

TAB I

ENVIRONMENTAL MANAGEMENT ACT

CHAPTER 53

Assented to October 23, 2003

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

PART 1 – INTRODUCTORY PROVISIONS

Definitions

1 (1) In this Act:

“air” means the atmosphere but does not include the atmosphere inside

- (a) a human made enclosure that is not open to the weather,
- (b) an underground mine, or
- (c) a place designated by order of the Lieutenant Governor in Council;

“air contaminant” means a substance that is introduced into the air and that

- (a) injures or is capable of injuring the health or safety of a person,
- (b) injures or is capable of injuring property or any life form,
- (c) interferes with or is capable of interfering with visibility,
- (d) interferes with or is capable of interfering with the normal conduct of business,
- (e) causes or is capable of causing material physical discomfort to a person, or
- (f) damages or is capable of damaging the environment;

“appeal board” means the Environmental Appeal Board continued under section 93 [environmental appeal board];

“approval” means an approval under section 15 [approvals] or under a regulation;

“auxiliary conservation officer” means a person designated as an auxiliary conservation officer under section 106 (3) [conservation officer service];

“biomedical waste” has the prescribed meaning;

“chief conservation officer” means the person appointed as chief conservation officer under section 106 (2) [conservation officer service];

- (iv) any person known to the director who may be a responsible person under section 45 [*persons responsible for remediation of contaminated sites*] if the site is finally determined to be a contaminated site;
 - (c) provide an opportunity for any person to comment on the preliminary determination;
 - (d) make a final determination of whether or not a site is a contaminated site;
 - (e) give notice in writing of the final determination to
 - (i) the person who submitted the site profile, preliminary site investigation or detailed site investigation for the site,
 - (ii) any of a municipality, an approving officer or the commission that received, assessed and forwarded to the director a site profile for the site to which the final determination pertains,
 - (iii) any person with a registered interest in the site as shown in the records of the land title office at the time of the final determination,
 - (iv) any person known to the director who may be a responsible person under section 45 [*persons responsible for remediation of contaminated sites*], and
 - (v) any person who has commented under paragraph (c);
 - (f) carry out any other procedures specified in the regulations.
- (3) A director, on request by any person, may omit the procedures set out in subsection (2) (a) to (c) and make a final determination that a site is a contaminated site if the person
- (a) provides reasonably sufficient information to determine that the site is a contaminated site, and
 - (b) agrees to be a responsible person for the contaminated site.
- (4) The lack of a determination under subsection (2) or (3) does not mean that a site is not a contaminated site.
- (5) In addition to a site in respect of which a director makes a determination under subsection (1), a site is considered to be or to have been a contaminated site if a director has done any of the following:
- (a) appointed an allocation panel with respect to the site under section 49 [*allocation panel*];
 - (b) determined that a responsible person is a minor contributor with respect to the site under section 50 [*minor contributors*];
 - (c) entered into a voluntary remediation agreement with respect to the site under section 51 [*voluntary remediation agreements*];
 - (d) issued an approval in principle with respect to a proposed remediation plan for the site under section 53 (1) [*approvals in principle and certificates of compliance*];

- (c) issued a certificate of compliance with respect to remediation of the site under section 53 (3) [*approvals in principle and certificates of compliance*].
- (6) A final determination made under this section is a decision that may be appealed under Division 2 [*Appeals from Decisions under this Act*] of Part 8.

Division 3 –Liability for Remediation

Persons responsible for remediation of contaminated sites

- 45 (1) Subject to section 46 [*persons not responsible for remediation*], the following persons are responsible for remediation of a contaminated site:
- (a) a current owner or operator of the site;
 - (b) a previous owner or operator of the site;
 - (c) a person who
 - (i) produced a substance, and
 - (ii) by contract, agreement or otherwise caused the substance to be disposed of, handled or treated in a manner that, in whole or in part, caused the site to become a contaminated site;
 - (d) a person who
 - (i) transported or arranged for transport of a substance, and
 - (ii) by contract, agreement or otherwise caused the substance to be disposed of, handled or treated in a manner that, in whole or in part, caused the site to become a contaminated site;
 - (e) a person who is in a class designated in the regulations as responsible for remediation.
- (2) In addition to the persons referred to in subsection (1), the following persons are responsible for remediation of a contaminated site that was contaminated by migration of a substance to the contaminated site:
- (a) a current owner or operator of the site from which the substance migrated;
 - (b) a previous owner or operator of the site from which the substance migrated;
 - (c) a person who
 - (i) produced the substance, and
 - (ii) by contract, agreement or otherwise caused the substance to be disposed of, handled or treated in a manner that, in whole or in part, caused the substance to migrate to the contaminated site;
 - (d) a person who
 - (i) transported or arranged for transport of the substance, and
 - (ii) by contract, agreement or otherwise caused the substance to be disposed of, handled or treated in a manner that, in whole or in part, caused the substance to migrate to the contaminated site.

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- (3) A secured creditor is responsible for remediation of a contaminated site if
 - (a) the secured creditor at any time exercised control over or imposed requirements on any person regarding the manner of treatment, disposal or handling of a substance and the control or requirements, in whole or in part, caused the site to become a contaminated site, or
 - (b) the secured creditor becomes the registered owner in fee simple of the real property at the contaminated site.
 - (4) A secured creditor is not responsible for remediation if it acts primarily to protect its security interest, including, without limitation, if the secured creditor
 - (a) participates only in purely financial matters related to the site,
 - (b) has the capacity or ability to influence any operation at the contaminated site in a manner that would have the effect of causing or increasing contamination, but does not exercise that capacity or ability in such a manner as to cause or increase contamination,
 - (c) imposes requirements on any person, if the requirements do not have a reasonable probability of causing or increasing contamination at the site, or
 - (d) appoints a person to inspect or investigate a contaminated site to determine future steps or actions that the secured creditor might take.

Persons not responsible for remediation

- 46 (1) The following persons are not responsible for remediation of a contaminated site:
- (a) a person who would become a responsible person only because of an act of God that occurred before April 1, 1997, if the person exercised due diligence with respect to any substance that, in whole or in part, caused the site to become a contaminated site;
 - (b) a person who would become a responsible person only because of an act of war if the person exercised due diligence with respect to any substance that, in whole or in part, caused the site to become a contaminated site;
 - (c) a person who would become a responsible person only because of an act or omission of a third party, other than
 - (i) an employee,
 - (ii) an agent, or
 - (iii) a party with whom the person has a contractual relationship,if the person exercised due diligence with respect to any substance that, in whole or in part, caused the site to become a contaminated site;
 - (d) an owner or operator who establishes that
 - (i) at the time the person became an owner or operator of the site,
 - (A) the site was a contaminated site,
 - (B) the person had no knowledge or reason to know or suspect that the site was a contaminated site, and

- (C) the person undertook all appropriate inquiries into the previous ownership and uses of the site and undertook other investigations, consistent with good commercial or customary practice at that time, in an effort to minimize potential liability,
- (ii) if the person was an owner of the site, the person did not transfer any interest in the site without first disclosing any known contamination to the transferee, and
- (iii) the owner or operator did not, by any act or omission, cause or contribute to the contamination of the site;
- (e) an owner or operator who
 - (i) owned or occupied a site that at the time of acquisition was not a contaminated site, and
 - (ii) during the ownership or operation, did not dispose of, handle or treat a substance in a manner that, in whole or in part, caused the site to become a contaminated site;
- (f) a person described in section 45 (1) (c) or (d) or (2) (c) or (d) [*persons responsible for remediation of contaminated sites*] who
 - (i) transported or arranged to transport the substance to the site, if the owner or operator of the site was authorized by or under statute to accept the substance at the time of its deposit, and
 - (ii) received permission from the owner or operator described in subparagraph (i) to deposit the substance;
- (g) a government body that involuntarily acquires an ownership interest in the contaminated site, other than by government restructuring or expropriation, unless the government body caused or contributed to the contamination of the site;
- (h) a person who provides assistance respecting remediation work at a contaminated site, unless the assistance is carried out in a negligent fashion;
- (i) a person who provides advice respecting remediation work at a contaminated site unless the advice is negligent;
- (j) a person who owns or operates a contaminated site that was contaminated only by the migration of a substance from other real property not owned or operated by the person;
- (k) an owner or operator of a contaminated site containing substances that are present only as natural occurrences not assisted by human activity and if those substances alone caused the site to be a contaminated site;
- (l) subject to subsection (2), a government body that possesses, owns or operates a roadway, highway or right of way for sewerage or waterworks on a contaminated site, to the extent of the possession, ownership or operation;

- (m) a person who was a responsible person for a contaminated site for which a certificate of compliance was issued and for which another person subsequently proposes or undertakes to
 - (i) change the use of the contaminated site, and
 - (ii) provide additional remediation;
 - (n) a person who is in a class designated in the regulations as not responsible for remediation.
- (2) Subsection (1) (l) does not apply with respect to contamination placed or deposited below a roadway, highway or right of way for sewerage or waterworks by the government body that possesses, owns or operates the roadway, highway or right of way for sewerage or waterworks.
- (3) A person seeking to establish that he or she is not a responsible person under subsection (1) has the burden to prove all elements of the exemption on a balance of probabilities.

