

1996 BILL 39

Fourth Session, 23rd Legislature, 45 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 39

ENVIRONMENTAL PROTECTION AND ENHANCEMENT AMENDMENT ACT, 1996

MR. HLADY

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 39
Mr. Hlady

BILL 39

1996

ENVIRONMENTAL PROTECTION AND ENHANCEMENT AMENDMENT ACT, 1996

(Assented to _____, 1996)

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

Amends SA
1992 cE-13.3

*1 The Environmental Protection and Enhancement Act is amended
by this Act.*

2 Section 1 is amended

*(a) in clause (l) by adding “, except in sections 22.1 to 22.3,”
after “means”;*

(b) by repealing clause (z) and substituting the following:

*(z) “hazardous recyclable” means hazardous recyclable
within the meaning of the regulations;*

(c) in clause (jj)

*(i) in subclause (i) by striking out “summer village or
municipal district” and substituting “summer village,
municipal district or specialized municipality”;*

*(ii) by adding “and” at the end of subclause (v) and by
repealing subclause (vi);*

(iii) by adding “22.1 to 22.3,” after “12(b),”;

*(d) in clause (oo) by adding “specialized municipality,” after
“municipal district,”;*

(e) by repealing clause (ccc)(ii);

(f) by repealing clause (eee) and substituting the following:

Explanatory Notes

1 Amends chapter E-13.3 of the Statutes of Alberta, 1992.

2 Section 1 presently reads in part:

1 In this Act,

(l) "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;

(z) "hazardous recyclable" means hazardous waste that is to be recycled;

(jj) "local authority" means

(i) the corporation of a city, town, village, summer village or municipal district,

(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 under Part 15.1 of the Municipal Government Act,

(vi) the local board of a health unit, and

(vii) a regional health authority under the Regional Health Authorities Act.

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

- (i) the person registered in a land titles office as the owner of the fee simple in the land, and
- (ii) except for the purposes of section 22.1, the person registered in a land titles office as the owner of a life estate in the land,

and 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.1) “registration” means, except in sections 22.2, 22.3, 34(l), 138(f), 147(b) and 168(d), a registration issued under this Act in respect of an activity, and includes the renewal of a registration;

(g) *by adding the following after clause (ggg):*

(ggg.1) “remediation certificate” means a remediation certificate issued under section 105.1;

(h) *in clause (lll) by striking out “and water at a depth of not more than 15 metres beneath the surface of the ground”.*

3 *Section 22(3), (4), (5) and (6) are repealed.*

but for the purposes of sections 12(b), 111, 131(1)(e), 175, 176 and 177 does not include an entity referred to in subclause (v), (vi) or (vii), and for the purposes of sections 140(b), 168(n) and 171(b) does not include an entity referred to in subclause (vi) or (vii);

(oo) “municipality” means the geographical area of a city, town, village, summer village, municipal district, improvement district, special area or settlement area within the meaning of the Metis Settlements Act;

(ccc) “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;*

(eee) “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;*

(lll) “surface water” means water in a watercourse and water at a depth of not more than 15 metres beneath the surface of the ground;

3 Section 22 presently reads:

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 *The following is added after section 22:*

Conservation
easements

22.1(1) In this section and in sections 22.2 and 22.3,

- (a) “biological diversity” means the variability among living organisms and the ecological complexes of which they are a part, and includes diversity within and between species and ecosystems;
- (b) “conservation easement” means a conservation easement granted under this section;
- (c) “grantee” means the recipient of a conservation easement, and includes a successor, assignee, executor, administrator, receiver, receiver-manager, liquidator and trustee of the grantee;
- (d) “grantor” means the person who grants a conservation easement, and includes a successor, assignee, executor, administrator, receiver, receiver-manager, liquidator and trustee of the grantor;
- (e) “qualified organization” means
 - (i) the Government,
 - (ii) a Government agency,
 - (iii) a local authority, or
 - (iv) a body corporate that
 - (A) has as one of its objects the acquisition and holding of interests in land for purposes that are substantially the same as any of the purposes listed in subsection (2),
 - (B) has in its constating instrument a requirement that, on or in contemplation of

(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.

