Environmental Protection and Enhancement Fund from the General Revenue Fund are reduced by a transfer of money made under subsection (8).

(10) The Provincial Treasurer shall in the manner and amounts and at the times directed by the Minister transfer from the Environmental Protection Security Fund to the Environmental Protection and Enhancement Fund security that is forfeited in accordance with the regulations.

Revolving fund **29(1)** The Minister shall establish and administer a revolving fund for the Department for the purpose of performing services and programs related to environmental protection and enhancement and for purposes related to water resources management.

(2) The Provincial Treasurer, on the requisition of the Minister, shall advance from the General Revenue Fund to the revolving fund money required to pay for the cost of machinery, equipment, services, materials or stock that is provided or used for the purposes of the revolving fund.

(3) The revolving fund shall charge the Environmental Protection and Enhancement Fund for the cost of machinery, equipment, services, materials or stock that are provided or used for the purposes of the Environmental Protection and Enhancement Fund.

(4) The net amount of the advances under subsection (2) shall not at any time exceed \$25 000 000.

Environmental Protection Security Fund **30(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, a certificate of qualification or a certificate of variance or under section 89, 119, 165 or 178 shall be paid into the Environmental Protection Security Fund.

Disposition of money in 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.

Annual report
re Security
Fund

32(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.

Disclosure of
information

33(1) Subject to this section,

(a) the following documents and information in the possession of the Department that are provided to the Department in the administration of this Act shall be disclosed to the public in the form and manner provided for in the regulations:

- (i) information in respect of a proposed activity that is provided to the Department for the purposes of Part 2, Division 1 by a proponent within the meaning of that Part;
- (ii) documents and information in the register referred to in section 54;
- (iii) information that is provided to the Department as part of the application by
 - (A) an applicant for an approval or a certificate of variance;
 - (B) the holder of an approval, in respect of an application to change an activity or to amend a term or condition of, add a term or condition to or delete a term or condition from an approval;
- (iv) environmental and emission monitoring data, and the processing information that is necessary to interpret that data, that is provided by an approval holder;
- (v) any reports or studies that are provided to the Department in accordance with a term or condition of an approval;

(b) the following documents that are created by the Department in the administration of this Act shall be disclosed to the public in the form and manner provided for in the regulations:

- (i) approvals;
- (ii) certificates of qualification;
- (iii) certificates of variance;
- (iv) environmental and emission monitoring data and the processing information that is necessary to interpret that data;
- (v) statements of concern;
- (vi) notices of objection;
- (vii) reclamation certificates;
- (viii) enforcement orders;
- (ix) environmental protection orders.

(2) Subsection (1)(a) applies only to documents and information provided to the Department after the coming into force of this section.

(3) The Minister may disclose to the public in the form and manner provided for in the regulations any other information in the possession of the Department that the Minister considers should be public information.

(4) Where information referred to in subsection (1) or (3) is provided to the Department 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 Director that the information be kept confidential and not be disclosed.

(5) Where the Director receives a request for confidentiality under subsection (4), the Director shall

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

- (b) refuse the request where the Director considers that the request is not well founded.

(6) The Director shall forthwith notify a person who makes a request for confidentiality of the Director's refusal of the request under subsection (5)(b).

(7) Where the Director 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 who is or has been 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.

(8) No person to whom information is disclosed under subsection (7) may further disclose the information or use the information for any purpose other than the purpose for which it was disclosed to that person.

(9) Information relating to a matter that is the subject of an investigation or proceeding under this Act may not be released under subsection (1) or (3).

Ministerial
regulations

34 The Minister may make regulations

- (a) providing for the manner in which reports of advisory committees are to be made public;
- (b) 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) respecting transfers of administration for the purpose of section 18;

- (e) establishing criteria to be applied by the Director in making any decision that the Director is authorized to make under section 42, 43, 65, 66, 78 or 79;
- (f) respecting the manner of obtaining public input in the development of objectives referred to in section 14 and the manner of making the objectives available to the public;
- (g) respecting the establishment of management areas for the purposes of sections 13 and 14;
- (h) providing for the form and manner in which information is to be disclosed to the public for the purposes of section 33(1) and (3);
- (i) 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;
- (j) 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

35 The Lieutenant Governor in Council may make regulations

- (a) adding activities to or deleting activities from the Schedule;
- (b) defining “designated livestock operation” for the purpose of this Act;
- (c) authorizing and respecting the establishment of programs and other measures for the purposes of section 13;
- (d) providing for the establishment of regulatory boards to exercise rights, powers and duties delegated to them under section 19;
- (e) providing for the appointment of the members of a regulatory board, including, without limitation, the number of members, the method of appointment of members, the terms of office of members and the filling of vacancies and the remuneration and benefits to which members are entitled;

- (f) respecting the manner in which the costs of the administration of the business and affairs of a regulatory board are to be paid for including, without limitation, regulations
 - (i) authorizing the board to collect money by the levy of assessments on persons or classes of persons specified in the regulation, and respecting the manner in which such assessments are to be imposed and collected, and
 - (ii) authorizing the board to use money in any fund for which it is responsible for the purposes of those costs of administration;
- (g) respecting the administration of the Environmental Protection Security Fund.

Adoption by
reference

36 A regulation under this Act may adopt or incorporate in whole or part or with modifications documents that set out standards, codes, guidelines or other rules relating to any matter in respect of which a regulation may be made under this Act.

PART 2

ENVIRONMENTAL ASSESSMENT PROCESS AND APPROVALS

Definitions

37 In this Part,

- (a) “environmental assessment process” means the procedure established under Division 1 for reviewing proposed activities;
- (b) “environmental impact assessment report” means an environmental impact assessment report required to be prepared under this Part;
- (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 undertakes a proposed activity;
- (e) “proposed activity” means

- (i) an activity that has not been commenced,
- (ii) an activity that is being carried on and for which an approval, other than a renewal, is required but has not been obtained,
- (iii) a change to an activity where the change is one to which section 64(1) applies and, in the Director's opinion, is of a substantial nature, and
- (iv) in the case of an activity that is the subject of an approval and is carried out in stages, those stages of the activity that are not yet covered by the approval.

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 environmental, social, economic and cultural consequences of a proposed activity and to assess plans to mitigate any adverse impacts resulting from the proposed activity;
 - (d) to provide for the involvement of the public, proponents, departments of the Government and Government agencies in the review of proposed activities.

**Any Director
may require
assessment**

39 Where any Director is of the opinion that the potential environmental impacts of a proposed activity warrant further consideration under the environmental assessment process, that Director may refer the proponent or the proposed activity to the Director who is designated for the purposes of sections 41 to 54 so that the proposed activity may be dealt with under section 42.

Definition	40 In sections 41 to 54, “Director” means the Director who is designated for the purposes of those sections.
Director's power to require environmental assessment	41 Where the Director is of the opinion that the potential environmental impacts of a 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 42.
Initial review by Director	<p>42(1) Where a proponent or a proposed activity is referred to the Director under section 39, where the Director gives a notice under section 41 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,</p> <ul style="list-style-type: none"> (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, <ul style="list-style-type: none"> (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) make a decision that further assessment of the proposed activity is not required and, if it is an activity for which an approval is required, advise the proponent that it may apply for the approval. <p>(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).</p> <p>(3) In making a decision under subsection (1)(b) the Director shall consider the following:</p> <ul style="list-style-type: none"> (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 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

- (a) in writing of a decision made under subsection (1)(b)(i), and
- (b) orally or in writing of a decision made under subsection (1)(b)(ii).

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

(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 allowed 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.

**Whether
environmental
impact
assessment
report required**

43(1) Where the Director decides under section 42(1)(b)(i) that further assessment of a proposed activity is required, the Director shall in accordance with the regulations

- (a) prepare a screening report regarding the need for the preparation of an environmental impact assessment report, and
- (b) decide whether preparation of an environmental impact assessment report is required.

(2) The Director shall make the screening report available in accordance with the regulations.

(3) 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.

(4) 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.

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

Effect of
statement of
concern

44 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 43(1)(b) until the applicable period referred to in section 42(6) has expired.

Minister may
order
environmental
impact
assessment
report

45 If the Minister is of the opinion that an environmental impact assessment 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, notwithstanding that

- (a) the Director has not ordered an environmental impact assessment report, or
- (b) the proposed activity is the subject of an exemption under regulations under section 57(b).

Terms of
reference

46(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 requirements specified by the Director and shall submit the proposed terms of reference to the Director.

(2) The proponent shall provide notice of the proposed terms of reference and make them available 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 Director shall make the final terms of reference available in accordance with the regulations.

Contents of
environmental
impact
assessment
report

47 An environmental impact assessment report shall be prepared in accordance with the final terms of reference issued by the Director under section 46(3) and shall include the following information unless the Director provides otherwise:

- (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 environmental, social, economic and cultural impacts of the proposed activity, including cumulative, regional, temporal and spatial considerations;
- (e) an analysis of the significance of the potential impacts identified under clause (d);
- (f) the plans that have been or will be developed to mitigate the potential negative impacts 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 46(3);
- (o) any other information that the Director considers necessary to assess the proposed activity.

Submission of report **48** The proponent shall submit the environmental impact assessment report to the Director for review.

Provision of further information **49** The Director may, at any time after receipt of an environmental impact assessment report under section 48, require the proponent to submit to the Director any additional information respecting the proposed activity that the Director considers necessary for the review of the proposed activity.

Publication of environmental impact assessment report **50** The Director shall require the proponent to publish the environmental impact assessment report and otherwise make it available in accordance with the regulations.

Powers of Director **51** Where in the opinion of the Director an environmental impact assessment report is complete the Director shall

- (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,
- (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 *Natural Resources Conservation Board Act*, or

- (c) in any other case, submit the environmental impact assessment report to the Minister together with any further information and any recommendations that the Director considers appropriate.

Powers of
Minister

52(1) Subject to section 62(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

53 Where the Director submits an environmental impact assessment report to the Minister, the Minister may make any recommendations in respect of the proposed activity that he considers necessary to any person, department of the Government or Government agency or department or agency of any other government that may thereafter be dealing with the proposed activity.

Register of
environmental
assessment
information

54 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

55 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 an agreement or arrangement 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 of

- (i) the environmental assessment process, or any part of it, for the purposes of this Division, or
 - (ii) 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

56 The Minister may make regulations

- (a) respecting the establishment and maintenance of a register for the purposes of section 54;
- (b) establishing procedures governing the environmental assessment process;
- (c) varying the application of this Division as necessary in a case where an agreement or arrangement is entered into under section 55;
- (d) establishing mechanisms and procedures
 - (i) for the publishing, providing or making available of anything required to be published, provided or made available under this Division, and
 - (ii) for the providing of any notice required to be provided under this Division;
- (e) respecting the preparation of screening reports for the purposes of section 43;

- (f) respecting the form and content of environmental impact assessment reports;
- (g) respecting the form and content of orders under sections 43(4) and 45;
- (h) respecting proposed and final terms of reference for the purposes of section 46.

