

Bill 29
Mr. Mitzel

BILL 29

2006

ENVIRONMENTAL PROTECTION AND ENHANCEMENT AMENDMENT ACT, 2006

(Assented to _____, 2006)

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

Amends RSA 2000 cE-12

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

2 Section 1(tt)(v) is repealed and the following is substituted:

- (v) a municipality in respect of
 - (A) a parcel of land shown on its tax arrears list, unless after the date on which the municipality is entitled to possession of the parcel under section 420 of the *Municipal Government Act* or becomes the owner of the parcel under section 424 of that Act the municipality releases on that parcel a new or additional substance into the environment that may cause, is causing or has caused an adverse effect or aggravates the adverse effect of the release of a substance into the environment on that parcel, or
 - (B) a parcel of land acquired by it by dedication or gift of an environmental reserve, municipal reserve, school reserve, road, utility lot or right of way under Part 17 of the *Municipal Government Act*, unless after the date on

which the land is acquired the municipality releases on that parcel a new or additional substance into the environment that may cause, is causing or has caused an adverse effect or aggravates the adverse effect of the release of a substance into the environment on that parcel,

or

3 Section 14(4) is repealed and the following is substituted:

(4) In addition to developing objectives under subsection (1), the Minister may develop other objectives, as well as standards, practices, codes of practice, guidelines or methods, to meet goals or purposes toward which the Government's environmental protection efforts are directed, including, without limitation, standards, practices, codes of practice, guidelines, objectives or methods for monitoring, analysis and predictive assessment.

4 Section 17 is amended

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

Delegation

17(1) The Minister may in writing delegate to any person any power or duty conferred or imposed on the Minister under this Act.

(b) by repealing subsections (3) and (4).

5 Section 18 is repealed and the following is substituted:

Transfer of administration

18(1) The Minister may by agreement in writing or by regulation, and with the consent of the person, transfer the administration of a provision of this Act to any person 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 to another person under subsection (1) and in

the Minister's opinion that person is not properly administering the provision, the Minister may, after serving written notice on the person, cause any other person designated by the Minister to administer the provision.

6 Section 25 is repealed and the following is substituted:

Designation of officials

25(1) The Minister may by order designate any person as a Director for the purposes of all or part of this Act.

(2) The Minister may, with respect to any Director, and a Director may, with respect to that Director personally, designate any person as an acting Director to act in the Director's place in the event of the Director's absence or inability to act.

(3) The Minister may by order designate any person as an inspector or investigator for the purposes of this Act.

(4) A designation under this section may direct that the authority conferred by the designation is to be exercised

subject to any terms and conditions that the Minister or the Director prescribes in the designation, including limitations on the scope of the designation.

7 Section 36(h) is repealed and the following is substituted:

(h) respecting access to information by the public;

8 Section 37 is amended

(a) by renumbering it as section 37(1);

(b) in subsection (1) by adding the following after clause (c):

(c.1) respecting emissions trading, including, without limitation, regulations

- (i) respecting the establishment and administration of an emissions trading registry;
- (ii) respecting the duties and functions of an emissions trading registry operator;
- (iii) respecting the establishment of baseline emission rates;
- (iv) respecting the establishment, operation and closing of emissions trading accounts;
- (v) respecting the establishment, use, transfer and cancellation of emission credits;
- (vi) respecting the verification and validation of emission credits;
- (vii) respecting the collection of information and the use of information and records kept in an emissions trading registry;
- (viii) respecting, authorizing and prohibiting the disclosure of information and records kept in an emissions trading registry;
- (ix) respecting the records to be kept by persons participating in emissions trading;
- (x) respecting the contents and use of forms;

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

(2) The *Emissions Trading Regulation* (AR 33/2006) is validated as of the date it came into force.

9 Section 38 is repealed and the following is substituted:

Adoption by reference

38(1) A regulation under this Act may adopt or incorporate in whole or in part, or with modifications, documents that set out standards, practices, codes, guidelines, objectives, methods or other rules of any government, organization or person, including, without limitation, any standards, practices, codes of

practice, guidelines, objectives or methods developed by the Minister under section 14, as they read at a particular time or as amended or replaced from time to time, relating to any matter in respect of which a regulation may be made under this Act.

(2) Subsection (1) applies to any standard, practice, code, guideline, objective, method or other rule that has been adopted or incorporated into a regulation before or after this section comes into force.

(3) Where a standard, practice, code, guideline, objective, method or other rule is adopted or incorporated by regulation under this Act, the Minister shall ensure a copy of the standard, practice, code, guideline, objective, method or other rule is made available to a person on request.