4 New sections providing for the granting of conservation easements.

the winding-up of the body corporate, all conservation easements that the body corporate holds are to be transferred to another qualified organization, and

(C) is a registered charity within the meaning of the *Income Tax Act* (Canada).

(2) A registered owner of land may by way of agreement grant to a qualified organization a conservation easement in respect of all or part of the land for one or more of the following purposes:

- (a) the protection, conservation and enhancement of the environment including, without limitation, the protection, conservation and enhancement of biological diversity;
- (b) the protection, conservation and enhancement of natural scenic or aesthetic values;
- (c) providing for any or all of the following uses of the land that are consistent with purposes set out in clause (a) or (b):
 - (i) recreational use;
 - (ii) open space use;
 - (iii) environmental education use;
 - (iv) use for research and scientific studies of natural ecosystems.

(3) A conservation easement may be enforced by

- (a) the grantee, or
- (b) a qualified organization, other than the grantee, that the grantor has designated in writing as having the power to enforce the conservation easement,

or by both the grantee and the qualified organization.

(4) A grantor may not designate more than one qualified organization under subsection (3)(b) at the same time.

(5) A grantee may assign a conservation easement to another qualified organization.

(6) A grantee who assigns a conservation easement shall forthwith notify the grantor of that fact.

(7) An agreement granting a conservation easement may be modified or terminated

- (a) by agreement between the grantor and the grantee, or
- (b) by order of the Minister, whether or not the Minister is a grantor or grantee, if the Minister considers that it is in the public interest to modify or terminate the agreement.

(8) A conservation easement constitutes an interest in land in the grantee.

(9) A conservation easement does not lapse by reason only of

- (a) non-enforcement of it,
- (b) the use of the land that is the subject of the conservation easement for a purpose that is inconsistent with the purposes of the conservation easement, or
- (c) a change in the use of land that surrounds or is adjacent to the land that is the subject of the conservation easement.

Registration of
agreement

22.2(1) An agreement referred to in section 22 or 22.1 may be registered

- (a) under the *Land Titles Act* with the Registrar of Land Titles, or
- (b) under the regulations under the *Metis Settlements Act* with the Registrar of the Metis Settlements Land Registry.

(2) A person intending to register an agreement referred to in section 22.1 shall give prior notice of the registration in accordance with the regulations to

- (a) the Minister of Municipal Affairs, where the land that is the subject of the conservation easement is located in an improvement district,

- (b) the Special Areas Board, where the land that is the subject of the conservation easement is located in a special area, or
- (c) the local authority of the municipality in which the land that is the subject of the conservation easement is located, in any other case.

(3) When an agreement referred to in section 22 or 22.1 is presented for registration, the Registrar shall endorse a memorandum of the agreement on the certificate of title to the land that is the subject of the agreement.

(4) If an agreement referred to in section 22 or 22.1 is modified or is terminated, one of the parties to the agreement (or the Minister in the case of a modification or termination under section 22.1(7)(b)) shall register a copy of the document effecting the modification or termination with the appropriate Registrar, and the Registrar shall endorse a memorandum on the certificate of title to the land noting the modification or discharging the registration, as the case may be.

(5) If an agreement referred to in section 22 or 22.1 expires, one of the parties to the agreement shall notify the appropriate Registrar and the Registrar shall endorse a memorandum on the certificate of title to the land discharging the registration.

Effect of
registration

22.3(1) An agreement referred to in section 22 that is registered under section 22.2 and a conservation easement in an agreement that is registered under section 22.2 run with the land and may be enforced whether they are positive or negative in nature and notwithstanding that the person wishing to enforce the agreement or conservation easement does not have an interest in any land that would be accommodated or benefitted by the agreement or conservation easement.

(2) Subject to subsection (3), sections 22 to 22.2 apply notwithstanding section 52 of the *Land Titles Act*.

(3) A conservation easement granted under section 22.1 is deemed to be a condition or covenant for the purpose of section 52(3) and (5) of the *Land Titles Act*.

5 Section 33(1) is amended

(a) by repealing clause (a)(iii) and substituting the following:

5 Section 33(1) presently reads:

33(1) Subject to this section.