Lieutenant
Governor in
Council
regulations

57 The Lieutenant Governor in Council may make regulations

- (a) designating mandatory activities;
- (b) exempting proposed activities or classes of proposed activities from the application of the environmental assessment process.

Division 2 Approvals and Certificates

Prohibition

58 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

59 No person shall commence or continue any activity designated by the regulations as requiring an approval unless that person holds the appropriate approval.

Exception

60 Nothing in section 58 or 59 prohibits the doing of any work that is specified in the regulations as being work that is permitted to enable a proponent to comply with Division 1.

Compliance
with other
requirements

61 Unless the regulations provide otherwise, the Director may not issue an approval without being satisfied that Division 1, if applicable, has been complied with.

No approval
on Minister's
order

62(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 proposed activity.

Application for approval

63(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

64(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

65(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

(a) shall, in addition to any criteria that the Director is required by the regulations to consider, consider any applicable written decision of the Energy Resources Conservation Board or the Natural Resources Conservation Board in respect of the subject-matter of the approval, and

(b) may consider any evidence that was before the Energy Resources Conservation Board or the Natural Resources Conservation Board in relation to that written decision.

(5) The Director may issue an approval for a specified period.

Extension of
expiry date of
approval

66(1) The Director may extend the expiry date of an approval for one or more periods of not more than one year each.

(2) The 2nd extension and any subsequent extensions under subsection (1)

- (a) may be made only where the Director is of the opinion that the extension is necessary to allow for the effective public review of the renewal of the approval, and
- (b) shall, for the purposes of the provisions of this Division that require the giving of notice and for the purposes of Part 3, be treated as if they were amendments of a term or condition of the approval made under the authority of section 67(3)(a).

Amendment,
suspension
and
cancellation of
approvals

67(1) On application by an approval holder the Director may, in accordance with the regulations,

- (a) amend a term or condition of, 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.

(2) An application under subsection (1)(a) must be made in the manner provided for in the regulations.

(3) 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 of, add a term or condition to or delete a term or condition from an approval
 - (i) if in the Director's opinion an adverse effect that was not reasonably foreseeable at the time the approval was issued has occurred or may occur,
 - (ii) if the term or condition relates to a monitoring or reporting requirement,
 - (iii) 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, or

- (iv) where the approval is transferred, sold, leased, assigned or otherwise disposed of under section 72,

- (b) cancel or suspend an approval, or

- (c) correct a clerical error in an approval.

Director's
power to
modify

68 Where the Director

- (a) issues an approval, or

- (b) amends a term or condition of, 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.

Notice of
applications
and proposed
changes

69(1) Where the Director receives

- (a) an application for an approval under section 63,

- (b) an application under section 64(2) in respect of a change to an activity, or

- (c) an application under section 67(1)(a) to amend a term or condition of, 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 67(3)(a), 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).

(4) The Director may waive notice in accordance with subsection (3)(c) notwithstanding that some or all of the adequate notice referred to in that subsection was given before the coming into force of this section.

Statement of
concern

70(1) Where notice is provided under section 69(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 69(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.

Notice of
decision taken

71(1) Where the Director

- (a) issues an approval,
- (b) makes an amendment, addition or deletion pursuant to an application under section 67(1)(a), or
- (c) makes an amendment, addition or deletion pursuant to section 67(3)(a),

the Director shall,

- (d) where no notice of the application or proposed changes was provided by reason of the operation of section 69(3), provide or require the provision of notice of the decision in accordance with the regulations, or
- (e) where notice of the application or proposed changes was provided under section 69(1) or (2), provide notice or require the provision of notice of the

decision in accordance with the regulations to every person who submitted a statement of concern in accordance with section 70.

(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 in accordance with section 70 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.

(4) The Director shall immediately on cancelling or suspending an approval under section 67(3)(b)

(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

72(1) No person shall transfer, sell, lease, assign or otherwise dispose of an approval except in accordance with the regulations.

(2) The Director may impose any terms and conditions that the Director considers appropriate in respect of the transfer, sale, lease, assignment or other disposition of an approval.

New
information

73 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.

Certificate of
variance

74(1) 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.

(2) 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.

Issuance of
certificate of
variance

75(1) The Minister may issue a certificate of variance if the Minister is of the opinion that

- (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,
- (b) the proposed variance is not likely to cause a significant adverse effect, and
- (c) refusal to grant a certificate of variance would result in serious economic hardship to the applicant without an offsetting benefit to others.

(2) The Minister may

- (a) impose any terms and conditions that the Minister considers appropriate with respect to any certificate of variance,
- (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, and
- (c) amend a term or condition of, add a term or condition to or delete a term or condition from a certificate of variance.

(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, 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

76 No person shall commence or continue any activity or the use of any thing that is 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

77(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

78(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

79(1) The Director may in accordance with the regulations

- (a) amend a term or condition of, 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 holder of the certificate of qualification.

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

Security

80(1) If required by the regulations, an applicant for or a holder of an approval, a certificate of qualification or a certificate of variance 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

81(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 and amendments to approvals and certificates of qualification, the form and content of the applications, the conditions required to be met by applicants 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 and amendments to 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 an approval is to be

tested or operated before normal operations commence;

- (h) specifying work that is permitted for the purposes of section 60;
- (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 for which 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

82(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, a certificate of qualification or a certificate of variance;

- (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 or a certificate of variance may be forfeited or returned, in whole or in 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) governing 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;
- (g) respecting the manner in which notice is to be provided under sections 69(1) and (2) and 71(1) and (3);
- (h) establishing or providing for the means of establishing what is a routine matter for the purposes of section 69(3)(b);
- (i) generally, providing for any other matters necessary for the purposes of this Part.

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

PART 3

ENVIRONMENTAL APPEAL BOARD

Environmental
Appeal Board
established

83(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 Act and in section 17.1 of the *Department of the Environment Act*.

(3) When a panel is convened under section 86(1), the panel has all the powers of the Board and is subject to all the same duties the

Board is subject to, and a reference in this Act to the Board shall be read as a reference to the panel.

Notice of
objection

84(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 67(1)(a), or
- (iii) makes an amendment, addition or deletion pursuant to section 67(3)(a),

a notice of objection may be submitted

- (iv) by the approval holder or by any person who previously submitted a statement of concern in accordance with section 70 and is directly affected by the Director's decision, in a case where notice of the application or proposed changes was provided under section 69(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 69(3);
- (b) where the Director refuses to issue an approval or to make an amendment, addition or deletion pursuant to an application under section 67(1)(a), the applicant may submit a notice of objection;
 - (c) where the Director cancels or suspends an approval under section 67(3)(b), the approval holder may submit a notice of objection;
 - (d) where the Director cancels a certificate of qualification under section 79(1)(b), the holder of the certificate of qualification may submit a notice of objection;

- (e) where the Director issues an enforcement order under section 198(1)(a), (b) or (c), the person to whom the order is directed may submit a notice of objection;
- (f) where an inspector issues an environmental protection order regarding conservation and reclamation under section 124 or 125, the person to whom the order is directed may submit a notice of objection;
- (g) where the Director issues an environmental protection order under section 113
 - (i) the person to whom the order is directed, and
 - (ii) any person who is directly affected by the designation of the contaminated site
 may submit a notice of objection;
- (h) where the Director issues an environmental protection order, (except an environmental protection order directing the performance of emergency measures under section 103, 135, 143 or 152 and an environmental protection order referred to in clause (g)) the person to whom the order is directed may submit a notice of objection;
- (i) where an inspector issues a reclamation certificate under section 122, or the Director amends a reclamation certificate under section 123, the operator and any person who receives a copy of the certificate or amendment under section 129 may submit a notice of objection;
- (j) where the Director designates an area as a contaminated site under section 109, any person who is directly affected by the designation may submit a notice of objection;
- (k) where the Director requires a person to pay an administrative penalty under section 221, the person to whom the notice is directed may submit a notice of objection;
- (l) where the Director refuses a request for confidentiality under section 33(5)(b), the person to whom the notice is directed under section 33(6) may submit a 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 62, no notice of objection may be submitted in respect of that refusal.

(3) Where an activity prescribed in the regulations for the purposes of this subsection is the subject of an approval and is carried out in stages, and where the Director issues an approval in respect of a stage, no notice of objection may be submitted in respect of a stage that is already covered by the approval.

(4) 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), (f) or (h),
- (b) not later than one year after receipt of a copy of the reclamation certificate, in a case referred to in subsection (1)(i) relating to the issuing of a reclamation certificate, and
- (c) not later than 30 days after receipt of notice of the decision objected to or the last provision of notice of the decision objected to, as the case may be, in any other case.

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

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

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

Additional
information

85 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

86(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,
- (b) set a date for the hearing of the appeal, and
- (c) conduct the hearing of the appeal.

(2) The Board may, on application by any person who has submitted a notice of objection or on its own motion, extend any period of time prescribed in the regulations for the purposes of subsection (1) where the Board is of the opinion that there are sufficient grounds to do so.

Powers and
duties of
Board

87(1) The Board has all the powers of a commissioner under the *Public Inquiries Act*.

(2) Prior to conducting a hearing the Board may in accordance with the regulations determine which matters included in notices of objection properly before it will be included in the hearing of the appeal, and in making that determination the Board may consider the following:

- (a) whether the matter was the subject of a public hearing or review under the *Natural Resources Conservation Board Act* or under any Act administered by the Energy Resources Conservation Board and whether the person submitting the notice of objection received notice of and participated in or had the opportunity to participate in the hearing or review;
- (b) whether the Government has participated in a public review in respect of the matter under section 35 of the Environmental Assessment and Review Process Guidelines Order made under the *Department of the Environment Act* (Canada);
- (c) whether the Director has complied with section 65(4)(a);
- (d) whether any new information will be presented to the Board that is relevant to the decision appealed from and was not available to the person who made the decision at the time the decision was made;
- (e) any other criteria specified in the regulations.

(3) Prior to making a decision under subsection (2) the Board may, in accordance with the regulations, give to a person who has

submitted a notice of objection and to any other person the Board considers appropriate, an opportunity to make representations to the Board with respect to which matters should be included in the hearing of the appeal.

(4) Where the Board determines that a matter will not be included in the hearing of an appeal, no representations may be made on that matter at the hearing.