General principles of liability for remediation

- 47
- (1) A person who is responsible for remediation of a contaminated site is absolutely, retroactively and jointly and separately liable to any person or government body for reasonably incurred costs of remediation of the contaminated site, whether incurred on or off the contaminated site.
 - (2) Subsection (1) must not be construed as prohibiting the apportionment of a share of liability to one or more responsible persons by the court in an action or proceeding under subsection (5) or by a director in an order under section 48 [remediation orders].
 - (3) For the purpose of this section, "costs of remediation" means all costs of remediation and includes, without limitation,
 - (a) costs of preparing a site profile,
 - (b) costs of carrying out a site investigation and preparing a report, whether or not there has been a determination under section 44 [determination of contaminated sites] as to whether or not the site is a contaminated site,
 - (c) legal and consultant costs associated with seeking contributions from other responsible persons, and
 - (d) fees imposed by a director, a municipality, an approving officer or the commission under this Part.
 - (4) Liability under this Part applies
 - (a) even though the introduction of a substance into the environment is or was not prohibited by any legislation if the introduction contributed in whole or in part to the site becoming a contaminated site, and

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- (b) despite the terms of any cancelled, expired, abandoned or current permit or approval or waste management plan and its associated operational certificate that authorizes the discharge of waste into the environment.
 - (5) Subject to section 50 (3) [*minor contributors*], any person, including, but not limited to, a responsible person and a director, who incurs costs in carrying out remediation of a contaminated site may commence an action or a proceeding to recover the reasonably incurred costs of remediation from one or more responsible persons in accordance with the principles of liability set out in this Part.
 - (6) Subject to subsections (7) and (8), a person is not required to obtain, as a condition of an action or proceeding under subsection (5) being heard by a court,
 - (a) a decision, determination, opinion or apportionment of liability for remediation from a director, or
 - (b) an opinion respecting liability from an allocation panel.
 - (7) In all cases, the site that is the subject of an action or proceeding must be determined or considered under section 44 [*determination of contaminated sites*] to be or to have been a contaminated site before the court can hear the matter.
 - (8) Despite subsection (7), if independent remediation has been carried out at a site and the site has not been determined or considered under section 44 [*determination of contaminated sites*] to be or to have been a contaminated site, the court must determine whether the site is or was a contaminated site.
 - (9) The court may determine in accordance with the regulations, unless otherwise determined or established under this Part, any of the following:
 - (a) whether a person is responsible for remediation of a contaminated site;
 - (b) whether the costs of remediation of a contaminated site have been reasonably incurred and the amount of the reasonably incurred costs of remediation;
 - (c) the apportionment of the reasonably incurred costs of remediation of a contaminated site among one or more responsible persons in accordance with the principles of liability set out in this Part;
 - (d) such other determinations as are necessary to a fair and just disposition of these matters.

Remediation orders

- 48 (1) A director may issue a remediation order to any responsible person.
- (2) A remediation order may require a person referred to in subsection (1) to do any or all of the following:
 - (a) undertake remediation;
 - (b) contribute, in cash or in kind, towards the costs of another person who has reasonably incurred costs of remediation;

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- (c) give security, which may include real and personal property, in the amount and form the director specifies.
 - (3) For the purpose of deciding whether to require a person to undertake remediation under subsection (2), a director may consider whether remediation should begin promptly, and must consider each of the following:
 - (a) adverse effects on human health or pollution of the environment caused by contamination at the site;
 - (b) the potential for adverse effects on human health or pollution of the environment arising from contamination at the site;
 - (c) the likelihood of the responsible persons or other persons not acting expeditiously or satisfactorily in implementing remediation;
 - (d) in consultation with the chief inspector appointed under the *Mines Act*, the requirements of a reclamation permit issued under section 10 of that Act;
 - (e) in consultation with the commission, the adequacy of remediation being undertaken under section 84 of the *Petroleum and Natural Gas Act*;
 - (f) other factors prescribed in the regulations.
 - (4) For the purpose of deciding who will be ordered to undertake or contribute to remediation under subsections (1) and (2), a director, to the extent feasible without jeopardizing remediation requirements, must
 - (a) take into account private agreements between or among responsible persons respecting liability for remediation, if those agreements are known to the director, and
 - (b) on the basis of information known to the director, name one or more persons whose activities, directly or indirectly, contributed most substantially to the site becoming a contaminated site, taking into account such factors as
 - (i) the degree of involvement by the persons in the generation, transportation, treatment, storage or disposal of any substance that contributed, in whole or in part, to the site becoming a contaminated site, and
 - (ii) the diligence exercised by persons with respect to the contamination.
 - (5) A remediation order does not affect or modify a right of a person affected by the order to seek or obtain relief under an agreement, other legislation or common law, including, but not limited to, damages for injury or loss resulting from a release or threatened release of a contaminating substance.
 - (6) If a remediation order, or a pollution abatement order under section 83 [*pollution abatement orders*] that imposes a requirement for remediation, is issued in respect of a site, and the director has not yet determined under section 44 [*determination of contaminated sites*] whether the site is a contaminated site, as soon as reasonably possible after the issuance of the order, the director must determine

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- (a) whether the site is a contaminated site, in accordance with section 44 [*determination of contaminated sites*], and
 - (b) whether the person named in the order is a responsible person under section 45 [*persons responsible for remediation of contaminated sites*].
 - (7) If a person named in an order referred to in subsection (6) is determined not to be a responsible person, the government must compensate the person, in accordance with the regulations, for any costs directly incurred by the person in complying with the order.
 - (8) A person who receives a remediation order under subsection (1) or notice of a remediation order under subsection (13) must not, without the consent of the director, knowingly do anything that diminishes or reduces assets that could be used to satisfy the terms and conditions of the remediation order, and if the person does so, the director despite any other remedy sought, may commence an action against the person to recover the amount of the diminishment or reduction.
 - (9) The director may provide in a remediation order that a responsible person is not required to begin remediation of a contaminated site for a specified period of time if the contaminated site does not present an imminent and significant threat or risk to
 - (a) human health, given current and anticipated human exposure, or
 - (b) the environment.
 - (10) A person who has submitted a site profile under section 40 (7) [*site profiles of trustee, receiver, etc.*] must not directly or indirectly diminish or reduce assets at a site designated in the site registry as a contaminated site, including, without limitation, by
 - (a) disposing of real or personal assets, or
 - (b) subdividing landunless he or she first requests and obtains written notice from a director that the director does not intend to issue a remediation order.
 - (11) If a director issues or gives notice of the intention to issue a remediation order to a person referred to in subsection (10), subsection (8) applies.
 - (12) A director may amend or cancel a remediation order.
 - (13) A director, on making a remediation order must, within a reasonable time, provide notice of the order in writing to every person holding an interest in the contaminated site if the interest is registered in the land title office at the time of issuing the order.
 - (14) A remediation order may authorize, subject to the terms and conditions a director considers necessary and reasonable, any person designated by the director to enter specified land for the purpose of ensuring that the remediation order is carried out according to its terms.



- (15) If a remediation order authorizes a person to enter specified land, the person who owns or occupies the land must allow the authorized person to enter in accordance with the authorization.
- (16) Subsections (14) and (15) do not authorize any person to enter any structure or part of a structure that is used solely as a private residence.