(iii) information that is provided to the Department as part of the application by

(A) an applicant for an approval, a registration or a certificate of variance;

(B) the holder of an approval or registration, in respect of an application to change an activity;

(C) the holder of an approval, in respect of an application to amend a term or condition of, add a term or condition to or delete a term or condition from the approval;

(b) by adding the following after clause (a)(v):

(v.1) any reports or studies that are provided to the Department as required by the regulations;

(c) in clause (b)(i) by adding “and registrations” after “approvals”;

(d) in clause (b) by adding the following after subclause (vii):

(vii.1) remediation certificates;

- (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;*
 - (vi) *statements of concern;*
 - (vii) *notices of objection;*
- (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;*
 - (vii) *reclamation certificates;*
 - (viii) *enforcement orders;*
 - (ix) *environmental protection orders.*

6 *Section 34 is amended*

(a) *by adding the following after clause (h):*

- (h.1) requiring the holder of a registration to disclose to the public environmental and emission monitoring data and the processing information that is necessary to interpret that data, and providing for the form and manner in which that data and information are to be disclosed to the public;
- (h.2) respecting the provision of reports and studies for the purposes of section 33(1)(a)(v.1);

(b) *by adding the following after clause (j):*

- (k) respecting the time at which and the form and manner in which a notice under section 22.2 must be given;
- (l) respecting the documents that must accompany an agreement for registration under section 22.2 and respecting the form and contents of those documents.

7 *Section 36 is amended by renumbering it as section 36(1) and by adding the following after subsection (1):*

(2) Where a standard, code, guideline or other rule is adopted or incorporated by regulation under this Act, the Minister shall ensure that copies of the standard, code, guideline or other rule are available on request to persons who may be affected by it.

8 *Section 64 is repealed and the following is substituted:*

Changes
requiring
approval

64(1) No person shall, with respect to an activity that is the subject of an approval, make any change to

- (a) the activity,
- (b) the manner in which the activity is carried on, or
- (c) any machinery, equipment or process that is related to the carrying on of the activity

unless an approval or an amendment to an approval authorizing the change is issued by the Director.

6 Minister may make regulations.

7 Section 36 presently reads:

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.

8 Section 64 presently reads:

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.

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

(3) Subsection (1) does not apply to

- (a) adjustments, repairs, replacements or maintenance made in the normal course of operations.
- (b) changes that do not result in the release of a substance into the environment.
- (c) short-term testing or temporary modifications to machinery, equipment or processes that do not cause an adverse effect.
- (d) changes to or in the type of equipment used in the conservation or reclamation of specified land, or
- (e) minor changes to conservation and reclamation plans that do not contravene the purpose or intent of the approval.

9 *Section 66 is amended*

- (a) *in subsection (1) by striking out “expiry date of an approval” and substituting “expiry date, if any, of an approval or registration”;*
- (b) *in subsection (2) by adding “of an approval” after “subsequent extensions”.*

10 *Section 67 is amended*

- (a) *in subsection (1) by adding “or registration” before “holder”;*
- (b) *in subsection (1)(b) and (3)(b) and (c) by adding “or registration” after “approval”.*

9 Section 66 presently reads in part:

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).

10 Section 67 presently reads in part:

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.

11 Section 74(1) is amended by striking out “approval holder” and substituting “approval or registration holder”.

12 The following is added after section 76:

Issuance of
certificate of
qualification

76.1(1) A certificate of qualification may be issued by

(a) the Director, or

(b) the authorized representative of an organization designated under subsection (2).

(2) The Director may designate organizations that are qualified to issue the kinds of certificates of qualification set out in the designation.

13 Section 77 is repealed and the following is substituted:

Application for
certificate of
qualification

77(1) An application for a certificate of qualification must be made to the Director or the authorized representative of a designated organization in accordance with the regulations.

if the Director considers it appropriate to do so.

(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, is occurring 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.

11 Section 74(1) presently reads:

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.

12 Who may issue certificates of qualifications.

13 Section 77 presently reads:

77(1) An application for a certificate of qualification shall be made to the Director in accordance with the regulations.

(2) The Director or authorized representative may require an applicant to submit any additional information the Director or authorized representative considers necessary.