(5) The Board

(a) may dismiss a notice of objection if

- (i) it considers the notice of objection to be frivolous or vexatious,
- (ii) the person who submitted the notice of objection fails to comply with a written notice under section 85, or
- (iii) the person who submitted the notice of objection fails to provide security in accordance with an order under section 89(3)(b),

and

(b) shall dismiss a notice of objection if in the Board's opinion

- (i) the person submitting the notice of objection received notice of or participated in or had the opportunity to participate in one or more hearings or reviews under the *Natural Resources Conservation Board Act* or any Act administered by the Energy Resources Conservation Board at which all of the matters included in the notice of objection were considered, or
- (ii) the Government has participated in a public review under section 35 of the *Environmental Assessment and Review Process Guidelines Order* under the *Department of the Environment Act* (Canada) in respect of all of the matters included in the notice of objection.

(6) Subject to subsections (4) and (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.

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

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

Costs

88 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

89(1) Subject to subsection (2), submitting a notice of objection does not operate to stay 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, and

(b) order the person to whom the order was directed to provide security in accordance with the regulations in the form and amount the Minister considers necessary to cover the costs referred to in clause (a).

Decision of
Board

90(1) In the case of a notice of objection submitted under section 84(1)(k) or (l), the Board shall, within 30 days after the completion of the hearing of the appeal, make a written decision on the matter.

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

(3) In its decision the Board may

- (a) confirm, reverse or vary the decision appealed and make any decision that the Director whose decision was appealed could make, and
- (b) make any further order the Board considers necessary for the purposes of carrying out the decision.

(4) On making its decision the Board shall immediately

- (a) give notice of the decision to all persons who submitted notices of objection or made representations to the Board and to all other persons who the Board considers should receive notice of the decision, and
- (b) make the written decision available in accordance with the regulations.

Report to
Minister

91(1) In the case of a notice of objection referred to in section 84(1)(a) to (j), the Board shall within 30 days after the completion of the hearing of the appeal submit a report to the Minister, including its recommendations and the representations or a summary of the representations that were made to it.

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

Decision by
Minister

92(1) On receiving the report of the Board the Minister may, by order,

- (a) confirm, reverse or vary the decision appealed and make any decision that the person whose decision was appealed could make,
- (b) make any direction that the Minister considers appropriate as to the forfeiture or return of any security provided under section 89(3)(b), and
- (c) make any further order that the Minister considers necessary for the purpose 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

93 On complying with section 92, 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.

Ministerial
regulations

94 The Minister may make regulations

- (a) respecting the form and content of a notice of objection;
- (b) prescribing periods of time for the purposes of section 86(1);
- (c) respecting the conduct of proceedings before the Board;
- (d) prescribing the criteria to be considered by the Board in directing interim or final costs to be paid;
- (e) respecting the manner in which written decisions of the Board are to be made available for the purposes of section 90(4);
- (f) generally for regulating the conduct and work of the Board.

Lieutenant
Governor in
Council
regulations

95 The Lieutenant Governor in Council may make regulations

- (a) respecting the appointment and membership of the Board and providing for the remuneration and travel and living expenses that are payable to members of the Board;
- (b) prescribing additional criteria to be considered by the Board for the purposes of section 87(2)(e);
- (c) prescribing the activities to which section 84(3) applies;
- (d) respecting financial or other security for the purposes of section 89(3)(b).

PART 4
RELEASE OF SUBSTANCES

Interpretation
and
application

96(1) 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) “person responsible for the contaminated site” means
 - (i) a person responsible for the substance that is in, on or under the contaminated site,
 - (ii) any other person who the Director considers to have been responsible for causing or contributing to the release of the substance into the environment,
 - (iii) the owner of the contaminated site,
 - (iv) any previous owner of the contaminated site who was the owner at any time when the substance was in, on or under the contaminated site,
 - (v) a successor, assignee, executor, administrator, receiver, receiver-manager or trustee of a person referred to in any of subclauses (ii) to (iv), and
 - (vi) a person who acts as the principal or agent of a person referred to in any of subclauses (ii) to (v).

(2) Sections 99 to 101 apply only to releases of substances that are not authorized by an approval or the regulations.

Division 1
Releases of Substances Generally

Prohibited
release where
approval or
regulation

97(1) No person shall knowingly release or permit the release of a substance into the environment in an amount, concentration or level or at a rate of release that is in excess of that expressly prescribed by an approval or the regulations.

(2) No person shall release or permit the release of a substance into the environment in an amount, concentration or level or at a rate of release that is in excess of that expressly prescribed by an approval or the regulations.

(3) For the purposes of this section, if there is a conflict between an approval and the regulations as to an amount, concentration, level or rate of release of a substance, the most stringent requirement prevails.

Prohibited
release where
no approval or
regulation

98(1) No person shall knowingly release or permit the release into the environment of a substance in an amount, concentration or level or at a rate of release that causes or may cause a significant adverse effect.

(2) No person shall release or permit the release into the environment of a substance in an amount, concentration or level or at a rate of release that causes or may cause a significant adverse effect.

(3) Subsections (1) and (2) apply only where the amount, concentration, level or rate of release of the substance is not authorized by an approval or the regulations.

(4) No person may be convicted of an offence under this section if that person establishes that the release was authorized by another enactment of Alberta or Canada.

Duty to report
release

99(1) 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 has caused, is causing or may cause an adverse effect shall, as soon as that person knows or ought to know of the release, report it to

- (a) the Director,
- (b) the owner of the substance, where the person reporting knows or is readily able to ascertain the identity of the owner,
- (c) the person having control of the substance, where the person reporting knows or is readily able to ascertain the identity of the person having control, and
- (d) any other person who the person reporting knows or ought to know may be directly affected by the release.

(2) The person having control of a substance that is released into the environment that has caused, is causing or may cause an 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 know 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 has caused, is causing or may cause 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

100(1) A person who is required to report to the Director pursuant to section 99 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), the person shall report in writing in the manner required by the regulations.

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

Duty to take remedial measures

101 Where a substance that has caused, is causing or may cause 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,

- (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 for
release

102(1) Subject to subsection (2), where the Director is of the opinion that

- (a) a release of a substance into the environment may occur, is occurring or has occurred, and
- (b) 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.

(2) Where the release of the substance into the environment is or was expressly authorized by and is or was in compliance with an approval or the regulations, the Director may not issue an environmental protection order under subsection (1) unless in the Director's opinion the adverse effect was not reasonably foreseeable at the time the approval was issued or the regulations were made, as the case may be.

(3) 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 that is 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

103(1) Where an inspector, an investigator or the Director is of the opinion that

- (a) a release of a substance into the environment may occur, is occurring or has occurred, and
- (b) 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.

(2) Subsection (1) applies whether or not the release of the substance into the environment is or was expressly authorized by or is or was in compliance with an approval or the regulations.

Emergency
measures and
notification

104(1) Where an inspector, an investigator or the Director is of the opinion that

- (a) a release of a substance into the environment may occur, is occurring or has occurred, and
- (b) the release 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) Subsection (1) applies whether or not the release of the substance into the environment is or was expressly authorized by and is or was in compliance with an approval or the regulations.

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

Environmental
protection
orders re
odour

105(1) Where the Director is of the opinion that a substance or thing is causing or has caused an offensive odour, the Director may issue an environmental protection order to the person responsible for the substance or thing.

(2) An environmental protection order under this section may order the person to whom it is directed to take any or all of the following measures:

- (a) investigate the situation;
- (b) take any action specified by the Director to prevent the offensive odour;
- (c) minimize or remedy the effects of the offensive odour;
- (d) monitor, measure, contain, remove, store, destroy or otherwise dispose of the substance or thing causing the offensive odour or lessen or prevent the offensive odour;
- (e) install, replace or alter any equipment or thing in order to control or eliminate the offensive odour;
- (f) construct, improve, extend or enlarge a plant, structure or thing if that is necessary to control or eliminate the offensive odour;
- (g) take any other action the Director considers to be necessary;
- (h) report on any matter ordered to be done in accordance with directions set out in the order.

106(1) The Minister may make regulations

- (a) classifying releases for the purposes of this Division and exempting any release or any class of release from the application of this Division, and attaching terms and conditions to any such exemption;
- (b) respecting the manner in which a report under section 100(2) is to be made;
- (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 level, including the maximum level, of a substance that may be released into the environment;
- (f) prescribing the rate, including the maximum rate, at which a substance may be released into the environment;
- (g) 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;
- (h) prescribing the point at which a measurement pursuant to the regulations is to take place;
- (i) prescribing the maximum visible emissions permitted to be released;
- (j) 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.

(2) Before making regulations under subsection (1)(c), (d), (e), (f) or (i) the Minister shall engage in such public consultation with respect to the proposed regulations as the Minister considers appropriate.

Lieutenant
Governor in
Council
regulations

107 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 that is attached or connected to or forms 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 102(3)(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 as a result of which 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) generally, for the protection of the environment and the regulation of sources of substances.

Division 2 Contaminated Sites

Application **108** This Division applies regardless of when a substance became present in, on or under the contaminated site.

Designation of contaminated sites **109(1)** 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 an area of the environment, the Director may designate an area of the environment as a contaminated site.

(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.

Notice of designation **110** The Director shall

- (a) give notice of his decision to designate an area of the environment as a contaminated site to
 - (i) any of the persons responsible for the contaminated site that the Director considers appropriate, and
 - (ii) the local authority of the municipality in which the contaminated site is located,

and

- (b) provide notice of his decision to designate an area of the environment as a contaminated site in accordance with the regulations.

Statement of concern

111(1) Any person who is directly affected by a designation of a contaminated site may submit a statement of concern to the Director setting out that person's views on any remedial measures that should be taken with respect to the contaminated site.

(2) A statement of concern must be submitted

- (a) within 30 days after receipt of the notice under section 110(a) or the last provision of the notice under section 110(b), or
- (b) within any longer period allowed by the Director in the notice.

Remedial action plans and agreements

112(1) A person responsible for the contaminated site may

- (a) prepare for the approval of the Director a remedial action plan in respect of the contaminated site, and
- (b) enter into an agreement with the Director, with other persons responsible for the contaminated site or with both the Director and other persons responsible, providing for the remedial action to be taken in respect of the contaminated site and providing for the apportionment of the costs of taking that action.

(2) An agreement under subsection (1)(b) to which the Director is not a party is not valid unless it is approved by the Director.

(3) Where an agreement made under subsection (1)(b) is carried out in accordance with its terms, the Director may not issue an environmental protection order under section 113 to any of the persons responsible for the contaminated site who are parties to the agreement in respect of any matter that is provided for in the agreement.