Allocation panel

- 49
- (1) The minister may appoint up to 12 persons with specialized knowledge in contamination, remediation or methods of dispute resolution to act as allocation advisors under this section.
 - (2) A director, on request by any person, may appoint an allocation panel consisting of 3 allocation advisors to provide an opinion as to any or all of the following:
 - (a) whether the person is a responsible person;
 - (b) whether a responsible person is a minor contributor;
 - (c) the responsible person's contribution to the contamination and, if the costs of remediation are known or reasonably ascertainable, the share of those costs attributable to that contamination.
 - (3) For the purpose of providing an opinion under subsection (2) (b) and (c), the allocation panel must, to the extent of available information, consider the following:
 - (a) the information available to identify a person's relative contribution to the contamination;
 - (b) the nature and quantity of substances causing the contamination;
 - (c) the degree of toxicity of the substances causing the contamination;
 - (d) the degree of involvement by the responsible person, compared with one or more other responsible persons, in the generation, transportation, treatment, storage or disposal of the substances that caused the contamination;
 - (e) the degree of diligence exercised by the responsible person, compared with one or more other responsible persons, with respect to the generation, transportation, treatment, storage or disposal of the substances causing contamination, taking into account the characteristics of the substances;
 - (f) the degree of cooperation by the responsible person with government officials to prevent harm to human health or the environment;
 - (g) in the case of a minor contributor, factors set out in section 50 (1) (a) and (b) [*minor contributors*];
 - (h) other factors considered by the panel to be relevant to apportioning liability.
 - (4) A director may require, as a condition of entering a voluntary remediation agreement with a responsible person, that the responsible person, at his or her own expense, seek and provide to the director the opinion of an allocation panel under subsection (2).

ENVIRONMENTAL MANAGEMENT AMENDMENT ACT, 2004

CHAPTER 18

Assented to April 29, 2004

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

1 Section 19 of the Environmental Management Act, S.B.C. 2003, c. 53, is amended

(a) in subsection (1) by striking out "the requirements" and substituting "a requirement", and

(b) by adding the following subsection:

(1.1) If the minister considers that a person should have temporary relief from a requirement of a code of practice, the minister may issue a variance order relieving the person in relation to the requirement of the code of practice.

2 Section 22 (2) is amended by adding the following paragraphs:

(x) imposing monitoring and reporting requirements, including requirements for publication of information, in relation to

(i) waste,

(ii) handling, treating, transporting, discharging or storing waste, and

(iii) places and things that the minister considers may be affected by the handling, treatment, transportation, discharge or storage of waste;

(y) prescribing sampling, analytical, quality control and reporting procedures that must be followed by a person required to monitor or report under a code of practice.

3 Section 39 (1) is amended

(a) by adding the following definitions:

"approved professional" means a person who is named on a roster established under section 42 (2) [approved professionals];

"summary of site condition" means a document that complies with subsection (3);

(b) by repealing the definitions of "contaminated site" and "contamination" and substituting the following:

"contaminated site" means an area of the land in which the soil or any groundwater lying beneath it, or the water or the underlying sediment, contains a prescribed

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substance in quantities or concentrations exceeding prescribed risk based or numerical

- (a) criteria,
- (b) standards, or
- (c) conditions;

"contamination" means the presence in soil, sediment, water or groundwater of a substance prescribed for the purposes of the definition of "contaminated site" in quantities or concentrations exceeding the risk based or numerical

- (a) criteria,
- (b) standards, or
- (c) conditions

also prescribed for the purposes of the definition of "contaminated site";, *and*

(c) *by adding the following subsection:*

- (3) A summary of site condition must be
 - (a) prepared
 - (i) by an approved professional,
 - (ii) in the form established in a protocol, and
 - (iii) in accordance with the requirements prescribed by the minister, and
 - (b) signed by the approved professional.

4 *Section 40 is repealed and the following substituted:*

Site profiles

- 40 (1) When required by this section or the minister's regulations, a person must provide a site profile that
 - (a) contains the information prescribed by the minister, and
 - (b) is in the form established in a protocol.
- (2) A municipality, an approving officer or the commission, as applicable, must
 - (a) assess in accordance with the minister's regulations a site profile received in compliance with this section or the minister's regulations,
 - (b) if the assessment under paragraph (a) indicates that a director should review the site profile to determine whether a site investigation is required, forward a copy of the site profile to a director, and
 - (c) forward a copy of the site profile to any other person specified in the minister's regulations.
- (3) Subject to the regulations, a municipality, an approving officer and the commission may impose reasonable fees for an assessment under subsection (2) (a).

- (4) A director may order a person to prepare a site profile and provide it to the director in the following circumstances:
- (a) the person owns or occupies land that the director considers may be a contaminated site because of a past or current use on it or other land;
 - (b) the person provided a site profile that did not comply with subsection (1) (a) and (b).
- (5) If a director makes an order under subsection (4) (a) in respect of land that is subsequently determined not to be a contaminated site, the director is not liable for any costs incurred by the person in preparing the site profile.

5 *Section 42 (1) is repealed and the following substituted:*

- (1) A director may designate classes of persons who are qualified to perform classes of activities, prepare classes of reports and other documents or make classes of recommendations that by or under this Act may be or are required to be performed, prepared or made by an approved professional.

6 *Section 44 is repealed and the following substituted:*

Determinations of contaminated sites

- 44 (1) Subject to the minister's regulations, a director may determine whether a site is a contaminated site and, if so, the boundaries of the contaminated site.
- (2) For the purpose of making a determination under subsection (1), a director may rely on any information the director considers sufficient for that purpose, including but not limited to, a site profile, a preliminary site investigation, a detailed site investigation and a summary of site condition.
- (3) The lack of a determination under subsection (1) does not mean that a site is not a contaminated site.
- (4) Despite section 100 [*appeals to Environmental Appeal Board*], another decision that the director must or may make for the purpose, or in the process, of determining whether a site is a contaminated site may not be appealed to the Environmental Appeal Board until after the determination under subsection (1) has been made.

- 7 *Section 48 (10) is amended by striking out "A person who has submitted a site profile under section 40 (7) [site profiles of trustee, receiver, etc.]" and substituting "A trustee, a receiver, a liquidator or a person commencing foreclosure proceedings, who takes possession or control of real property for the benefit of one or more creditors and who has submitted or is required to submit a site profile,".*

8 *Section 53 is amended*

- (a) *by renumbering subsection (1) as subsection (1.1) and by adding the following subsection:*

Section 9

- (1) For the purposes of exercising powers and performing duties under this section, a director may rely on any information the director considers sufficient for the purpose, including, but not limited to, a preliminary site investigation, a detailed site investigation, a risk assessment, a remediation plan or a summary of site condition. ,
 - (b) *in subsection (2) by striking out “subsection (1),” and substituting “subsection (1.1),”*
 - (c) *by repealing subsection (3) (b) and (c) and substituting the following:*
 - (c) a plan has been prepared for the purposes of containing, controlling and monitoring any substances remaining on the site and, if required by the director, works have been installed to implement the plan, , *and*
 - (d) *in subsection (3) (d) by striking out “and the requirements respecting that security prescribed in the regulations have been met,” and substituting “in accordance with the minister’s regulations,”*
- 9 *Section 54 (1) is amended by striking out “remediation whether” and substituting “remediation in accordance with the minister’s regulations whether”.*
- 10 *Section 55 (3) (b) is amended by striking out “and environmental impact assessment”.*
- 11 *Section 59 (4) is amended by striking out “this section.” and substituting “section 58 [orphan sites].”*
- 12 *The following section is added:*

Land Remediation Fund

- 61.1
- (1) The minister may establish a fund to be known as the Land Remediation Fund.
 - (2) Money in the Land Remediation Fund must be held in trust by the government for the purposes under subsection (4).
 - (3) Money that under an enactment must be paid into the consolidated revenue fund, including the Sustainable Environment Fund, may not be paid into the Land Remediation Fund.
 - (4) The object of the Land Remediation Fund is to provide funding for the purposes of government programs in relation to the following:
 - (a) brownfield development;
 - (b) orphan site remediation;
 - (c) domestic and commercial underground tank remediation.
 - (5) The Land Remediation Fund may be administered by one or more councils that may pay money out of the Land Remediation Fund for the purposes of the fund in accordance with
 - (a) the minister’s regulations, and

FINAL AGREEMENT CONSEQUENTIAL AMENDMENTS ACT, 2007

CHAPTER 36

Assented to November 22, 2007

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

Adoption Act

1 Section 1 of the Adoption Act, R.S.B.C. 1996, c. 5, is amended

(a) in the definition of "aboriginal child" by adding the following paragraph:

(b.2) who is a treaty first nation child, ,

(b) in the definition of "designated representative" by striking out "when used in relation to the Nisga'a Lisims Government, an Indian band or an aboriginal community," and substituting "when used in relation to the Nisga'a Lisims Government, an Indian band, an aboriginal community or a treaty first nation," and

(c) by adding the following definition:

"treaty first nation", in relation to a treaty first nation child, means the treaty first nation of which the child is a treaty first nation child.