14 Section 78(1) is amended by adding “or the authorized representative of a designated organization” after “Director”.

15 Section 79 is amended

(a) in subsection (1)(b) by adding “or suspend” after “cancel”;

(b) by adding the following after subsection (1):

(1.1) The Director may exercise a power under subsection (1) despite the fact that the certificate of qualification may have been issued by the authorized representative of a designated organization.

16 Section 80(1) is repealed and the following is substituted:

Security

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

17 Section 82 is amended

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

(b) prescribing the length of time for which approvals, registrations and certificates of qualification may be issued and permitting the Director to issue an approval, registration or certificate of qualification or the authorized representative of a designated organization to issue a certificate of qualification for

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

14 Section 78(1) presently reads:

78(1) The Director may issue or refuse to issue a certificate of qualification in accordance with the regulations.

15 Section 79(1) presently reads:

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.*

16 Section 80(1) presently reads:

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.

17 Section 82 presently reads in part:

82(1) The Lieutenant Governor in Council may make regulations

- (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;*

a shorter period of time than prescribed in the regulations;

(b) in subsection (1)(c) by adding “a registration, a remediation certificate,” after “approval,”

(c) by repealing subsection (1)(d) and substituting the following:

(d) respecting the manner in which and the conditions under which any security given by an approval or registration holder or the holder of a remediation certificate, a certificate of qualification or a certificate of variance may be forfeited or returned, in whole or in part;

18 The following is added after section 82:

PART 2.1

ACTIVITIES REQUIRING NOTICE

Prohibition

82.1 No person shall knowingly commence or continue any activity that is designated by the regulations as an activity in respect of which notice must be given to the Director unless that person gives notice to the Director, in the form and manner required by the regulations, that that person is carrying on or intends to carry on the activity.

Prohibition

82.2 No person shall commence or continue any activity that is designated by the regulations as an activity in respect of which notice must be given to the Director unless that person gives notice to the Director, in the form and manner required by the regulations, that that person is carrying on or intends to carry on the activity.

Regulations

82.3 The Minister may make regulations

- (a) designating activities or classes of activities in respect of which notice under sections 82.1 and 82.2 must be given and respecting the circumstances under which notice must be given and the persons or classes of persons who are required to give notice;
- (b) respecting the form and contents of a notice under sections 82.1 and 82.2 and the time at which and manner in which it must be given.

19 Section 83 is amended

- (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 security given 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;*
- (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.*

18 New Part requiring notice to Government of the carrying on of certain activities.

19 Section 83 presently reads:

(a) *in subsection (2) by striking out “and in section 6 of Schedule 5 of the Government Organization Act” and substituting “or any other enactment”;*

(b) *by repealing subsection (3) and substituting the following:*

(3) The Board may convene a panel of Board members to conduct a hearing of an appeal and appoint a person to chair the panel.

(4) Where a panel is convened, 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.

20 *Section 84(1) is amended*

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

(b) where the Director refuses

(i) to issue an approval, or

(ii) to make an amendment, addition or deletion in respect of an approval pursuant to an application under section 67(1)(a),

the applicant may submit a notice of objection;

(b) *by adding the following after clause (i):*

(i.1) where the Director cancels a reclamation certificate under section 124(1)(b.1), the operator may submit a notice of objection;

(i.2) where the Director issues or amends a remediation certificate under section 105.1, any person who receives notice of the issuance or amendment as provided for in the regulations may submit a notice of objection;

21 *The following is added after section 85:*

Extension of
time

85.1 The Board may, before or after the expiry of the prescribed time, advance or extend the time prescribed in this Part or the regulations for the doing of anything where the Board is of the opinion that there are sufficient grounds for doing so.

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 6 of Schedule 5 of the Government Organization 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.

20 Section 84(1) presently reads in part:

84(1) A notice of objection may be submitted to the Board by the following persons in the following circumstances:

(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;

21 Board may advance or extend time.

Hearing of
appeal

22 *Section 86 is repealed and the following is substituted:*

86(1) On receipt of a notice of objection the Board shall conduct a hearing of the appeal.

(2) In conducting a hearing of an appeal under this Part the Board is not bound to hold an oral hearing but may instead, and subject to the principles of natural justice, make its decision on the basis of written submissions.