Environmental protection order re 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) In deciding whether to issue an environmental protection order under subsection (1) to a particular person responsible for the

contaminated site, the Director shall give consideration to the following:

- (a) when the substance became present in, on or under the site;
- (b) in the case of an owner or previous owner of the site,
 - (i) whether the substance was present in, on or under the site at the time that person became an owner;
 - (ii) whether the person knew or ought reasonably to have known that the substance was present in, on or under the site at the time that person became an owner;
 - (iii) whether the presence of the substance in, on or under the site ought to have been discovered by the owner had the owner exercised due diligence in ascertaining the presence of the substance before he became an owner, and whether the owner exercised such due diligence;
 - (iv) whether the presence of the substance in, on or under the site was caused solely by the act or omission of an independent third party;
 - (v) the price the owner paid for the site and the relationship between that price and the fair market value of the site had the substance not been present in, on or under it;
- (c) in the case of a previous owner, whether that owner disposed of his interest in the site without disclosing the presence of the substance in, on or under the site to the person who acquired the interest;
- (d) whether the person took all reasonable care to prevent the presence of the substance in, on or under the site;
- (e) whether a person dealing with the substance followed accepted industry standards and practice in effect at the time;

- (f) whether the person contributed to further accumulation or the continued release of the substance on becoming aware of the presence of the substance in, on or under the site;
- (g) what steps the person took to deal with the site on becoming aware of the presence of the substance in, on or under the site;
- (h) any other criteria the Director considers to be relevant.

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

- (a) require the person to whom the order is directed to take any measures that the Director considers are 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 102,
- (b) contain provisions providing for the apportionment of the cost of doing any of the work or carrying out any of the measures referred to in clause (a), and
- (c) 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
environmental
protection
order

114 In addition to serving an environmental protection order issued under section 113 on the person to whom it is directed, the Director shall

- (a) give notice of the issuance of the order to the local authority of the municipality in which the contaminated site is located, and
- (b) provide notice of the issuance of the order in accordance with the regulations.

Compensation

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 the Minister considers appropriate

pay compensation to any person who suffers loss or damage as a direct result of the application of this Division.

Ministerial
regulations

116 The Minister may make regulations regulating and prohibiting the use of a contaminated site or the use of any product that comes from a contaminated site.

Lieutenant
Governor in
Council
regulations

117 The Lieutenant Governor in Council may make regulations

- (a) authorizing the payment of compensation by the Government for the purposes of section 115, 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;
- (b) respecting the manner in which notice is to be provided under sections 110(b) and 114(b).

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 the land affected by the order;
- (c) “operator” means

- (i) an approval holder who carries on or has carried on an activity on or in respect of specified land,
 - (ii) any person who carries on or has carried on an activity on or 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*,
 - (B) under a former Act within the meaning of that term in the *Surface Rights Act*, or
 - (C) by a body that is empowered to grant a right of entry under the *Metis Settlements Act* in respect of land that is located in a settlement area;
 - (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 or the Public Utilities Board or a predecessor of either of them or by a body that is empowered to make such an order under the *Metis Settlements Act* in respect of land that is located in a settlement area;

- (g) “specified land” means specified land within the meaning of the regulations on or in respect of which an activity is carried on, 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 coming into force of this Part 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.

Reclamation inquiry

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

Duty to reclaim

121(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 or the Director, and
- (d) this Act.

Issuance of
reclamation
certificate

122(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 121(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 121(1) continues to apply with respect to the remaining specified land.

(4) An approval in respect of an activity on specified land expires on the date that the final reclamation certificate is issued under this Part unless the approval specifies a different expiry date.

Amendment
and
cancellation of
certificate

123(1) The Director may

- (a) amend a term or condition of, 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 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 an 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 an activity,

the inspector may issue an environmental protection order regarding conservation and reclamation 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 122 or under the *Land Surface Conservation and Reclamation Act*, the Director is of the opinion that further work may be necessary to 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 reclamation certificate was issued by the inspector, the Director may

- (a) subject to subsection (3), 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 conserve and reclaim the specified land, or
- (b) carry out any work that the Director considers is necessary to conserve and reclaim the specified land.

(3) No environmental protection order regarding conservation and reclamation may be issued under this section

- (a) in any case where the reclamation certificate in respect of the specified land was issued under the *Land Surface Conservation and Reclamation Act*, or
- (b) in any other case, after the date prescribed or determined in accordance with the regulations for the purposes of this section.

(4) The costs of carrying out work under subsection (2)(b) 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 or in respect of 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 right of entry 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 right of entry order has been acquired or expropriated by the Government or by a local authority, or
- (c) the expropriation board is satisfied that the operator has not exercised any rights under the right of entry 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 84(1)(i).

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 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 accordance with the regulations.

Lieutenant
Governor in
Council
regulations

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 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 or must 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) respecting the number and kinds of inspectors who may conduct a reclamation inquiry;
- (f) providing for procedures respecting the conduct of reclamation inquiries;
- (g) respecting the form and amount of financial or other security to be given and insurance to be carried by operators;
- (h) 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;

- (i) requiring an operator to give notice of the suspension of or cessation of an activity on or in respect of specified land, and respecting the time at which and the manner in which such notice must be given;
- (j) defining “specified land” for the purposes of this Part;
- (k) respecting the terms and conditions that may be contained in an environmental protection order regarding conservation and reclamation and in a reclamation certificate;
- (l) respecting the procedure for the submission of applications for reclamation certificates, the form and content of applications and the plans and specifications that must accompany applications;
- (m) prescribing dates or the manner of determining dates for the purposes of section 126(3)(b), 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) respecting 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

GROUNDWATER AND RELATED DRILLING

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) “inactive well” means a well that is not currently being used but is being maintained for future use;
- (f) “person responsible for a well” means a person responsible for a well within the meaning of the regulations;
- (g) “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;
- (h) “well” means water well.

Return of tags, etc.

133 When an approval issued for the drilling of wells is cancelled or suspended under section 67(3)(b) or by an enforcement order under section 198, 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.

Environmental protection order

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 that 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 groundwater, 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 is of the opinion that

- (a) 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) any drilling referred to in section 134(2) may cause, is causing or has caused an immediate and significant adverse impact on groundwater, the inspector, investigator or Director may issue an environmental protection order to the person in charge of the drilling, as provided for in the regulations, 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 to any actions related to the drilling of a well, the inspector, investigator or Director may take any emergency measures he considers necessary to protect human life or health or the environment.

Ministerial
regulations

137 The Minister may make regulations

- (a) respecting the qualifications for drillers;
- (b) providing for the issuing of tags, decals, plates, devices, documents or other things 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, device, document or other thing referred to in clause (b);
- (d) prohibiting the use of a drilling machine unless a tag, decal, plate, device, document or other thing 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) respecting remedial action to be taken in respect of problem wells;
- (j) respecting the control of flowing wells;
- (k) respecting the methods of drilling wells and of determining sources of groundwater;

- (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) respecting the maintenance of inactive wells;
- (o) respecting the ongoing maintenance and operation of active wells;
- (p) respecting the drilling and reclamation of boreholes.

Lieutenant
Governor in
Council
regulations

138 The Lieutenant Governor in Council may make regulations

- (a) requiring that notice in writing be given 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 sections 134(2) and 135(b);
- (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 supply of potable water by the waterworks system,
 - (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 causes or may cause the potable water supplied by the system to be unfit for any of its intended uses, or
- (b) that causes or may cause 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 the Director is of the opinion that 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) An environmental protection order may order 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 any emergency measures he considers necessary to protect human life or health.

Ministerial
regulations

145 The Minister may make regulations

- (a) defining “industrial development”, “municipal development”, “privately owned development” and “private utility” for the 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

HAZARDOUS SUBSTANCES AND PESTICIDES

Definitions

146 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.

Division 1 Hazardous Substances and Pesticides Generally

Storing and
handling

147 A person who keeps, stores or transports a hazardous substance or pesticide shall do so in a manner that ensures that the hazardous substance or pesticide does not directly or indirectly come into contact with or contaminate any animals, plants, food or drink.

Environmental
protection
order
regarding
contaminated
matter

148 Where the Director is of the opinion that any crop, food, feed, animal, plant, water, produce, product or other matter has been or may be contaminated by a hazardous substance or pesticide, 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 the crop, food, feed, animal, plant, water, produce, product or other matter;
- (b) to any person ordering the crop, food, feed, animal, plant, water, produce, product or other matter to be destroyed, decontaminated or otherwise rendered harmless;
- (c) to any person requiring the replacement of the hazardous substance or pesticide with another substance;
- (d) to the seller of the hazardous substance or pesticide 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 the hazardous substance or pesticide that the Director considers appropriate in order to protect human life or health or the environment.

Sale or
distribution
prohibited

149 No person shall sell or distribute any crop, food, feed, animal, plant, water, produce, product or other matter

- (a) that contains a hazardous substance or pesticide in excess of the permissible concentrations as established by this Act, the *Food and Drugs Act* (Canada) or the *Pest Control Products Act* (Canada), or
- (b) that the person knows or ought reasonably to know has been contaminated by a hazardous substance or pesticide.

Environmental
protection
order

150(1) Where the Director is of the opinion that the manufacture, use, handling, transportation, storage, sale, disposal or application of a hazardous substance or pesticide has caused, is causing or may cause an adverse effect, the Director may, subject to subsection (2), issue an environmental protection order to the person responsible for the hazardous substance or pesticide.

(2) Where the manufacture, use, handling, transportation, storage, sale, disposal or application of the hazardous substance or pesticide is expressly authorized by an approval, the Director may issue an environmental protection order under subsection (1) only if, in the Director's opinion, the adverse effect was not reasonably foreseeable at the time the approval was issued.

Contents of
environmental
protection
order

151 An environmental protection order under section 150 may order the person to whom it is directed to do any or all of the following:

- (a) to stop, limit or control the manufacture, application or release of the hazardous substance or pesticide into the environment
 - (i) permanently, or
 - (ii) for a specified period of time

in the circumstances set out in the environmental protection order;

- (b) to 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) to 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

152 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 as a result of the manufacture, use, handling, transportation, storage, sale, disposal or application of a hazardous substance or pesticide, the inspector, investigator or Director may issue an environmental protection order to the person responsible for the hazardous substance or pesticide directing the performance of emergency measures that the inspector, investigator or Director considers necessary.

Ministerial
regulations

153 The Minister may make regulations

- (a) generally for carrying out the purposes 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, 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) requiring and respecting the submission of samples of a hazardous substance to the Minister;
- (i) 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;
- (j) requiring manufacturers, distributors or sellers to recall products or materials containing a hazardous substance.

Lieutenant
Governor in
Council
regulations

154 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 commercial, manufacturing or processing undertakings 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) providing for any other matter that is necessary to carry out the purposes of this Part.