2 Section 7 (1) is amended

(a) by adding the following paragraph:

(a.2) if the child is a treaty first nation child, with a designated representative of the treaty first nation; ,

(b) in paragraph (b) by striking out "if the child is not a Nisga'a child and is not registered or not entitled to be registered as a member of an Indian band," and substituting "if the child is neither a Nisga'a child nor a treaty first nation child and is neither registered nor entitled to be registered as a member of an Indian band," and

(c) by adding the following subsection:

(3) An adoption agency must make reasonable efforts to obtain information about the cultural identity of a treaty first nation child before placing the treaty first nation child for adoption if the final agreement of the treaty first nation requires these efforts to be made.

- 50 *Section 1 of the Schedule is amended by repealing the definition of "net taxable value" and substituting the following:*

"net taxable value", in relation to land or improvements or both, means

- (a) if the *Hospital District Act* applies, the net taxable value of land or improvements or both for regional hospital district purposes, and
- (b) if the *Hospital District Act* does not apply, the net taxable value of land or improvements or both determined as if the *Hospital District Act* applies; .

Dike Maintenance Act

- 51 *Section 1 of the Dike Maintenance Act, R.S.B.C. 1996, c. 95, is amended in the definition of "diking authority" by adding the following paragraph:*

- (b.1) if the final agreement of a treaty first nation so provides, the treaty first nation in relation to dikes on its treaty lands, .

Environmental Assessment Act

- 52 *The Environmental Assessment Act, S.B.C. 2002, c. 43, is amended by adding the following sections:*

Reviewable projects on treaty lands

- 8.1 Despite any other enactment and whether or not an environmental assessment certificate is required, a reviewable project may not proceed on treaty lands without the consent of the treaty first nation if the final agreement requires this consent.

Agreements and consultations with treaty first nations

- 29.1 (1) If a final agreement requires the government to negotiate with a treaty first nation and attempt to reach agreement on harmonizing the government's and treaty first nation's procedures in relation to evaluating proposed developments on the treaty lands of the treaty first nation, the minister, on behalf of the government, may enter into an agreement reached in the negotiation.

- (2) If a reviewable project

- (a) is proposed for land specified in a final agreement as land in relation to which notice of a reviewable project is required in the circumstances described in paragraph (b), and
- (b) may reasonably be expected to adversely affect the treaty lands of the treaty first nation, the residents of those treaty lands or the rights of the treaty first nation under the final agreement,

the executive director, on receiving the proposal, must

- (c) promptly give notice of the project, along with relevant information about the project, to the treaty first nation,

Section 53

- (d) consult, within the meaning of the final agreement of the treaty first nation, with the treaty first nation, and
- (e) ensure that the treaty first nation has an opportunity to participate in any environmental assessment of the project.

Environmental Management Act

- 53 *Section 39 (1) of the Environmental Management Act, S.B.C. 2003, c. 53, is amended by repealing the definition of "government body" and substituting the following:*

"government body" means a federal, provincial, municipal or treaty first nation body, including an agency or ministry of the Crown in right of Canada or British Columbia and an agency of a municipality or treaty first nation; .

- 54 *Section 44 (2) (b) (iii) and (e) (iii) is amended by striking out "any person with a registered interest in the site as shown in the records of the land title office at the time" and substituting "any person with a registered interest in the site as shown in the records of the land title office or a land registry office of a treaty first nation at the time".*

- 55 *Section 48 (13) is amended by striking out "if the interest is registered in the land title office at the time of issuing the order." and substituting "if the interest is registered in the land title office or a land registry office of a treaty first nation at the time of issuing the order."*

- 56 *Section 55 is amended*

- (a) by repealing subsection (6) and substituting the following:*

- (6) A municipality or treaty first nation, including its employees or members of its governing body, does not incur any liability and must not be considered a responsible person under this Act as a result of any bylaw, law, permit, licence, approval or other document adopted or issued under the *Community Charter*, the *Islands Trust Act*, the *Local Government Act*, the *Vancouver Charter* or a law of a treaty first nation that authorizes the removal or deposit of contaminated soil in the municipality or treaty lands. ,

- (b) by repealing subsection (7) (a) and (b) and substituting the following:*

- (a) a bylaw of a municipality or law of a treaty first nation, or
- (b) a permit, licence, approval or other document issued under the authority of a municipal bylaw or law of a treaty first nation , *and*

- (c) in subsection (8) by striking out "any municipality" and substituting "any municipality or treaty first nation" and by striking out "the municipality" wherever it appears and substituting "the municipality or treaty first nation".*

Estate Administration Act

57 *Section 1 of the Estate Administration Act, R.S.B.C. 1996, c. 122, is amended by repealing the definition of “cultural property”.*

58 *Section 2.1 is amended by adding the following subsection:*

- (4) In this section, “cultural property” has the same meaning as in paragraph 115 of the Nisga’a Government chapter of the Nisga’a Final Agreement.

59 *The following section is added:*

Will or cultural property of treaty first nation members

- 2.2 (1) If the final agreement of a treaty first nation so provides, in any judicial proceeding under this Act in which
- (a) the validity or variation of a will of a treaty first nation member of the treaty first nation, or
 - (b) the devolution of the cultural property of a treaty first nation member of the treaty first nation
- is at issue, that treaty first nation has standing in the proceeding.
- (2) In a proceeding to which subsection (1) applies, the court must consider, among other matters, any evidence or representations in respect of the applicable treaty first nation’s laws or customs dealing with the devolution of cultural property.
- (3) The participation of a treaty first nation in a proceeding to which subsection (1) applies must be in accordance with the applicable Rules of Court and does not affect the court’s ability to control its process.
- (4) In this section, “cultural property”, in relation to a treaty first nation, has the same meaning as in the final agreement of the treaty first nation.

60 *Section 112 is amended*

- (a) *in subsection (1.1) by striking out “the applicant or the applicant’s solicitor certifies” and substituting “the applicant or the applicant’s solicitor, in addition to satisfying the requirements under subsection (1), certifies”;*

(b) *by adding the following subsection:*

- (1.2) If a treaty first nation has standing under section 2.2 in a judicial proceeding, a court must not grant or reseal probate or letters of administration in respect of the property of a treaty first nation member of the treaty first nation unless the applicant or the applicant’s solicitor, in addition to satisfying the requirements under subsection (1), certifies that he or she has

OIL AND GAS ACTIVITIES ACT

CHAPTER 36

Assented to May 29, 2008

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- (4) Despite the repeal of Part 12 of the former Act, that Part continues to apply to a test hole authorization issued under Division 2 of that Part until whichever of the following happens first:
 - (a) the test hole authorization is cancelled under Division 2 of Part 12;
 - (b) a permit is issued under this Act to the holder of the test hole authorization, permitting the holder to convert the test hole into a well;
 - (c) 2 years expire after the date Part 12 of the former Act is repealed.
- (5) A drilling deposit submitted under section 85 of the former Act is deemed to be security submitted for the purposes of section 30 of this Act.
- (6) An approval issued under section 100 of the former Act and in effect immediately before this section comes into force is deemed to be a designation under section 75 of this Act.