(3) The Board may, with the consent of the parties to an appeal, make its decision under section 90 or its report to the Minister without conducting a hearing of the appeal.

23 *Section 87 is amended*

(a) *in subsection (2)(b) by striking out “section 35 of the Environmental Assessment and Review Process Guidelines Order made under the Department of the Environment Act (Canada)” and substituting “the Canadian Environmental Assessment Act (Canada)”;*

(b) *in subsection (5)(a)(i) by adding “or without merit” after “vexatious”;*

(c) *by adding the following after subsection (5)(a)(i):*

(i.1) in the case of a notice of objection submitted under section 84(1)(a)(iv) or (v), (g)(ii) or (j), the Board is of the opinion that the person submitting the notice of objection is not directly affected by the decision or designation,

(i.2) for any other reason the Board considers that the notice of objection is not properly before it,

(d) *in subsection (5)(b)(i) by striking out “considered” and substituting “adequately dealt with”;*

22 Section 86 presently reads:

86(1) Subject to this section, 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.

(3) The Board may, with the consent of all of the parties to an appeal,

- (a) advance the date set for the hearing of the appeal, or*
- (b) make its decision under section 90 or its report to the Minister without conducting a hearing of the appeal.*

23 Section 87 presently reads in part:

(2) Prior to conducting a hearing of an appeal 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*

- (e) *in subsection (5)(b)(ii) by striking out “section 35 of the Environmental Assessment and Review Process Guidelines Order under the Department of the Environment Act (Canada)” and substituting “the Canadian Environmental Assessment Act (Canada)”.*

24 *Section 90(2) is repealed.*

25 *Section 92(2) is repealed and the following is substituted:*

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

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.

(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.

24 Section 90(2) presently reads:

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

25 Section 92(2) presently reads:

(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.

26 *The following is added after section 92:*

Reconsider-
ation by Board

92.1 The Board may at any time reconsider, vary or revoke any decision, order, direction, report, recommendation or ruling made by it.

Privative
clause

92.2 Where this Part empowers or compels the Minister or the Board to do anything, the Minister or the Board has exclusive and final jurisdiction to do that thing and no decision, order, direction, ruling, proceeding, report or recommendation of the Minister or the Board shall be questioned or reviewed in any court by application for judicial review or otherwise, and no order shall be made or process entered or proceedings taken in any court, whether by way of injunction, declaratory judgment, prohibition, quo warranto or otherwise, to question, review, prohibit or restrain the Minister or the Board or any of its proceedings.

27 *Section 93 is repealed and the following is substituted:*

Publication of
Board's report

93 On complying with section 92(2), the Board shall publish or otherwise make available the Board's report and recommendations, or a summary of them, and a notice of the Minister's decision in the manner the Board considers appropriate.

28 *The following is added after section 93:*

Filing of order

93.1 An order of the Board under section 88 or 89, a decision of the Board under section 90 and a decision of the Minister under section 92 may be filed with the clerk of the Court of Queen's Bench and, on filing, are enforceable as if they were judgments of the Court.

29 *Section 94 is amended*

(a) *by repealing clause (b);*

(b) *by adding the following after clause (e):*

(e.1) authorizing the Board to charge fees for services or materials provided by the Board or things done by the Board under this Act, and prescribing the amounts of those fees or the manner in which the amounts are to be determined;

26 Board may change its decision. Board's decision final.

27 Section 93 presently reads:

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.

28 Filing of order in Court of Queen's Bench.

29 Section 94(b) presently reads:

94 The Minister may make regulations

(b) prescribing periods of time for the purposes of section 86(1);

30 *The following is added after section 105:*

Remediation
certificates

105.1(1) The Director may issue a remediation certificate in respect of land where

- (a) a release of a substance into the environment has occurred,
- (b) the release has caused, is causing or has the potential to cause an adverse effect, and
- (c) remediation of the land has been carried out in accordance with
 - (i) the terms and conditions of any applicable approval,
 - (ii) the terms and conditions of an environmental protection order made in respect of the release,
 - (iii) the directions of an inspector or the Director, and
 - (iv) this Act.

(2) An application for a remediation certificate may be made by the registered owner of the land or the person responsible for the substance.