10 Section 91(1) is amended

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

- (l) where the Director or an inspector issues, amends or cancels a remediation certificate under section 117, any person who receives notice of the issuance, amendment or cancellation as provided for in the regulations may submit a notice of appeal;

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

- (l.1) where the Director or an inspector refuses to accept an application for a remediation certificate or refuses to issue a remediation certificate under section 117, any person who receives notice of the refusal as provided for in the regulations may submit a notice of appeal;

11 Section 110 is amended by adding the following after subsection (1):

(1.1) Where

- (a) a person released or caused or permitted the release of a substance into the environment before September 1, 1993, and

- (b) the activity that resulted in the release was permanently discontinued before that date,

the person shall as soon as that person is aware that an adverse effect has occurred or is occurring in respect of that release, report the release to the persons specified in subsection (1).

12 Section 112 is repealed and the following is substituted:

Duty to take remedial measures

112(1) Where a substance that may cause, is causing or has caused an adverse effect is released into the environment, the person responsible for the substance shall, as soon as that person becomes aware of 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) remediate, manage, remove or otherwise dispose of the substance in such a manner as to prevent an adverse effect or further adverse effect,
- and
- (b) restore the environment to a condition satisfactory to the Director.

(2) Where

- (a) a substance was released into the environment before September 1, 1993, and
- (b) the activity that resulted in the release was permanently discontinued before that date,

the person responsible for the substance shall as soon as that person is aware that the substance may cause, is causing or has caused an adverse effect, take the actions specified in subsection (1).

13 Section 113 is amended by adding the following after subsection (4):

(5) Where

- (a) a substance was released into the environment before September 1, 1993, and
- (b) the activity that resulted in the release was permanently discontinued before that date,

the Director may issue an environmental protection order to the person responsible for the substance only if an adverse effect has occurred or is occurring.

14 Section 117 is amended

(a) in subsection (1)

- (i) by adding “or an inspector” before “may issue”;**
- (ii) by striking out “and” at the end of clause (c)(iii) and substituting “or”;**

(b) by repealing subsection (2);

(c) by repealing subsection (3) and substituting the following:

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

(d) by adding the following after subsection (3):

(3.1) The Director or an inspector may refuse to accept an application for a remediation certificate if, in the Director’s or inspector’s opinion, the application is not complete or not accurate.

(3.2) The Director or an inspector may refuse to issue a remediation certificate where the applicant is indebted to the Government.

(e) by repealing subsection (4) and substituting the following:

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

(f) by repealing subsection (5) and substituting the following:

(5) The Director or an inspector 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 or inspector considers it appropriate to do so,
- (b) cancel a remediation certificate issued in error,
- (c) correct an error in a remediation certificate, or
- (d) cancel a remediation certificate if any of the terms or conditions in the remediation certificate have not been complied with.

15 Section 120(d) is amended by adding “or an inspector” after “Director”.

16 Section 134 is amended

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

- (iv) a working interest participant in
 - (A) a well,
 - (B) a mine,
 - (C) a coal processing plant,
 - (D) an oil sands processing plant, or

- (E) a plant or facility that is subject to the Large Facility Liability Management Program administered by the Alberta Energy and Utilities Board

on, in or under specified land,

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

- (j) “working interest participant” means a person who owns or controls all or part of a beneficial or legal undivided interest in an activity described in clause (b)(iv) under an agreement that pertains to the ownership of that activity.

17 Section 146 is amended

(a) by repealing clauses (g) and (h) and substituting the following:

- (g) respecting financial or any other security to be given or insurance to be carried by operators or classes of operators;

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

- (n.1) respecting the procedure for the submission of applications for records of progressive reclamation, the form and content of applications and the plans and specifications that must accompany applications;
- (n.2) respecting the terms and conditions that may be placed on a record of progressive reclamation;
- (n.3) respecting any restrictions on the issuance of an environmental protection order under section 140 where a record of progressive reclamation has been issued;

Explanatory Notes

1 Amends chapter E-12 of the Revised Statutes of Alberta 2000.

2 Section 1(tt)(v) presently reads:

1 In this Act,

- (tt) “*person responsible*”, when used with reference to a substance or a thing containing a substance, means
- (v) *a municipality in respect of a parcel of land shown on its tax arrears list, unless after the date on which the municipality is entitled to possession of the parcel under section 420 of the Municipal Government Act or becomes the owner of the parcel under section 424 of that Act the municipality releases on that parcel a new or additional substance into the environment that may cause, is causing or has caused an adverse effect or aggravates the adverse effect of the release of a substance into the environment on that parcel, or*

3 Section 14 presently reads in part:

(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, without limitation, procedures, practices and methods for monitoring, analysis and predictive assessment.

4 Section 17 presently reads:

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 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 obtain the consent of the appropriate Minister under whose administration the employee is, or of the Government agency, the agency of the Government of Canada or the local authority, as the case may be.

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

5 Section 18 presently reads:

18(1) The Minister may by agreement in writing or by regulation, and with the consent of 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.

6 Section 25 presently reads:

25(1) The Minister may by order designate employees of the Government as Directors for the purposes of all or a part of this Act.