Transition – Pipeline Act

- 117
- (1) In this section, “former Act” means the *Pipeline Act*, R.S.B.C. 1996, c. 364, as it read immediately before its repeal.
 - (2) Each of the following is deemed to be a pipeline permit issued under this Act:
 - (a) a certificate issued under section 10 of the former Act and in effect immediately before the repeal of the former Act;
 - (b) an authorization issued under section 22 of the former Act and in effect immediately before the repeal of the former Act;
 - (c) an authorization issued under section 27 of the former Act and in effect immediately before the repeal of the former Act.
 - (3) A leave given under section 28 of the former Act and in effect immediately before the repeal of the former Act is deemed to be an approval issued under section 76 of this Act.
 - (4) A leave, in relation to a pipeline, given under section 30 of the former Act and in effect immediately before the repeal of the former Act is deemed to be a permission in the pipeline permit for the pipeline.
 - (5) A leave given under section 31 of the former Act and in effect immediately before the repeal of the former Act is deemed to be an approval under section 76 of this Act.
 - (6) Despite the repeal of Part 7 of the former Act, any decision made with respect to a common carrier by the British Columbia Utilities Commission under the authority of that Part continues to apply, subject to section 65 of the *Utilities Commission Act* as amended by this enactment.

Transition – permits

- 118
- The commission may consolidate into a single permit any or all permits held by a permit holder by operation of sections 116 and 117.

PART 11 – CONSEQUENTIAL AMENDMENTS AND REPEALS*Environmental Management Act*

119 Section 1 (1) of the *Environmental Management Act*, S.B.C. 2003, c. 53, is amended in the definition of “officer” by adding “, a government corporation” after “by the government”.

120 Section 39 (1) is amended in the definition of “commission” by striking out “*Petroleum and Natural Gas Act*” and substituting “*Oil and Gas Activities Act*”.

121 Section 40 (3) is repealed and the following substituted:

- (3) Subject to the regulations, a permit holder under the *Oil and Gas Activities Act* must provide a site profile to the commission if the permit holder applies for a certificate of restoration respecting an oil and gas activity in accordance with section 41 of that Act.



122 Section 48 (3) (e) is amended by striking out “section 84 of the *Petroleum and Natural Gas Act*,” and substituting “section 41 of the *Oil and Gas Activities Act*,”.

Environmental Management Amendment Act, 2004

123 Section 23 of the *Environmental Management Amendment Act, 2004*, S.B.C. 2004, c. 18, is repealed.

Expropriation Act

124 Section 2 (3) of the *Expropriation Act*, R.S.B.C. 1996, c. 125, is amended by striking out “the *Petroleum and Natural Gas Act*, the *Pipeline Act*” and substituting “the *Oil and Gas Activities Act*”.

Forest Act

125 Section 47.4 (2) (b) (i) of the *Forest Act*, R.S.B.C. 1996, c. 157, is amended

- (a) by repealing clauses (A) and (B) and substituting the following:

(A) an oil and gas activity under the *Oil and Gas Activities Act*, ,
and

- (b) in clause (C) by striking out “activities referred to in clause (A) or (B),” and substituting “an activity referred to in clause (A),”.

Forest and Range Practices Act

- 126 Section 1 (1) of the *Forest and Range Practices Act*, S.B.C. 2002, c. 69, is amended in paragraph (c) of the definition of "official" by striking out "minister responsible for the Oil and Gas Commission Act" and substituting "commissioner under the *Oil and Gas Activities Act*".
- 127 Section 58 (1) (a) is amended by striking out "the *Petroleum and Natural Gas Act* or the *Pipeline Act*," and substituting "or the *Oil and Gas Activities Act*,".
- 128 Section 204 (3) is amended by striking out "Code and the Code regulations" and substituting "*Oil and Gas Activities Act* and the regulations under that Act".

Forest and Range Practices Amendment Act, 2003

- 129 Section 106 of the *Forest and Range Practices Amendment Act, 2003*, S.B.C. 2003, c. 55, is repealed.

Forests Statutes Amendment Act, 2000

- 130 Section 54 of the *Forests Statutes Amendment Act, 2000*, S.B.C. 2000, c. 6, is repealed.

Geothermal Resources Act

- 131 Section 1 (1) of the *Geothermal Resources Act*, R.S.B.C. 1996, c. 171, is amended
- (a) by adding the following definitions:
 - "board" means the board of the commission continued under section 2 of the *Oil and Gas Activities Act*;
 - "commission" means the Oil and Gas Commission continued under section 2 of the *Oil and Gas Activities Act*;
 - (b) in the definition of "commissioner" by striking out "*Petroleum and Natural Gas Act*," and substituting "*Oil and Gas Activities Act*,";
 - (c) by adding the following definition:
 - "facility" means any surface equipment required to produce geothermal resources or to inject water or other fluids produced in connection with a geothermal resource into subsurface strata, but does not include
 - (a) a pipeline as defined in the *Oil and Gas Activities Act*, or
 - (b) equipment used in connection with the conversion of the geothermal resource into a commercial commodity;

TAB J

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CHAPTER E-10.21

An Act respecting the Management and Protection of the Environment

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(Assented to July 3, 2002)

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

PART I Short title and Interpretation

Short title

1 This Act may be cited as *The Environmental Management and Protection Act, 2002*.

Interpretation

2 In this Act:

- 
- (a) "adverse effect" means impairment of or damage to the environment, or harm to human health, caused by one or any combination of any chemical, physical or biological alteration;
 - (b) "bank" means the rising ground bordering a water body or watercourse that serves to confine the water to the channel or bed;
 - (c) "bed" means that portion of a water body or watercourse that is periodically or continuously covered by water;
 - (d) "boundary" means the line or elevation contour surrounding a water body or watercourse where the aquatic vegetation and terrestrial plant species known to tolerate water saturated soils change entirely to terrestrial vegetation tolerating little or no soil saturation and includes a minimum surrounding area of five metres measured outward from the top of the bank;
 - (e) "contaminated site" means an area that is designated or re-designated as a contaminated site by the minister pursuant to section 11;
 - (f) "department" means the department over which the minister presides;
 - (g) "deputy environment officer" means a person appointed pursuant to section 66;
 - (h) "discharge" means a discharge into the environment and includes any drainage, deposit, release or emission into the environment;
 - (i) "environment" means:
 - (i) air and the layers of the atmosphere;
 - (ii) land, including soil, subsoil, sediments, consolidated surficial deposits and rock;
 - (iii) water;

- 
- (iv) organic and inorganic matter and living organisms; and
 - (v) the interacting natural systems and ecological and climatic interrelationships that include the components mentioned in subclauses (i) to (iv);
 - (j) **"environment officer"** means an environment officer appointed pursuant to section 65, and includes a deputy environment officer, a member of the Royal Canadian Mounted Police or a member of a police service as defined in *The Police Act, 1990*;
 - (k) **"environmental protection order"** means an order issued pursuant to section 47;
 - (l) **"government agency"** means:
 - (i) a department of the Government of Saskatchewan;
 - (ii) a corporation that is an agent of the Crown in right of Saskatchewan; or
 - (iii) any corporation, commission, board or other body whose members are appointed by:
 - (A) an Act;
 - (B) the Lieutenant Governor in Council;
 - (C) a member of the Executive Council; or
 - (D) any combination of an Act and one or more of the persons mentioned in paragraphs (B) and (C);
 - (m) **"ground water"** means water beneath the surface of land;
 - (n) **"halocarbon"** means any substance having a chemical structure composed of any combination of:
 - (i) carbon;
 - (ii) sometimes hydrogen; and
 - (iii) a halogen;
 - (o) **"hazardous substance"** means a substance that:
 - (i) because of its quantity, concentration or physical, chemical or infectious characteristics, either individually or in combination with other substances, is an existing or potential threat to the environment or human health; and
 - (ii) is designated in the regulations as a hazardous substance;
 - (p) **"hazardous waste"** means a waste that:
 - (i) because of its quantity, concentration or physical, chemical or infectious characteristics, either individually or in combination with other wastes, is an existing or potential threat to the environment or human health; and
 - (ii) is designated in the regulations as a hazardous waste;