(3) An application for a remediation certificate must be made to the Director in a form and manner acceptable to the Director.

(4) The Director may issue or refuse to issue a remediation certificate, and may issue the remediation certificate subject to any terms and conditions the Director considers appropriate.

(5) The Director may

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

30 New sections providing for issuance of remediation certificates.

Effect of
remediation
certificate

105.2 Where a remediation certificate is issued, no environmental protection order requiring the doing of further work in respect of the same release of the same substance may be issued under this Act after the date prescribed or determined for the purposes of this section in accordance with the regulations.

Reclamation
certificate
unaffected

105.3 The issuing of a remediation certificate does not affect any person's obligation to obtain a reclamation certificate under this Act.

Regulations

105.4 The Lieutenant Governor in Council may make regulations

- (a) respecting the procedure for the submission of applications for remediation certificates and the plans and specifications that must accompany applications;
- (b) respecting the manner in which remediation is to be carried out;
- (c) respecting the establishment of standards or criteria to be used to determine whether remediation has been completed in a satisfactory manner;
- (d) prescribing dates or the manner of determining dates for the purposes of section 105.2, generally or in respect of different classes of land or releases of substances;
- (e) respecting terms and conditions that may be contained in remediation certificates;
- (f) respecting the giving of notices for the purposes of section 105.1.

31 Section 110(2)(a) is amended by adding "or remediation certificate" after "reclamation certificate".

32 Section 119(b) is amended

- (a) in subclauses (i) and (ii) by adding "or registration" after "approval" wherever it occurs;*

31 Section 110(2)(a) presently reads:

(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;

32 Section 119(b) presently reads:

119 In this Part,

(b) "operator" means

(b) by adding the following after subclause (ii):

(ii.1) the holder of a licence, approval or permit issued by the Energy Resources Conservation Board for purposes related to the carrying on of an activity on or in respect of specified land.

(ii.2) the holder of a surface lease for purposes related to the carrying on of an activity on or in respect of specified land.

(c) in subclause (iii) by striking out “subclause (i) or (ii)” and substituting “any of subclauses (i) to (ii.2)”;

(d) in subclause (iv) by striking out “subclause (i), (ii) or (iii)” and substituting “any of subclauses (i) to (iii)”.

33 Section 124(1) is amended by striking out “or” at the end of clause (b) and by adding the following after clause (b):

(b.1) cancel a reclamation certificate where no reclamation inquiry was conducted prior to the issuance of the certificate and the Director is of the opinion that further work may be necessary to conserve and reclaim the specified land to which the certificate relates, or

34 Section 125 is amended by renumbering it as section 125(1) and by adding the following after subsection (1):

(2) Where a reclamation certificate is cancelled under section 124, then for the purposes of this Part it shall be considered never to have been issued.

- (i) *an approval holder who carries on or has carried on an activity on or in respect of specified land pursuant to an approval.*
- (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).*

33 Section 124(1) presently reads:

124(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.*

34 Section 125 presently reads:

125 Subject to any applicable approval and the regulations, an inspector may

- (a) at any time before the issuance of a reclamation certificate in a case where the operator is required to obtain a reclamation certificate, or*
- (b) at any time, in a case where the operator is not required to obtain 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 if in the inspector's opinion the performance or suspension of the work is necessary in order to conserve and reclaim specified land.

35 Section 132 is amended by adding the following after clause (j.1):

(j.2) providing for the issuing of different classes of reclamation certificates;

36 Section 143(1) is amended by striking out the words preceding clause (a) and substituting the following:

Environmental
protection
order

143(1) Notwithstanding that an approval or registration has been issued or 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

37 Section 156(1) is amended by striking out “filed with the certificate of registration”.

38 Section 161(k) is amended by striking out “178(a), (b) and (c)” and substituting “178”.

35 Lieutenant Governor in Council may make regulations.

36 Section 143(1) presently reads:

143(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.*

37 Section 156(1) presently reads:

156(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.