Division 2 Pesticides

Prohibitions re
sale, use and
disposal

155(1) Subject to subsection (2), no person shall

- (a) sell, distribute, use, apply, handle, store or transport a pesticide,
- (b) operate or clean any machinery, equipment, vehicle, aircraft or vessel used in connection with the sale, distribution, use, application, handling, storage or transportation of a pesticide, or
- (c) use or clean a pesticide container

except in accordance with the regulations with respect to that pesticide and 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), 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

156 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, in the opinion of the Director, there are alternative pest control methods that could be used.

Ministerial
regulations

157 The Minister may make regulations classifying pesticides for the purposes of this Part and the regulations under section 158.

Lieutenant
Governor in
Council
regulations

158 The Lieutenant Governor in Council may make regulations

- (a) designating substances as pesticides for the purposes of this Act;
- (b) governing and prohibiting the sale, use, application, distribution, packaging, storage, handling and transportation of pesticides;
- (c) requiring that any pesticide be registered before being sold, supplied or used and respecting the manner in which such pesticides are to be registered;
- (d) respecting the submission to the Minister of information relating to pesticides;
- (e) respecting and prohibiting the importation of a pesticide into Alberta, whether or not the pesticide is registered under the *Pest Control Products Act* (Canada) or under the laws of another jurisdiction;
- (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, aircraft, vessels, machinery and equipment used in pesticide application, in extermination or in the transportation of pesticides, and
 - (ii) on facilities or places used to store pesticides;
- (j) respecting the use, operation and cleaning of vehicles, aircraft, vessels, machinery, equipment and containers used in connection with the use, application, distribution, packaging, 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
 - (i) pesticide waste that is not designated as hazardous waste,
 - (ii) pesticides, mixtures containing pesticides and things that are treated with or contaminated by a pesticide, and
 - (iii) 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;
- (p) exempting any person, land, water or thing or class thereof from the application of sections 155 and 156 or the regulations under this Division.

Adoption of
federal
requirements

159 Regulations under section 158 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 9

WASTE MINIMIZATION, RECYCLING AND WASTE MANAGEMENT

Division 1

Waste Minimization and Recycling

Definitions

160 In this Part,

- (a) “depot” means a place established, operated as a business or used by any person for the collection of designated material;
- (b) “dispose of” in sections 167 to 171 means to discharge, dump, throw, drop, discard, abandon, spill, leak, pump, pour, emit or empty;
- (c) “industry operated recycling fund” means a recycling fund established in regulations under section 166(y);
- (d) “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;
- (e) “public land” means land of the Government, other than a highway and other than land in a rural district, improvement district or special area that is administered by the Minister of Municipal Affairs;
- (f) “recycle docket” means a register or label respecting the contents of a shipment of a hazardous recyclable made in accordance with the regulations;
- (g) “Recycling Fund” means the Recycling Fund established under section 163;
- (h) “retailer” means
 - (i) a person who sells a designated material in Alberta, and

- (ii) any other person who provides a designated material for use in Alberta and is defined in the regulations as a retailer,

and includes anyone acting or purporting to act on behalf of such a person;

- (i) “unsightly property” means any property on which there is waste that causes the property to look unsightly;
- (j) “waste” means, for the purposes of sections 167 to 172 and section 176(a), (b) and (c),
 - (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.

Prohibition

161 No person shall consign for shipment any hazardous recyclable unless

- (a) the hazardous recyclable is accompanied by a recycle docket, and
- (b) the hazardous recyclable is being consigned to a facility in respect of which an approval has been issued authorizing it to recycle that hazardous recyclable.

Surcharge for
designated
material

162 A person who manufactures or distributes a designated material for sale in Alberta and a retailer shall in accordance with the regulations

- (a) collect the surcharge prescribed for the designated material in accordance with the regulations, and
- (b) deposit the surcharge in
 - (i) an industry operated recycling fund, or
 - (ii) the Recycling Fund.

Recycling
Fund

163(1) There is hereby established the Recycling Fund, which shall be used to provide or pay for any or all of the following:

- (a) expenditures incurred in establishing waste minimization and recycling programs and initiatives;
- (b) education programs related to waste minimization and recycling;
- (c) research and development activities related to waste minimization and recycling;
- (d) the promotion and development of activities and economic instruments to encourage waste minimization;
- (e) the appropriate disposal of designated material as waste.

(2) The Recycling Fund shall be administered by the Minister in accordance with this Act.

(3) The following shall be paid into the Recycling Fund:

- (a) surcharges on designated material, as provided for in the regulations;
- (b) gifts, donations and bequests to the Fund.

(4) The Minister may be designated as a depositor in the Consolidated Cash Investment Trust Fund on behalf of the Recycling Fund.

(5) Investment income earned on deposits of the Recycling Fund accrues to and forms part of the Fund.

Collection and
recovery of
designated
material

164 A person who manufactures or distributes a designated material for sale in Alberta and a retailer shall, in accordance with the regulations, provide in Alberta depots and other methods for the collection and recovery of the designated material.

Security

165 If required by the regulations, a manufacturer or distributor of a designated material for sale in Alberta and a retailer shall provide financial or other security and carry insurance in respect of their operations in Alberta related to the manufacture, distribution or sale of the designated material.

Lieutenant
Governor in
Council
regulations

166 The Lieutenant Governor in Council may make regulations

- (a) further defining "retailer" for the purposes of this Division;
- (b) designating designated material for the purposes of this Act and creating different classes of designated material for different purposes;
- (c) prohibiting the manufacture, sale or distribution of specified designated material;
- (d) providing for a system of registration of persons who distribute or wish to distribute a designated material in Alberta, and respecting requirements for registration and all matters related to the system of registration;
- (e) respecting terms and conditions that must be met by a person in order to distribute a designated material in Alberta;
- (f) 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 or by a retailer;
- (g) 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 or by a retailer may be forfeited or returned, in whole or in part;
- (h) requiring the development and implementation of a waste minimization, recycling or recovery plan for

designated material by manufacturers or distributors of the designated material or by any other person;

- (i) requiring that designated material be recycled;
- (j) respecting methods for the recovery of designated material;
- (k) respecting surcharges for the purposes of sections 162 and 163, including, without limitation, regulations establishing or providing for the manner of establishing the classes of designated material for which surcharges are payable, prescribing the amount of a surcharge or the method of determining it and providing for the manner in which and the times at which surcharges are to be collected and paid;
- (l) respecting the advertising of surcharges;
- (m) requiring manufacturers, distributors or retailers of designated material to collect the designated material and specifying the manner in which the collection is to be carried out;
- (n) requiring a local authority to provide a collection system for designated material;
- (o) respecting the manner in which designated material is to be stored, collected, transported and recycled;
- (p) respecting the establishment and operation of depots, including the qualifications of persons who may operate them;
- (q) respecting the amount and kind of designated material a retailer is required to accept at the retailer's place of business for recycling;
- (r) specifying designated material for which payment must be made by a retailer or depot operator on its return for recycling;
- (s) requiring a retailer or depot operator to pay for designated material returned for recycling;
- (t) specifying the amount that a retailer or depot operator is to pay for designated material returned for recycling;

- (u) 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 to be calculated;
- (v) respecting the completion, filing, retention, use and disposition of recycle dockets for the purposes of section 161, and of any other documents used under this Division;
- (w) 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;
- (x) 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;
- (y) respecting the establishment, operation, transfer and winding-up of industry operated recycling funds and respecting the manner in which and the purposes for which money in such a recycling fund may be used;
- (z) prohibiting the distribution of a designated material where no industry operated recycling fund has been established in respect of that designated material;
- (aa) governing the packaging and labelling of designated material;
- (bb) governing the post-consumer waste content of commodities;
- (cc) 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;
- (dd) 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;
- (ee) providing for the establishment of a management board or other body for any purpose in connection with a regulation under this section;
- (ff) authorizing a management board or other body established under regulations under clause (ee) to make by-laws, and respecting the subject-matters on which such by-laws may be made.

Division 2 Waste

Waste on
public land

- 167** 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

- 168(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 the owner or by any other person with the owner's consent, express or implied.

Waste on land
owned by
local authority

169 No person shall dispose of waste on any land owned or administered by a local authority 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 waste,
 - (d) by burning the waste
 - (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

170 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

171 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 on the land.

Environmental
protection
order to clean
up unsightly
property

172(1) If an inspector or investigator or the Director considers any property when viewed from a highway to be unsightly property, the inspector, investigator or Director may issue an environmental protection order to clean up the unsightly property.

(2) The environmental protection order shall be directed 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 directed 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

173(1) When an environmental protection order under section 172 is issued in respect of land that is located in a municipality and the person to whom it is directed 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) in the case of occupied land, on the occupant and on the registered owner of the land, or
- (b) in the case of unoccupied land, on the registered owner of the land.

(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 settlement under the *Metis Settlements Act*.

Collection of
expenses as
taxes

174 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

175(1) Where an environmental protection order is issued under section 172, the person to whom the order is directed 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 local authority where the land concerned is located in a municipality that is a city, town, new town, village, summer village, municipal district, county, rural district or settlement under the *Metis Settlements Act*.

(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.

Lieutenant
Governor in
Council
regulations

176 The Lieutenant Governor in Council may make regulations

(a) designating anything as waste;

(b) respecting the provision of waste collection containers;

(c) respecting the disposal of waste

(i) on public land,

- (ii) on land that is owned or administered by a local authority, or
- (iii) on, into or under water or ice;
- (d) respecting the procedure relating to requests for review of environmental protection orders under section 172 to clean up unsightly property and the conduct of the review.

Division 3 Hazardous Waste

Identification
number
required for
hazardous
waste

177(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

178 If required by the regulations, the holder of a personal identification number shall provide financial or other security and carry insurance.

Cancellation of
identification
number

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

Manifest
required for
hazardous
wastes

180 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.

Lieutenant
Governor in
Council
regulations

181 The Lieutenant Governor in Council may make regulations

- (a) exempting any person from the application of all or any of the provisions of this Division or the regulations under this Division;
- (b) designating any thing as hazardous waste for the purposes of this Act, including designating classes of hazardous waste;
- (c) respecting the storage, collection, transportation, treatment and disposal of hazardous waste;
- (d) respecting the application for and the issuance of personal identification numbers for the purposes of section 177;
- (e) 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;
- (f) 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;
- (g) respecting the completion, retention, use, disposition and filing of manifests and copies of manifests, and prescribing the form of the manifest.