(2) The Minister may, with respect to any Director, and a Director may, with respect to that Director personally, designate any employee of the Government as an acting Director to act in the Director's place in the event of the Director's absence or inability to act.

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

- (a) the Government,*
- (b) a Government agency,*
- (c) a local authority, or*
- (d) the Government of Canada or an agency of that Government.*

(4) The Minister may not designate a person under subsection (3) without the approval of that person's principal or employer, as the case may be.

(5) A designation under subsection (3) 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.

7 Section 36(h) presently reads:

36 *The Minister may make regulations*

- (h) *providing for the form and manner in which information is to be disclosed to the public for the purposes of section 35(1) and (3);*

8 Regulation-making authority respecting emissions trading.

9 Section 38 presently reads:

38(1) A regulation under this Act may adopt or incorporate in whole or in 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.

(2) Where a standard, code, guideline or other rule is adopted or incorporated by regulation under this Act, the Minister shall ensure that a copy of the standard, code, guideline or other rule is made available to a person on request.

10 Section 91(1)(l) presently reads:

91(1) A notice of appeal may be submitted to the Board by the following persons in the following circumstances:

- (l) *where the Director issues or amends a remediation certificate under section 117, any person who receives notice of the issuance or amendment as provided for in the regulations may submit a notice of appeal;*

11 Section 110 presently reads:

110(1) A person who releases or causes or permits the release of a substance into the environment that may cause, is causing or has caused an adverse effect shall, as soon as that person knows or ought to know of the release, report it to

- (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) *any person to whom the person reporting reports in an employment relationship,*
- (d) *the person having control of the substance, where the person reporting is not the person having control of the substance and knows or is readily able to ascertain the identity of the person having control, and*
- (e) *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 may cause, is causing or has caused an adverse effect shall, immediately on becoming aware of the release, report it to the persons referred to in subsection (1)(a), (b), (c) and (e) 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 may cause, is causing or has caused an adverse effect shall immediately notify the Director of the release unless the police officer or employee has reasonable grounds to believe that it has been reported by another person.

12 Section 112 presently reads:

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

- (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.*

13 Section 113 presently reads:

113(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, code of practice or registration 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 or registration was issued, the code of practice was adopted 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.*

(4) An environmental protection order may be issued under this section in respect of a substance released before, on or after September 1, 1993.

14 Section 117 presently reads:

117(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.*

15 Section 120(d) presently reads:

120 The Lieutenant Governor in Council may make regulations

- (d) respecting the provision to the Director of information and reports relating to the remediation;*

16 Section 134 presently reads:

134 In this Part,

- (a) “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;*
- (b) “operator” means*
 - (i) an approval or registration holder who carries on or has carried on an activity on or in respect of specified land pursuant to an approval or registration,*
 - (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 or registration,*
 - (iii) 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,*
 - (iv) a working interest participant in a well on, in or under specified land,*
 - (v) the holder of a surface lease for purposes related to the carrying on of an activity on or in respect of specified land,*

- (vi) *a successor, assignee, executor, administrator, receiver, receiver-manager or trustee of a person referred to in any of subclauses (i) to (v), and*
- (vii) *a person who acts as principal or agent of a person referred to in any of subclauses (i) to (vi);*
- (c) *“reclamation certificate” means a reclamation certificate issued under this Part;*
- (d) *“reclamation inquiry” means a reclamation inquiry conducted under this Part;*
- (e) *“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;*
- (f) *“specified land” means specified land within the meaning of the regulations on or in respect of which an activity is or has been 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,*
- (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, or*
- (iv) *land owned by the Crown in right of Canada;*
- (g) *“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;*
- (h) *“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;*
- (i) *“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;*
- (j) *“working interest participant” means a person who owns or controls all or part of a beneficial or legal undivided interest in a well under an agreement that pertains to the ownership of that well.*

17 Section 146 presently reads:

146 The Lieutenant Governor in Council may make regulations

- (a) *respecting the manner in which and the time within 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, and providing for the exempting of operators or classes of operators from any of the security or insurance requirements;*
- (h) *respecting the manner in which and the conditions under which any security given 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 that notice must be given;*

- (j) *defining “specified land” for the purposes of this Part;*
- (k) *exempting operators or activities or classes of operators or activities from the requirement for a reclamation certificate;*
- (l) *providing for the issuing of different classes of reclamation certificates;*
- (m) *respecting the terms and conditions that may be contained in an environmental protection order regarding conservation and reclamation and in a reclamation certificate;*
- (n) *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;*
- (o) *prescribing dates or the manner of determining dates for the purposes of section 142(2)(b), generally or in respect of different classes of specified land or activities;*
- (p) *respecting the payment of remuneration and expenses to local authorities for services provided by inspectors who are designated under section 25(3)(c) and are exercising authority under Part 6 in the municipality in respect of which they are designated.*