- 
- (q) "industrial effluent works" means any works for the collection, containment, storage, transmission, treatment or disposal of industrial waste;
- (r) "industrial waste" means any waste generated by any process of industry, manufacturing, trade or business or by the development of a natural resource and includes seepage, rainwater or storm water that enters industrial effluent works and includes waste dangerous goods;
- (s) "minister" means the member of the Executive Council to whom for the time being the administration of this Act is assigned;
- (t) "occupant" means a person or tenant, other than the owner, who is in actual possession of land;
- (u) "owner", with respect to land, means:
- (i) in the case of land in an area of Saskatchewan governed by *The Land Titles Act*:
 - (A) the registered owner of the land; or
 - (B) a purchaser of the land whose interest as a purchaser is shown on the certificate of title to that land; and
 - (ii) in the case of land in an area of Saskatchewan governed by *The Land Titles Act, 2000*:
 - (A) the registered owner of the land as defined in *The Land Titles Act, 2000*; or
 - (B) a purchaser of the land pursuant to an agreement for sale who has registered an interest based on the agreement for sale against the title to that land pursuant to *The Land Titles Act, 2000*;
- (v) "permit" means a permit issued pursuant to this Act or the regulations and includes a permit, order, licence or approval continued as a permit issued pursuant to this Act;
- (w) "person responsible for a discharge", with respect to a substance, includes:
- (i) an owner, or previous owner, of the substance;
 - (ii) every person:
 - (A) who has or had possession, charge, management or control of the substance, including the manufacture, treatment, sale, handling, use, storage, disposal, discharge, transportation, display or method of application of the substance; and
 - (B) whose actions or omissions caused or contributed to the discharge;
 - (iii) an owner, occupant or previous owner or occupant of land on which the substance is discharged;

- 
- (iv) if a person mentioned in subclauses (i) to (iii) is a corporation:
 - (A) any other corporation that is the result of a merger, continuance, acquisition or other fundamental change involving the corporation; or
 - (B) any other corporation that has or had the right of control of the land or substance;
 - (v) a person who acts as the principal or agent of a person mentioned in subclauses (i) to (iv); and
 - (vi) a successor, assignee, executor, administrator, trustee, receiver or receiver-manager of a person mentioned in subclauses (i) to (v);
- but does not include:
- (vii) a municipality with respect to land shown on its tax arrears list prepared pursuant to *The Tax Enforcement Act*, unless after the date on which the municipality is entitled to take possession of the land or becomes the owner of the land, the municipality aggravates an existing adverse effect or discharges a new or additional substance into the environment that:
 - (A) may cause, is causing or has caused an adverse effect; or
 - (B) aggravates the adverse effect of the previous discharge of the substance on that land;
 - (viii) a secured creditor of a person mentioned in subclauses (i) to (v), unless the secured creditor participated in the day-to-day management or control of the land or through an act or omission caused the discharge or aggravated an existing adverse effect;
 - (ix) a person providing advice or assistance regarding the handling of the substance or the work of remedying land who exercised due diligence in providing advice or assistance unless any test, investigation or work conducted by that person caused an adverse effect or aggravated an existing adverse effect;
 - (x) a person who is or was an owner or occupier of land contaminated before the person became the owner or occupier and who could not reasonably have been expected to know about or discover the existence of the substance at the time the person became the owner or occupier; or
 - (xi) an owner of land for which surface rights have been acquired pursuant to *The Surface Rights Acquisition and Compensation Act* with respect to the activities for which the surface rights were acquired;
- (x) "prescribed" means prescribed in the regulations;
 - (y) "sewage" means any liquid waste of domestic, commercial or industrial origin containing animal, vegetable or mineral matter in suspension or solution and includes rainwater or storm water that enters any sewage works;

- 
- (z) "sewage works" means any works for the collection, storage, transmission, treatment or disposal of any sewage;
- (aa) "storm water" means rainwater or water resulting from the melting of snow or ice;
- (bb) "substance" means any solid, liquid, particulate or gas that:
- (i) is capable of becoming dispersed in or discharged into the environment; or
 - (ii) is capable of becoming transformed in the environment into matter defined in subclause (i);
- (cc) "surface water" means water that is above the surface of land and in a river, stream, lake, creek, spring, ravine, coulee, canyon, lagoon, swamp, marsh or other watercourse or water body, whether the water is there permanently or intermittently;
- (dd) "waste" means a solid, liquid or gas that is one or more of the following:
- (i) rubbish;
 - (ii) slime;
 - (iii) tailings;
 - (iv) fumes;
 - (v) smoke of mines, factories or other industrial works;
 - (vi) effluent;
 - (vii) sewage;
 - (viii) garbage;
 - (ix) refuse;
 - (x) scrap;
 - (xi) discarded articles, bottles or cans;
 - (xii) any other prescribed waste product;
- (ee) "waste dangerous good" means a waste dangerous good as defined in the regulations;
- (ff) "water" means surface water or ground water;
- (gg) "waterworks" means any work that:
- (i) is designed to supply, collect, treat, store or distribute water that is intended or actually used for human consumption or hygiene, regardless of whether or not any other uses have been made of that water; and
 - (ii) is designated in the regulations;
- (hh) "waterworks and sewage works protection order" means a waterworks and sewage works protection order issued pursuant to section 31.

PART II
Minister's General Responsibilities
and Powers Respecting the Environment

Responsibilities and powers of minister re the environment

- 3(1) The minister is responsible for all matters not by law assigned to any other minister or government agency respecting the environment and enhancing and protecting the quality of the environment.
- (2) For the purposes of carrying out the minister's responsibilities, the minister may:
- (a) co-ordinate policies and programs of government agencies respecting the management, protection and use of the environment;
 - (b) undertake planning, research and investigations respecting the environment;
 - (c) install, operate and maintain or cause to be installed, operated or maintained devices to obtain and assess data respecting the environment;
 - (d) obtain and collect data respecting the environment;
 - (e) provide information to the public on:
 - (i) the quality and use of the environment; and
 - (ii) the quantity of any substances or things in the environment;
 - (f) inquire into or hold, or appoint a person to conduct, public hearings or inquiries respecting:
 - (i) the management, use or protection of the environment; and
 - (ii) any economic, social or other effects relevant to the environment;
 - (g) establish advisory committees and retain experts to report to the minister respecting:
 - (i) the administration of the Act; or
 - (ii) the development, application or amendment of any policies, programs, guidelines, objectives or standards;
 - (h) create and develop any guidelines, standards, objectives, management criteria, code of practice or similar instrument;
 - (i) manage, administer and promote the conservation and economical and efficient use of drinking water in Saskatchewan;
 - (j) do any other thing that the minister considers appropriate to carrying out the minister's responsibilities or to exercising the minister's powers pursuant to this Act and the regulations.
- (3) For the purposes of an inquiry or hearing held pursuant to clause (2)(f), the minister or the person appointed to conduct the inquiry or hearing has the powers of a commissioner pursuant to *The Public Inquiries Act*.

Control orders issued by minister

45(1) The minister may issue a control order to any person who:

- (a) services or repairs equipment that contains or may contain a halocarbon;
 - (b) owns, possesses or uses a halocarbon; or
 - (c) manufactures, offers for sale or sells a halocarbon.
- (2) In a control order issued pursuant to subsection (1), the minister may require the person to whom the order is directed to do any one or more of the following:
- (a) refrain from leaking or discharging a halocarbon;
 - (b) install, repair, service, replace or alter any equipment that is designed to control or eliminate the discharge of a halocarbon;
 - (c) refrain from removing, repairing, servicing, replacing or altering any equipment that is designed to control or eliminate the discharge of a halocarbon;
 - (d) remove or discharge a halocarbon from a container;
 - (e) store a halocarbon in the manner specified in the order.
- (3) The minister may, by a further order, amend, alter or replace a previous control order.
- (4) A person to whom a control order is directed shall comply with the order immediately on being served with the order unless the control order specifies a future day on and from which the order is to be complied with.