38 Section 161(k) presently reads:

161 In this Part,

- (k) "waste" means, for the purposes of sections 169 to 174 and section 178(a), (b) and (c),*

39 Section 168 is amended by adding the following after clause (dd):

- (dd.01) designating any thing as a hazardous recyclable for the purposes of this Act, including designating classes of hazardous recyclables;
- (dd.02) respecting the design, location, establishment, construction, operation and reclamation of facilities for recycling hazardous recyclables;

40 The following is added before section 169:

Prohibition re
disposal of
waste

168.1 No person shall dispose of waste except in accordance with an approval or registration or as otherwise provided for under this Act.

41 Section 171 is amended

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

(a) at a waste management facility that is constructed and operated in accordance with this Act,

(b) in clause (d)(ii) by adding “or registration” after “approval”.

(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;

39 Lieutenant Governor in Council may make regulations.

40 General prohibition against disposal of waste.

41 Section 171 presently reads:

171 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,

42 *Section 172 is repealed.*

43 *Section 178 is amended*

(a) by repealing clause (c) and substituting the following:

(c) respecting the collection, storage, treatment or disposal of waste on, into or under land, water or ice;

(b) by adding the following after clause (d):

(e) respecting the design, location, establishment, construction, operation and reclamation of waste management facilities.

44 *The following is added after section 182:*

Disposal of
hazardous
waste

182.1 No person shall dispose of hazardous waste except in accordance with an approval or registration or as otherwise provided for under this Act.

45 *Section 183 is amended by adding the following after clause (b):*

(b.1) respecting the design, location, establishment, construction, operation and reclamation of a facility for the storage, collection, treatment or disposal of hazardous waste;

46 *Section 188(1)(d) and (e) are amended by adding "registration," after "approval," and by adding "remediation certificate," after "reclamation certificate,".*

or

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

42 Section 172 presently reads:

172 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.

43 Section 178 presently reads:

178 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 174 to clean up unsightly property and the conduct of the review.*

44 Disposal of hazardous waste.

45 Lieutenant Governor in Council may make regulations.

46 Section 188(1)(d) and (e) presently read:

188(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 189, at any reasonable time do any or all of the following:

47 *Section 204 is amended*

(a) *in subsection (2)(b) by striking out “has purchased” and substituting “purchases”;*

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

(2.1) If the identity of a purchaser to whom an order could be issued under subsection (2)(b) cannot be ascertained, the Minister may nevertheless issue the order, and may take steps to ensure compliance with the order if the identity of the person becomes known to the Minister after the order is issued.

48 *Section 213 is amended*

(a) *in clauses (d) and (e) by adding “, a remediation certificate” after “reclamation certificate”;*

(b) *by repealing clause (j) and substituting the following:*

(j) contravenes section 58, 59, 64, 72, 73, 76, 82.1, 82.2, 97, 98, 99(1) or (2), 100, 101, 122, 134, 141, 142, 148, 150, 156, 162, 163, 166, 168.1, 169, 170, 171, 173, 179, 182, 182.1, 199 or 237

49 *Section 214 is amended*

(a) *in subsection (1) by adding “82.1,” after “58,”;*

(b) *in subsection (2) by adding “82.2,” after “59,” by adding “168.1,” after “166,” and by adding “182.1,” after “182.”;*

- (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;*

47 Section 204(2) presently reads:

- (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.*

48 Section 213 presently reads in part:

213 A person who

- (d) *knowingly contravenes a term or condition of an approval, a certificate of variance, a reclamation certificate or a certificate of qualification,*
- (e) *contravenes a term or condition of an approval, a certificate of variance, a reclamation certificate or a certificate of qualification,*
- (j) *contravenes section 58, 59, 64, 72, 73, 76, 97, 98, 99(1) or (2), 100, 101, 122, 134, 141, 142, 148, 150, 156, 162, 163, 166, 169, 170, 171, 172, 173, 179, 182, 199 or 237*

is guilty of an offence.

49 Section 214 presently reads:

214(1) A person who commits an offence referred to in section 58, 97(1), 98(1) or 213(a), (d), (f) or (h) is liable

(c) in subsection (3) by striking out “, 172 or 173” and substituting “or 173”.

50 Section 215 is amended by adding “82.2,” after “59,” by adding “168.1,” after “166,” and by adding “182.1,” after “182.”.