PART 10

ENFORCEMENT

Definitions

182 In this Part,

- (a) “justice” means a justice of the peace or a provincial court judge, and includes 2 or more justices where 2 or more justices are, by law, required to act or, by law, act or have jurisdiction;

- (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 issued under section 189;
- (d) “peace officer” means peace officer within the meaning of the *Police Act*;
- (e) “search warrant” means a search warrant issued by reason of the operation of section 3 of the *Provincial Offences Procedure Act*.

Investigations and Inspections

Establishment
of programs
by Minister

183 The Minister may establish programs to promote the reporting of

- (a) acts or omissions that are detrimental to the environment, and
- (b) offences under this Act.

Application for
investigation

184(1) Any 2 persons ordinarily resident in Alberta 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.

(2) The application shall be accompanied by a solemn declaration

- (a) stating the names and addresses of the applicants,
- (b) stating the nature of the alleged offence and the name of each person alleged to be involved in its commission, and
- (c) containing a concise statement of the evidence supporting the allegations of the applicants.

Investigation
on receipt of
application

185(1) On receipt of an application under section 184, 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.

(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.

(3) The Director may discontinue an investigation if the Director is of the opinion that the alleged offence does not require further investigation.

(4) Where an investigation is discontinued the Director shall

- (a) prepare a statement in writing stating the reasons for its discontinuance, and
- (b) send a copy of the statement to the applicants and to any person whose conduct was investigated.

Right of entry
and inspection

186(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 187, 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, 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;
- (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) 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,
 - (i) require the person having charge, management or control of the thing to detain the thing at the place where it is found, or
 - (ii) remove the thing or cause it to be removed from the place where it is found and give a receipt for it;
- (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) An investigator may not detain or remove a thing under subsection (1)(h) 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)(h) 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.

(5) 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 the investigator 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.

(6) 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.

(7) An investigator who exercises the power set out in subsection (5)(l) may exclude from the questioning any person except counsel for the individual being questioned.

Private
dwelling place

187 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

188 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 enter
and inspect

189(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 186, 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 is otherwise inaccessible,
 - (ii) a person has denied the investigator access to a place or there is reasonable ground for believing that a person may deny the investigator access to a place,
 - (iii) a person has prevented the investigator from doing anything set out in section 186 or denied the investigator access to any thing as a result of which the investigator

is unable to do anything set out in section 186,

- (iv) there is reasonable ground for believing that a person may prevent an investigator from doing anything set out in section 186, or may deny the investigator access to any thing as a result of which the investigator may be unable to do anything set out in section 186,
- (v) 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
- (vi) there is reasonable ground for believing that an attempt by the investigator to do anything set out in section 186 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 186 that is 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 the order 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.

Order without
notice

190 An order under section 189 may be issued or renewed on application without notice.

Powers to be
exercised at
reasonable
time

191 An investigator exercising powers under section 189 must do so at a reasonable time unless otherwise authorized in the order under that section.

Seizure
without order
or search
warrant

192(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 186 or 189 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.

Bringing
seized thing
before judge

193 An investigator who seizes any thing under the authority of section 192 shall deal with it in the same way as if it were seized under the authority of a search warrant.

Tele-warrant

194(1) Where an investigator has reasonable grounds to believe that

- (a) an offence has been committed under this Act,
- (b) there is in a place any thing that will afford evidence as to the commission of the offence, and
- (c) it would be impracticable to appear personally before a justice to make an application for a search warrant,

the investigator may submit an information on oath to a justice by telephone or other means of telecommunication.

(2) An information submitted by telephone or other means of telecommunication shall be on oath and shall be recorded verbatim by the justice, who shall, as soon as practicable, cause to be filed with the clerk of the Provincial Court of Alberta nearest to the area in which the tele-warrant is intended for execution the record or a transcription of the record certified by the justice as to time, date and contents.

(3) For the purposes of subsection (2), an oath may be administered by telephone or other means of telecommunication.

(4) An information on oath submitted by telephone or other means of telecommunication shall include

- (a) a statement of the circumstances that make it impracticable for the investigator to appear personally before a justice,
- (b) a statement of the alleged offence, the place to be searched and the things alleged to be liable to seizure,
- (c) a statement of the investigator's grounds for believing that things liable to seizure in respect of the alleged offence will be found in the place to be searched, and
- (d) a statement as to any prior application for a tele-warrant under this section or any other search warrant in respect of the same matter of which the investigator has knowledge.

(5) A justice who is satisfied that an information on oath submitted by telephone or other means of telecommunication

- (a) is in respect of an offence committed under this Act and conforms to the requirements of subsection (4),
- (b) discloses reasonable grounds for dispensing with an information presented personally and in writing, and
- (c) discloses reasonable grounds for the issuance of a search warrant in respect of the offence,

may issue a tele-warrant to an investigator conferring the same authority respecting search and seizure as may be conferred by a search warrant issued by a justice before whom the investigator appears personally, and may require that the tele-warrant be executed within such time period as the justice may order.

(6) Where a justice issues a tele-warrant under subsection (5),

- (a) the justice shall complete and sign the tele-warrant in the form prescribed in the regulations, noting on its face the time, date and place of issuance,
- (b) the investigator, on the direction of the justice, shall complete, in duplicate, a facsimile of the tele-warrant in the form prescribed in the regulations, noting on its face the name of the issuing justice and the time, date and place of issuance, and
- (c) the justice shall, as soon as practicable after the tele-warrant has been issued, cause the tele-warrant

to be filed with the clerk of the Provincial Court of Alberta nearest to the area in which the tele-warrant is intended for execution.

(7) An investigator who executes a tele-warrant under subsection (5) shall, before entering the place to be searched or as soon as is practicable thereafter, give a facsimile of the tele-warrant to any person present and ostensibly in control of the place.

(8) An investigator who, in any unoccupied place, executes a tele-warrant issued under subsection (5), shall on entering the place or as soon as is practicable thereafter, cause a facsimile of the tele-warrant to be suitably affixed in a prominent place within the place.

(9) An investigator to whom a tele-warrant is issued under subsection (5) shall file a written report with the clerk of the Provincial Court of Alberta nearest to the area in which the tele-warrant was intended for execution as soon as is practicable but within a period not exceeding 7 days after the tele-warrant has been executed, which report shall include

- (a) a statement of the time and date the tele-warrant was executed, or if the tele-warrant was not executed, a statement of the reasons why it was not executed,
- (b) a statement of the things, if any, that were seized pursuant to the tele-warrant and the location where they are being held, and
- (c) a statement of the things, if any, that were seized in addition to the things mentioned in the tele-warrant and the location where they are being held, together with a statement of the investigator's grounds for believing that those additional things had been obtained by, or used in, the commission of an offence.

(10) The clerk of the Provincial Court of Alberta with whom a written report is filed pursuant to subsection (9) shall, as soon as is practicable, cause the report, together with the information on oath and the tele-warrant to which it pertains, to be brought before a justice to be dealt with in respect of any thing that was seized and is referred to in the report, in the same manner as if the things were seized pursuant to a search warrant issued by a justice on an information presented personally by an investigator.

(11) In any proceeding in which it is material for a court to be satisfied that a search or seizure was authorized by a tele-warrant under subsection (5), the absence of the information on oath,

transcribed and certified by the justice as to time, date and contents, or of the original tele-warrant, signed by the justice and carrying on its face a notation of the time, date and place of issuance, is, in the absence of evidence to the contrary, proof that the search or seizure was not authorized by a tele-warrant issued under subsection (5).

Disposal of
things seized

195(1) Where a person is convicted of an offence under this Act and any thing relating to the conviction that was seized under this Part 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,

- (a) be forfeited to the Government, if the court so directs, or
- (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.

(2) Where a thing is forfeited under subsection (1)(a),

- (a) the Minister may dispose of or destroy the thing, and
- (b) the costs of the forfeiture and disposal or destruction are recoverable from the offender.

Assistance by
peace officer

196 An investigator may be accompanied by a peace officer while exercising powers or carrying out duties under this Part.

Assistance to
inspectors and
investigators

197 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

- (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
- (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.

Enforcement Orders

Enforcement
orders by
Director

198(1) Where in the Director's opinion a person has contravened this Act (except section 167, 168, 169, 170 or 171) the Director may, whether or not the person has been charged or convicted in respect of the contravention, issue an enforcement order ordering any of the following:

- (a) the suspension or cancellation of an 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 Director is satisfied the activity or thing will be constructed or operated in accordance with this Act;
- (d) the doing or refraining from doing of any thing referred to in section 102, 113, 124, 134, 142, 148, 151, 172 or 225, 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.

(2) Where an enforcement order specifies measures that must be taken under subsection (1)(e), the measures may impose requirements that are more stringent than applicable requirements in the regulations.

(3) An enforcement order issued under subsection (1) shall contain the reasons for making it and shall be served on the person to whom it is directed.

Enforcement
order
concerning
waste

199(1) Where an investigator or the Director has reason to believe that a person has contravened section 167, 168, 169, 170 or 171, the investigator or the Director 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 167, 168, 169, 170 or 171, as the case may be, in respect of the facts that gave rise to the order.

(3) An enforcement order issued under subsection (1) shall contain the reasons for making it and shall be served on the person to whom it is directed.

Amendment
and
cancellation of
enforcement
orders

200(1) The Director may

- (a) amend a term or condition of, 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 may have been 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 directed.

Court order for
compliance

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

Failure to
comply with
enforcement
order

202(1) If the person to whom an enforcement order is directed fails to comply with the enforcement order, the Director may take whatever action the Director considers necessary to carry out the terms of the enforcement order.

(2) Costs incurred by the Director under this section are recoverable by the Government

- (a) in an action in debt against the person to whom the enforcement order was directed, or
- (b) 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

(i) any matter to which an enforcement order relates, or

(ii) the failure to comply with an enforcement order,

and

(b) in a case where the enforcement order relates to a contaminated site under section 109, compensation paid to a person in accordance with section 115.

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

Joint and
several liability

203 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 of doing so, including any costs incurred by the Director under section 202(2).

Civil Remedies

Other civil
remedies
unaffected

204 Subject to sections 206 and 234, 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

205 Subject to section 206, where a person is convicted of an offence under this Act, any person who suffers loss or damage as a result of the conduct that constituted the offence may, in a court of competent jurisdiction, sue for and recover from the convicted person an amount equal to the loss or damage proved to have been suffered.

Protection
from liability

206 No action for damages may be commenced against

- (a) an employee within the meaning of the *Public Service Act* who
 - (i) is under the administration of the Minister,
 - (ii) is acting under the direction of an employee referred to in subclause (i), or
 - (iii) is acting pursuant to a delegation under section 17,
- (b) an agent of the Government,
- (c) a member of the Environmental Appeal Board,
- (d) a member of the Conservation and Reclamation Council,
- (e) a member or employee of a regulatory board,
- (f) an employee or agent of a Government agency, a local authority or the Government of Canada or any department or agency of that Government, where there has been a delegation under section 17, or
- (g) an employee or agent of a Government agency or a local authority, where there has been a transfer of administration under section 18

where the action arises out of any act or omission of that person that occurs during the course of that person's carrying out duties or exercising powers under this Act in good faith.