PART VI**General Rules respecting Orders and Permits****DIVISION 1****Orders and Authority to take Emergency Action****Emergency environmental protection orders**

46(1) Notwithstanding any other provision of this Act, if the minister is of the opinion that a person is doing any thing or carrying out any activity that may cause, is causing or has caused an immediate or significant adverse effect, the minister may issue an emergency environmental protection order that is directed to a person requiring that person:

- (a) to immediately cease or suspend doing the thing or carrying out the activity identified in the order; and
 - (b) to do any other thing that the minister considers appropriate, including ordering that person to undertake any of the measures set out in section 47.
- (2) An emergency environmental protection order issued pursuant to this section expires 15 days after the day it was issued.
- (3) The minister shall cause an emergency environmental protection order issued pursuant to this section to be served on the person to whom it is directed.

Environmental protection orders

47(1) Subject to subsection 14(6), the minister may issue an environmental protection order directed to a person requiring that person to take any measures that the minister considers necessary to protect and restore the environment if the minister is of the opinion that the person:

- (a) before, on or after the coming into force of this Act has done or is doing anything or carrying out any activity that may cause, is causing or has caused an adverse effect;
- (b) before, on or after the coming into force of this Act has contravened or is about to contravene this Act or the regulations, whether or not that person has been convicted of that contravention;
- (c) is a person directly responsible for a discharge who has failed to:
 - (i) prepare a remedial action plan as required by section 14;
 - (ii) enter into an agreement as required by section 14; or
 - (iii) comply with the terms of a remedial action plan or agreement approved by the minister pursuant to section 14; or
- (d) is a person to whom section 9 applies.

(2) The minister shall cause the measures mentioned in subsection (3) to be set out in the environmental protection order.

(3) For the purposes of subsection (1), the minister may, in an environmental protection order, require a person to whom the environmental protection order is directed to do all or any of the following:

- (a) investigate the situation;
- (b) monitor a substance;
- (c) lessen or prevent further discharge of a substance;
- (d) contain a substance;
- (e) remove a substance;
- (f) store a substance and monitor its storage;
- (g) destroy or otherwise dispose of a substance;
- (h) minimize the effects of a substance on the environment;
- (i) remedy any adverse effect;
- (j) restore the area affected by the discharge or presence of a substance and the environment to a condition satisfactory to the minister;
- (k) maintain records on any matter relevant to:
 - (i) the discharge or presence of a substance; or
 - (ii) the measures specified in any order made pursuant to this section;

- 
- (l) report periodically to the minister, a project manager appointed pursuant to section 50 or a person designated by the minister with respect to:
- (i) any matter related to the discharge or presence of a substance; or
 - (ii) the measures specified in any order made pursuant to this section;
- (m) cease or suspend any activity for a period specified in the order or permanently;
- (n) take any measure, in addition to or other than one described in clauses (a) to (m), that the minister considers necessary to:
- (i) facilitate compliance with any environmental protection order; or
 - (ii) protect or restore the environment.
- (4) If the minister issues an order directed to a person requiring that a substance be contained or stored, the minister may subsequently issue an environmental protection order to that person to take, with respect to the substance, any of the measures described in subsection (3).
- (5) An environmental protection order may specify:
- (a) the manner in which the measures are to be carried out and the method or procedures to be used in carrying out the measures required by the order; and
 - (b) the period within which any measure required by the order is to be commenced and the period within which the order or any portion of the order is to be complied with.

Service of environmental protection order

48 The minister shall cause an environmental protection order to be served on the person to whom the order is directed.

Amendment, alteration or replacement of environmental protection order

49(1) The minister may amend, alter or replace an environmental protection order, in whole or in part, if:

- (a) the person to whom the environmental protection order is issued fails to comply with the terms of the order; or
 - (b) the minister considers it appropriate to do so.
- (2) Before the minister issues an environmental protection order, or takes any action pursuant to subsection (1), the minister shall give to the person to whom the order is intended to be issued, amended, altered or replaced:
- (a) written notice of the minister's intention to issue the order, or to amend, alter or replace the order, as the case may be, and the reasons for doing so; and
 - (b) an opportunity to make written representations to the minister, within 30 days after the written notice mentioned in clause (a) is served, as to why the environmental protection order should not be issued, or why the order should not be amended, altered, or replaced.

(3) The minister is not required to give an oral hearing to any person to whom a notice has been given pursuant to subsection (2).

(4) After receiving the representations mentioned in clause (2)(b), the minister shall issue a written decision:

- (a) confirming the environmental protection order;
- (b) amending, altering or replacing the environmental protection order; or
- (c) revoking the environmental protection order.

(5) The minister shall cause a decision made pursuant to this section to be served on the person who made the representations.

Project manager

50(1) The minister may appoint a person as a project manager to oversee the carrying out of an environmental protection order.

(2) A project manager appointed pursuant to subsection (1) may issue written directives to any person to whom an environmental protection order is issued that, in the project manager's opinion, facilitate compliance with the measures set out in the environmental protection order.

When minister may carry out environmental protection order

51(1) The minister may do all or any of the things mentioned in subsection (2) if a person to whom an environmental protection order is issued fails to comply with that order:

- (a) within the period specified in that order; or
- (b) if no period is stated in the order, within a reasonable period after the order was issued.

(2) In the circumstances mentioned in subsection (1), the minister may:

- (a) carry out the order or enter into agreements to cause the order to be carried out; and
- (b) recover the costs and expenses incurred pursuant to clause (a) on behalf of the Crown in right of Saskatchewan as a debt due and recoverable by the Crown from the person who failed to comply with the environmental protection order.

Power to take immediate action

52 The minister may take or cause to be taken any measures described in subsection 47(3) with respect to a substance or its adverse effects if:

- (a) in the opinion of the minister, it is in the public interest to take immediate action to remedy or prevent an adverse effect; or
- (b) the minister is unable to readily identify or locate the person to whom an order pursuant to section 47 should be directed.

Recovery of minister's costs - filing of certificate

53(1) If the minister undertakes any work for the purposes of section 50, 51 or 52 and incurs any costs as a result, the minister may file in the office of the local registrar of the Court of Queen's Bench at the judicial centre nearest to the place where the work or the greatest portion of the work was done a certificate that is signed by the minister and that sets out:

(a) the amount of the costs and expenses incurred pursuant to those sections; and

(b) the person from whom the costs and expenses are recoverable.

(2) If the minister files a certificate pursuant to subsection (1), the minister shall cause a copy of the certificate to be served on the person from whom the certificate states the costs and expenses are recoverable.

(3) A certificate filed pursuant to this section has the same force and effect as if it were a judgment obtained in the Court of Queen's Bench for the recovery of a debt in the amount specified in the certificate, together with any reasonable costs and charges with respect to its filing.

(4) A person who has been served with a copy of a certificate pursuant to subsection (2) may, within 30 days after receiving the copy, make written representations to the minister requesting the minister to reconsider the amount of the costs and expenses.

(5) On receipt of a written representation pursuant to subsection (4), the minister may:

(a) withdraw the certificate;

(b) vary the amount of the costs and expenses and, for that purpose, withdraw the certificate and file a new certificate with the new costs and expenses; or

(c) confirm the certificate.

(6) The minister shall notify the person who made the written representations of the minister's decision as soon as is reasonably practicable after making the decision.

Appeals to Court of Queen's Bench re environmental protection order or certificate

54(1) Any person aggrieved by an environmental protection order may appeal on a question of law to a judge of the Court of Queen's Bench within 30 days after the date of the order.

(2) The record of an appeal pursuant to subsection (1) consists of:

(a) the environmental protection order;

(b) the written representations made to the minister by the person named in the environmental protection order;

(c) the minister's decision pursuant to subsection 49(4); and

(d) the notice of motion commencing the appeal to the Court of Queen's Bench.

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2003

CHAPTER 29

An Act to amend certain Statutes with respect to Measures
concerning Security Management

(Assented to June 27, 2003)

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

PART I
Short Title

Short title

- 1 This Act may be cited as *The Miscellaneous Statutes (Security Management)
Amendment Act, 2003*.

PART II
The Charitable Fund-raising Businesses Act

S.S. 2002, c.C-6.2, section 8 amended

2 Section 8 of *The Charitable Fund-raising Businesses Act* is amended:

- (a) by renumbering it as subsection 8(1);
- (b) by striking out “or” after clause (1)(b);
- (c) by adding the following after clause (1)(b):

“(b.1) the applicant has raised funds, or intends to raise funds, for a charitable organization that is named in a valid certificate signed pursuant to the *Charities Registration (Security Information) Act* (Canada); or”; and

- (d) by adding the following subsection after subsection (1):

“(2) For the purposes of clause (1)(b.1), a certificate is deemed to be valid pending the determination of:

- (a) a reference to the Federal Court pursuant to section 6 of the *Charities Registration (Security Information) Act* (Canada) with respect to the certificate; or
- (b) a review of the certificate pursuant to section 10 or 11 of the *Charities Registration (Security Information) Act* (Canada)”.