51 Section 231 is amended

(a) in subsection (2)(b) by striking out “has purchased” and substituting “purchases”;

(b) by adding the following after subsection (2):

(2.1) If the identity of a purchaser to whom an order could be issued under subsection (2)(b) cannot be ascertained, the Minister may nevertheless issue the order, and may take steps to ensure compliance with the order if the identity of the person becomes known to the Minister after the order is issued.

52 Section 240 is amended

(a) in subsection (1)(b) by adding “a registration,” after “an approval,” wherever it occurs;

(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, 122, 141, 142, 148, 150, 156, 162, 163, 166, 179, 182, 199, 213(b), (c), (e), (g) or (i) or 237 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 134, 169, 170, 171, 172 or 173 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.

50 Section 215 presently reads:

215 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, 122, 141, 142, 148, 150, 156, 162, 163, 166, 179, 182, 199, 213(b), (c), (e), (g) or (i) or 237 if that person establishes on a balance of probabilities that he took all reasonable steps to prevent its commission.

51 Section 231(2) presently reads:

(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.

52 Section 240(2) presently reads:

(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

(b) in subsection (2) by adding “registration,” after “approval,”.

53 The following is added after section 243:

Transitional -
waste
management

243.1(1) *A regulation made under this Act that designates an activity or thing as an activity or thing in respect of which an approval or registration is required (referred to in this section as the “designating regulation”)*

(a) *may deem an approval or permit to operate that was issued under the Waste Management Regulation (Alta. Reg. 250/85) or a predecessor of that regulation and that was in effect before the coming into force of the designating regulation to be an approval or registration or part of an approval or registration under this Act, despite the fact that the approval or permit to operate may have expired before the coming into force of the designating regulation,*

(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 or permits to operate referred to in clause (a), or*

(ii) *the issuing of approvals or registrations to replace such approvals or permits to operate,*

and

(c) *may contain provisions fixing or providing for the fixing of the expiry dates of such deemed approvals or registrations.*

(2) *Where, immediately before the coming into force of an applicable designating regulation, a completed application for an approval has been made under the Waste Management Regulation (Alta. Reg. 250/85), that application and the subsequent application for a permit to operate, if any, shall be dealt with under that Regulation, despite its repeal.*

(3) *Where, immediately before the coming into force of an applicable designating regulation, an approval has been issued under the Waste Management Regulation (Alta. Reg. 250/85), that Regulation continues to apply, despite its*

give it is admissible in evidence without proof of the signature or official character of the person signing it.

53 Transitional provision for waste management facilities.

repeal, in respect of the application for and issuance of the permit to operate.

54 The Schedule of Activities is amended in item 5(e) by striking out “industrial landfills and”.

55(1) Section 30(3) is amended by adding “a registration,” after “an approval,”.

(2) In the following provisions “or registration” is added after “approval” wherever it occurs:

section 37(e)(ii) and (iv);
section 42(1)(b)(ii);
section 43(3)(b) and (c);
section 52(1);
section 58;
section 59;
section 61;
section 62(1) and (2);
section 63(1) and (2);
section 65(1), (4)(a) and (5);
section 68(a);
section 72(1) and (2);
section 73;
section 81(1)(a), (g) and (2);
section 102(2);
section 134;
section 138(b);
section 151(2);
section 157;
section 159(f)(ii);
section 162(b).

(3) In the heading preceding section 37 “AND APPROVALS” is struck out and “, APPROVALS AND REGISTRATIONS” is substituted.

(4) In the heading preceding section 58 “, Registrations” is added after “Approvals”.

(5) Section 81(1)(d) and (f) are amended by adding “, registrations” after “approvals” wherever it occurs.

54 Item 5(e) presently reads:

5 The construction, operation or reclamation of

*(e) industrial landfills and landfarms for petroleum, drilling
or other waste,*

55 Miscellaneous amendments to add reference to “registration”.

(6) *Section 81(1)(i) is amended by adding “and registrations” after “approvals”.*

(7) *Sections 103(2) and 104(2) are amended by adding “, a registration” after “an approval”.*

(8) *Section 200(1)(a) is amended by adding “, registration” after “approval”.*

56 This Act comes into force on Proclamation.

56 Coming into force.