Injunction re
commission of
offence

207(1) Where, on the application of the Director, it appears to the Court of Queen's Bench that a person has done, is doing 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 that act or thing, 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

208 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 offence,
- (b) in carrying out or causing to be carried out any preventive or remedial action made necessary by the act or omission that constituted the offence, and
- (c) in compensating a person in accordance with section 115 where the compensation is payable as a result of the offence.

Injunction re
loss or
damage

209 Any person who has suffered, is suffering 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

210 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

211 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 58, 59, 64, 72, 73, 76, 97, 98, 99(1) or (2), 100, 101, 121, 133, 140, 141, 147, 149, 155, 161, 162, 164, 167, 168, 169, 170, 171, 177, 180, 197 or 235

is guilty of an offence.

Penalties

212(1) A person who commits an offence referred to in section 58, 97(1), 98(1) or 211(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 a 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 59, 64, 72, 73, 76, 97(2), 98(2), 99(1) or (2), 100, 101, 121, 140, 141, 147, 149, 155, 161, 162, 164, 177, 180, 197, 211(b), (c), (e), (g) or (i) or 235 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, 167, 168, 169, 170 or 171 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.

Due diligence
defence

213 No person shall be convicted of an offence under section 59, 64, 72, 73, 76, 97(2), 98(2), 99(1) or (2), 100, 101, 121, 140, 141, 147, 149, 155, 161, 162, 164, 177, 180, 197, 211(b), (c), (e), (g) or (i) or 235 if that person establishes on a balance of probabilities that he took all reasonable steps to prevent its commission.

Additional fine
where
monetary
benefits
acquired by
offender

214 Where a person is 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 212, a fine in an amount equal to the court's estimation of the amount of those monetary benefits.

Continuing
offences

215 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

216 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

217 Where a person who is acting under the direction of

- (a) a Minister of the Government,
- (b) an official of the Government,
- (c) a mayor, reeve or member of a council of a local authority, or

- (d) a commissioner

commits an offence under this Act, the Minister, official, mayor, reeve, member of council or commissioner is also guilty of the offence if he directed, authorized, assented to, acquiesced in or participated in its commission, whether or not the other person has been prosecuted for or convicted of the offence.

Court orders
relating to
penalty

218(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 prevent 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 that was carried out or caused to be carried out by the Government and was made necessary by 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

219(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

220(1) Subject to subsection (2), where a court has made an order under section 218, 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.

Administrative penalties

221(1) Where the Director is of the opinion that a person has contravened a provision of this Act or the regulations that is specified in the regulations, 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.

(3) Where a person fails to pay an administrative penalty in accordance with a notice under subsection (1) or a decision of the Board under section 90, the Government may recover the amount owing in respect of the penalty in an action in debt.

Ministerial regulations

222 The Minister may make regulations

- (a) governing the issuing, form and content of enforcement orders;
- (b) governing the issuing, form and content of orders under section 189;
- (c) governing the establishment of programs for the purposes of section 183.

Lieutenant
Governor in
Council
regulations

223 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 form and content of tele-warrants and facsimiles for the purposes of section 194;
- (d) prescribing the manner in which facts relating to convictions are to be published and notice is to be given for the purposes of section 218(1)(c) and (d);
- (e) prescribing the form and content of notices of administrative penalties for the purposes of section 221;
- (f) 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;
- (g) prescribing limitation periods for the giving of notices of administrative penalties;
- (h) respecting any other matter necessary for the administration of the system of administrative penalties.

PART 11

MISCELLANEOUS PROVISIONS

Environmental Protection Orders

Joint and
several liability
under
environmental
protection
orders

224(1) Where an environmental protection order is directed 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 of doing so, including any costs incurred by the Director under section 229(2).

(2) Subsection (1) does not apply to an environmental protection order under section 113 that provides for apportionment of costs.

(3) Notwithstanding subsection (1), where an environmental protection order under section 113 is directed to a person who is acting in the capacity of executor, administrator, receiver, receiver-manager or trustee in respect of a person responsible for a contaminated site, that person's liability is limited to the value of the assets the person is administering in respect of the contaminated site.

General
requirements
of
environmental
protection
orders

225(1) In addition to any other requirements that may be included in an environmental protection order, 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 prepare environmental audits for submission to the Director,
 - (iv) to submit to the Director any information, proposal or plan specified by the Director setting out any action to be taken by the person with respect to the subject-matter of the order, and
 - (v) to take any other measure that the person issuing 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 served on the person to whom it is directed.

Ministerial
regulations

226 The Minister may make regulations governing the issuing, form and content of environmental protection orders.

Amendment
and
cancellation of
environmental
protection
orders

227(1) The Director may

- (a) amend a term or condition of, 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 may have been issued by an inspector or investigator.

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

Court order for
compliance

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

Failure to
comply with
environmental
protection
order

229(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 are recoverable by the Government

- (a) in an action in debt against the person to whom the environmental protection order was directed, or
- (b) 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
 - (i) any matter to which an environmental protection order relates, or
 - (ii) the failure to comply with an environmental protection order,

and

- (b) in a case where the environmental protection order relates to a contaminated site under section 109, compensation paid to a person under section 115.

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

Environmental
protection
order where
person
unidentifiable

230(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 are recoverable in accordance with section 229(2) 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

231(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 103, 135, 143 or 152.

(2) An environmental protection order directing the performance of emergency measures under section 103, 135, 143 or 152 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

232 The costs of carrying out emergency measures under section 104, 136 or 144 are recoverable by the Government in an action in debt against the person who is responsible for the need to take the emergency measures.

Miscellaneous

Use of assistants

233 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.

Right of entry

234(1) The powers in this section are in addition to any power to enter under Part 10.

(2) An inspector or investigator or the Director may, without incurring liability for doing so, enter any place for the purpose of carrying out any work or doing any other thing that the inspector, investigator or Director is authorized under this Act to carry out or do.

(3) A person referred to in section 233 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.

(4) Where a judge of the provincial court is satisfied on evidence under oath that a person has been prevented from entering a place or has been denied access to 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 work or doing any thing that the person is authorized to carry out or do.

(5) A person entering any place under the authority of this section

- (a) shall do so at a reasonable time unless authorized otherwise in an order, and
- (b) shall give reasonable prior notice of intention to enter the place 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.

- Interference** **235** No person shall interfere with an inspector or investigator or the Director who is exercising powers or carrying out duties, or attempting to do so, under this Act.
- Court order re interference** **236** If a person interferes with an inspector or investigator or the Director contrary to section 235, 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.
- Vicarious responsibility** **237** For the purposes of this Act, 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** **238(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

239(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.

Service

240 Where any notice, request, order, direction or other document 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.

PART 12

TRANSITIONAL, CONSEQUENTIAL, REPEAL AND COMMENCEMENT

Transitional -
approvals

241(1) *Where immediately before the coming into force of this section a complete application for an approval, licence, permit, certificate or other authority under an Act referred to in section 245 (or for a renewal of such an approval, licence, permit, certificate or authority) has been made, the application shall be dealt with under that Act as if it had not been repealed, but the approval, licence, permit, certificate, authority or renewal once*

issued is deemed to be an approval or certificate of qualification under this Act.

(2) Where an application referred to in subsection (1) is incomplete, the application must be made in accordance with this Act.

(3) The decision as to whether an application referred to in subsection (1) is complete is in the discretion of the person authorized to receive the application.

(4) A regulation made under this Act that provides for the issuing of an approval or certificate of qualification

(a) may deem an approval, licence, permit, certificate or other authority that was issued or granted under an Act referred to in section 245 and that is in effect immediately before the coming into force of the regulation to be an approval or certificate of qualification under this Act, and

(b) may contain any transitional provisions that the regulation-making authority considers necessary for the purpose of facilitating

(i) the incorporation under this Act of approvals, licences, permits, certificates or authorities referred to in clause (a), or

(ii) the issuing of approvals or certificates of qualification to replace such approvals, licences, permits, certificates or authorities.

(5) A letter of permission or a letter of authorization that is in effect immediately before the coming into force of this section

(a) is deemed to form part of an approval, licence, permit, certificate or other authority referred to in subsection (4)(a) if it was issued in conjunction with such an approval, licence, permit, certificate or other authority, or

(b) may be dealt with in regulations under subsection (4) as if it were an approval, licence, permit, certificate or other authority referred to in subsection (4)(a), in any other case.

(6) Where a deemed approval referred to in subsection (4)(a)

(a) does not have an expiry date, or

- (b) *has an expiry date that is more than 5 years after the date on which this section comes into force,*

that approval expires 5 years after this section comes into force.

(7) In addition to the power to grant extensions under section 66, where an activity is the subject of more than one approval, the Director may for the purpose of eventually replacing 2 or more approvals with one approval,

- (a) *extend the term of any deemed approval referred to in subsection (4)(a) to a date that is not later than the latest of the expiry dates of all of the approvals, or*
- (b) *with the consent of the approval holder, shorten the term of any deemed approval referred to in subsection (4)(a).*

(8) Notwithstanding section 66 no public notice of a proposed extension or shortening of the term of an approval under subsection (7) need be given under Part 2, Division 2, and no notice of objection may be submitted under section 84(1) in respect of the extension or shortening.

(9) Where, on the coming into force of this section, a permit has been issued under section 3 or 5 of the Clean Air Act or section 3 or 5 of the Clean Water Act, no notice of objection regarding matters dealt with in the permit may be submitted under section 84(1) of this Act in respect of the first approval for the operation of the plant, structure, thing or water facility that is issued under this Act in respect of the permit.

(10) A person who, on the coming into force of this section, is engaged in an activity in respect of which no permit, licence or document in the nature of an approval is required under any of the Acts referred to in section 245 but in respect of which an approval is required under this Act, must submit a completed application for the approval not later than January 1, 1995 or any earlier date prescribed in the regulations under subsection (4).

Transitional -
orders

242(1) *Subject to this section, a notice or order listed in a provision in Column A of the following Table that is outstanding on the coming into force of this section may be amended, cancelled and enforced as if it were an order under the corresponding provision of this Act listed in Column B.*

TABLE

Column A	Column B
Agricultural Chemicals Act	Environmental Protection and Enhancement Act
section 11	section 150
section 15	section 148
section 18	section 198
Beverage Container Act	
sections 7 and 8	section 198
Clean Air Act	
sections 3(7) and (9), 13 and 14	section 198
Clean Water Act	
sections 3(7) and (9), 14 and 15	section 198
Department of the Environment Act	
section 17(1)(b)	section 198
Ground Water Development Act	
section 7	section 134
Hazardous Chemicals Act	
section 4	section 148
section 6	section 198
Land Surface Conservation and Reclamation Act	
section 9	section 198
sections 28, 43, 45, 53	section 124
section 44	section 125
Litter Act	
section 7(3)	section 199
section 9	section 172

(2) Where an enactment referred to in Column A of the Table in subsection (1) gives a right of appeal or review in respect of the notice or order and such an appeal or review is in progress or has not yet been exercised on the coming into force of this section, that enactment continues to apply in respect of the appeal or review as if the enactment had not been repealed.

(3) Where, on the coming into force of this section, enforcement proceedings in respect of a notice or order referred to in Column A of the Table in subsection (1) have been commenced under the enactment referred to in Column A, those proceedings continue as if the enactment had not been repealed.

Miscellaneous
transitional

243(1) *Where an application for an approval is made under this Act, an environmental impact assessment report in respect of the subject-matter of the application that has been prepared and submitted to the Minister in accordance with the requirements of section 8 of the Land Surface Conservation and Reclamation Act is deemed to be an environmental impact assessment report submitted to the Director under section 48 for the purposes of this Act.*

(2) *Where*

- (a) an application for an approval is made under this Act,*
- (b) the Minister has ordered the preparation of an environmental impact assessment report in respect of the subject-matter of the application under section 8 of the Land Surface Conservation and Reclamation Act, and*
- (c) the report has not been prepared and submitted in accordance with that section on the date of the application,*

the report shall be prepared in accordance with that section as if the Land Surface Conservation and Reclamation Act had not been repealed and shall be submitted to the Director.

(3) *An environmental impact assessment report that is submitted to the Director under subsection (2) is deemed to be an environmental impact assessment report submitted to the Director under section 48 for the purposes of this Act.*

(4) *An agreement that was entered into under section 7 of the Land Surface Conservation and Reclamation Act and is in effect on the coming into force of this section is deemed to be an agreement entered into under section 22 of this Act.*

(5) *A certificate of variance that was issued under the Clean Air Act or the Clean Water Act and is in effect on the coming into force of this section is deemed to be a certificate of variance issued under section 75 of this Act.*

(6) *On the coming into force of section 244(15), any funds remaining in the revolving fund under section 93 of the Water Resources Act shall be transferred to the revolving fund under section 29 of this Act.*

Consequential
amendments

244(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 Clean Air Act is amended by adding the following after section 7:

Extension of
term of licence

7.1 The Director of Standards and Approvals may on application extend the term of a licence if the Director considers that doing so would facilitate the commencement of the regulation of the plant, structure or thing under the *Environmental Protection and Enhancement Act*.

(3) The Clean Water Act is amended by adding the following after section 7:

Extension of
term of licence

7.1 The Director of Standards and Approvals may on application extend the term of a licence if the Director considers that doing so would facilitate the commencement of the regulation of the water facility under the *Environmental Protection and Enhancement Act*.

(4) The Department of the Environment Act is amended

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

Definitions

1 In this Act,

- (a) “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) “government agency” means

(i) a corporation that is an agent of the Government, or

(ii) a corporation, commission, board or other body 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;

(c) “Minister” means the Minister of the Environment;

(d) “natural resources” means land, plant life, animal life, water and air.

(b) *by repealing sections 2 and 7;*

(c) *by adding the following after section 8:*

Agreements

8.1 The Minister may on behalf of the Government enter into agreements with the government of another jurisdiction or a department or agency of such a government, a government agency or any person in respect of any policy, program, service or other matter under the Minister’s administration.

(d) *in section 9(1)*

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

(a) for the purpose of carrying out any agreement entered into between the Minister and the government of another jurisdiction or a department or agency of such a government, a government agency or any other person,

(ii) *in clause (b) by striking out “conservation, utilization or management of natural*

resources” and substituting “protection, enhancement and wise use of the environment”;

(iii) *by repealing clause (c) and substituting the following:*

(c) for any other purpose related to a matter under the administration of the Minister.

(e) *by repealing sections 11, 12, 13 and 14;*

(f) *in section 15(1)(a) by striking out “a natural resource” and substituting “the environment”;*

(g) *in section 16(10) by striking out “reasonably ascertainable address of the person” and substituting “address shown for that person on the certificate of title”;*

(h) *by repealing section 17 and substituting the following:*

Enforcement
orders

17(1) Where in the Minister’s opinion a person has contravened section 16 or the regulations, the Minister may issue an enforcement order to that person ordering that person to do any or all of the following:

(a) cease the contravention specified in the order;

(b) stop any operations or shut down or stop the operation of any plant, equipment or structure either permanently or for a specified period;

(c) take any other measures that the Minister considers necessary to

(i) facilitate compliance with the applicable provision, or

(ii) protect or restore the environment.

(2) An enforcement order shall contain the reasons for making it and must be served on the person to whom it is directed.

(3) The Minister may by order

- (a) amend a term or condition of, 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.

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

(5) 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.

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

(8) Costs under this section are recoverable by the Government

- (a) in an action in debt against the person to whom the enforcement order was directed, or
- (b) 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.

(9) For the purposes of this section the costs referred to in subsection (8) include, without limitation, any costs incurred in investigating and responding to

- (a) any matter to which an enforcement order relates, or
- (b) the failure to comply with an enforcement order.

(10) A purchaser who pays an amount to the Minister under subsection (8)(b) is discharged from any obligation to pay that amount to the vendor.

17.1(1) A person to whom an enforcement order is directed under section 17(1)(a) or (b) may appeal the enforcement order by submitting a notice of objection to the Environmental Appeal Board established under the *Environmental Protection and Enhancement Act*.

(2) A notice of objection must be submitted not later than 7 days after receipt of a copy of the enforcement order, but the Environmental Appeal Board may, on application made before or after the expiry of that period, extend that period where the Board is of the opinion that there are sufficient grounds to do so.

(3) Subject to subsection (4), submitting a notice of objection does not operate to stay the enforcement order.

(4) The Minister may stay an enforcement order on the application of the person to whom an enforcement order was directed.

(5) Where the Minister stays an enforcement order the Minister may, if he is of the opinion that immediate and significant impairment of or damage to the environment, human health or safety or property may

result if certain terms and conditions of the enforcement order are not carried out,

- (a) carry out whatever action the Minister considers to be necessary to carry out those terms and conditions and determine the costs of doing so, and
- (b) order the person to whom the enforcement order was directed to provide security to the Minister in the form and amount the Minister considers necessary to cover those costs.

(6) Sections 83(3), 84(6) and (7), 85, 86, 87, 88, 91, 92(1)(a) and (c) and (2), 93, 94 and 95(a) and (b) of the *Environmental Protection and Enhancement Act* apply in the case of a notice of objection submitted under this section, and for those purposes, section 87(5)(a)(iii) of the *Environmental Protection and Enhancement Act* shall be read as if it made reference to an order for security under subsection (5) of this section.

Offence

17.2(1) A person who knowingly contravenes an enforcement order under section 17 is guilty of an offence and is liable to,

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

(2) A person who contravenes an enforcement order under section 17 is guilty of an offence and is liable to

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

(3) No person shall be convicted of an offence under subsection (2) if that person establishes on the balance of probabilities that he took all reasonable steps to prevent its commission.

- (i) in section 18 by repealing clauses (b), (c), (d), (g), (h) and (i).

(5) *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:

Consideration
of public
interest

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.

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

(7) *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.

(8) *The Land Surface Conservation and Reclamation Act is amended by adding the following after section 27:*

Extension of
term of
approval

27.1 The Minister may on application extend the term of an approval if the Minister considers that doing so would facilitate the commencement of the regulation of the operation or activity under the *Environmental Protection and Enhancement Act*.

(9) *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”.*

(10) *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”.*

(11) *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 42(1)(a), 43(4) or 45 of the *Environmental Protection and Enhancement Act*;

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

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

Application of
Act

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*.

(13) *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".*

(14) *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".*

(15) *The Water Resources Act is amended by repealing section 93.*

Repeal

245 *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

246 *This Act, except sections 1(p), 160, 162, 163, 164, 165, 166, 223(a) and (b) and 244(2), (3) and (8), 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 processing of food,
- (m) the manufacture or processing of secondary food products, beverages or animal by-products,
- (n) the generating of thermal electric power or steam,
- (o) the generating of hydro-electric power,
- (p) the processing of wastewater sludges,

- (q) the application to land of non-livestock generated wastes, wastewaters and wastewater sludges,
- (r) the manufacture of animal feed,
- (s) seed cleaning or forage drying,
- (t) the storage, treatment, processing or disposal of hazardous waste,
- (u) the combustion of solid, liquid or gaseous fuels or wastes,
- (v) the storing and processing of hazardous recyclables,
- (w) the storing and processing of designated material,
- (x) the manufacture or use of biotechnology products,
- (y) the manufacture or processing of explosives,
- (z) the manufacture or processing of sulphur products,
- (aa) the storage, treatment, processing or disposal of batteries,
- (bb) the processing or mining of salt,
- (cc) the surface storage of brine associated with hydrocarbon storage facilities,
- (dd) the coating of pipe or wire,
- (ee) the cleaning of containers,
- (ff) the blending of chemicals and paints,
- (gg) the preserving of wood,
- (hh) the process of electroplating, or
- (ii) 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 or borehole.

5 The construction, operation or reclamation of

- (a) a pipeline, transmission line, telecommunication line or battery,
- (b) a mine, quarry or pit,
- (c) a heavy oil site or oil sands site,
- (d) a waste management facility,
- (e) industrial landfills and landfarms for petroleum, drilling or other waste,
- (f) a highway, railway or aircraft landing strip,
- (g) an incinerator,
- (h) a waterworks system,
- (i) a wastewater system,
- (j) a storm drainage system,
- (k) any facility for the control of water, air or land contamination or for the control of the quality of water, air or land,
- (l) a site for subsurface disposal of solid or liquid waste, except private subsurface sewage disposal systems,
- (m) facilities for recreational or tourism purposes,
- (n) designated livestock operations,
- (o) intensive aquaculture operations,
- (p) bulk distribution facilities,
- (q) research facilities,
- (r) analytical laboratories,
- (s) automotive repair shops,
- (t) a site for the demolition of automobiles,
- (u) a site where scrap metal is stored,
- (v) aircraft maintenance facilities, or

- (w) 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 for the purpose of sale.

8 The application of a pesticide, the distribution and selling of a pesticide at wholesale and 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.