PART VI
The Emergency Planning Act

S.S. 1989-90, c.E-8.1 amended

17 *The Emergency Planning Act* is amended in the manner set forth in this Part.

Section 2 amended

18 Section 2 is amended:

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

“(a) ‘chief of emergency management’ means the chief of emergency management designated pursuant to section 3”;

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

“(b) ‘emergency’ means:

(i) a calamity caused by:

(A) accident;

(B) act of war or insurrection;

(C) terrorist activity as defined in the *Criminal Code*;

(D) forces of nature; or

(ii) a present or imminent situation or condition, including a threat of terrorist activity as defined in the *Criminal Code*, that requires prompt action to prevent or limit:

(A) the loss of life;

(B) harm or damage to the safety, health or welfare of people; or

(C) damage to property or the environment”; and

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

“(n) ‘Saskatchewan Emergency Management Organization’ means the unit of the department continued pursuant to section 3”.

Section 3 amended

19(1) Subsection 3(1) is repealed and the following substituted:

“(1) Saskatchewan Emergency Planning is continued as a unit of the department to be known as the Saskatchewan Emergency Management Organization”.

(2) Subsection 3(2) is amended by striking out “planning” and substituting “management”.

(3) Subsection 3(4) is amended by striking out “planning” and substituting “management”.

Section 4 amended

20(1) Subsection 4(3) is amended by striking out “emergency planning” and substituting “emergency management”.

(2) Subsection 4(4) is amended by striking out “planning” wherever it appears and in each case substituting “management”.

Section 7 amended

21 Subsection 7(4) is amended by striking out "planning" and substituting "management".

Section 13 amended

22 Clause 13(g) is amended by striking out "planning" and substituting "management".

Section 15 amended

23 Subsection 15(1) is amended:

(a) in clause (b) by striking out "planning" and substituting "management"; and

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

"(c) the Saskatchewan Emergency Management Organization".

PART VII

The Environmental Management and Protection Act, 2002

S.S. 2002, c.E-10.21 amended

24 *The Environmental Management and Protection Act, 2002* is amended in the manner set forth in this Part.

Section 2 amended

25 The following clause is added after clause 2(cc):

"(cc.1) 'terrorist activity' means a terrorist activity as defined in the *Criminal Code*".

Section 15 amended

26 Subclause 15(4)(b)(i) is amended by adding "a terrorist activity" after "insurrection".

New section 52.1

27 The following section is added after section 52:

"Powers re terrorist activity

52.1(1) In this section, 'minister's designate' means a person designated by the minister for the purposes of this section.

(2) Notwithstanding any other provision of this Act or any provision of the regulations, any other Act or law or any licence, permit, approval, authorization, lease or grant of any right or benefit granted pursuant to any Act or law, if the minister has reasonable grounds to believe that terrorist activity is occurring or might occur, and is causing or might cause an adverse effect:

(a) the minister may, by order:

(i) direct a person engaged in the storage, handling, offering for transport or transportation of hazardous substances, hazardous wastes or waste dangerous goods to take any measures that the minister may direct to secure the operations against terrorist activity;

- (ii) direct a person who is operating a waterworks, sewage works or industrial effluent works to:
 - (A) shut down and cease operating that waterworks, sewage works or industrial effluent works; and
 - (B) take any measures that the minister may direct to secure the waterworks, sewage works or industrial effluent works against terrorist activity;
 - (iii) prohibit or restrict access to any waterworks, sewage works or industrial effluent works;
 - (iv) prohibit or restrict the discharge of any substance into the environment;
 - (v) designate any site as a contaminated site;
 - (vi) require any person to take any other action that the minister considers necessary:
 - (A) to protect the health or safety of the public against that adverse effect; or
 - (B) to prevent serious damage to the environment caused or that may be caused by that adverse effect; and
 - (b) the minister may take any action that the minister considers necessary:
 - (i) to protect the health or safety of the public against that adverse effect; or
 - (ii) to prevent serious damage to the environment caused or that may be caused by that adverse effect.
- (3) Subject to subsection (4), a minister's designate may make any order described in clause (2)(a) if:
- (a) the minister's designate believes, on reasonable grounds, that:
 - (i) a terrorist activity:
 - (A) is occurring or might occur; and
 - (B) is causing or might cause an adverse effect or constitutes a serious threat to the health or safety of the public; and
 - (ii) the requirements set out in the order are necessary to decrease or eliminate that adverse effect or that serious threat; and
 - (b) in the opinion of the minister's designate, there will be insufficient time for the minister to make an order pursuant to this section because of the nature of the adverse effect or serious threat.

TAB K

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CHAPTER E.19

Environmental Protection Act

Definitions

1.—(1) In this Act,

“adverse effect” means one or more of,

- (a) impairment of the quality of the natural environment for any use that can be made of it,
- (b) injury or damage to property or to plant or animal life,
- (c) harm or material discomfort to any person,
- (d) an adverse effect on the health of any person,
- (e) impairment of the safety of any person,
- (f) rendering any property or plant or animal life unfit for human use,
- (g) loss of enjoyment of normal use of property, and
- (h) interference with the normal conduct of business; (“conséquence préjudiciable”)

“air” means open air not enclosed in a building, structure, machine, chimney, stack or flue; (“air”)

“analyst” means an analyst appointed under this Act; (“analyste”)

“Board” means the Environmental Appeal Board; (“Commission”)

“contaminant” means any solid, liquid, gas, odour, heat, sound, vibration, radiation or combination of any of them resulting directly or indirectly from human activities that may cause an adverse effect; (“contaminant”)

“discharge”, when used as a verb, includes add, deposit, leak or emit and, when used as a noun, includes addition, deposit, emission or leak; (“rejet”, “rejeter”)

“document” includes a sound recording, videotape, film, photograph, chart, graph, map, plan, survey, book of account and information recorded or stored by means of any device; (“document”)

CHAPITRE E.19

Loi sur la protection de l'environnement

1 (1) Les définitions qui suivent s'appliquent à la présente loi. Définitio

«agent provincial» Personne que le ministre désigne à titre d'agent provincial pour l'application de la présente loi et des règlements. («provincial officer»)

«air» Air libre qui n'est pas contenu dans un bâtiment, un ouvrage, une machine, une cheminée, un corps ou un tuyau de cheminée. («air»)

«analyste» Analyste nommé en vertu de la présente loi. («analyst»)

«Commission» La Commission d'appel de l'environnement. («Board»)

«Commission des évaluations environnementales» La Commission des évaluations environnementales créée en vertu de la *Loi sur les évaluations environnementales*. («Environmental Assessment Board»)

«conseil local» Conseil scolaire, Commission des services publics, Commission des transports, conseil de bibliothèques publiques, Commission de gestion des parcs, conseil local de santé, commission de services policiers, conseil d'aménagement ou autre conseil, commission, comité, organisme ou office local créé par une loi générale ou spéciale ou exerçant un pouvoir que celle-ci lui confère en ce qui concerne les affaires ou les fins, y compris les fins scolaires, d'une ou plusieurs municipalités ou parties de celles-ci. («local board»)

«conséquence préjudiciable» L'une ou plusieurs des conséquences suivantes :

- a) la dégradation de la qualité de l'environnement naturel relativement à tout usage qui peut en être fait,
- b) le tort ou les dommages causés à des biens, des végétaux ou des animaux,
- c) la nuisance ou les malaises sensibles causés à quiconque,
- d) l'altération de la santé de quiconque,
- e) l'atteinte à la sécurité de quiconque,

- (c) conduct studies of the quality of the natural environment, meteorological studies, and monitoring programs;
- (d) conduct studies of environmental planning designed to lead to the wise use of the natural environment;
- (e) convene conferences and conduct seminars and educational and training programs relating to contaminants, pollution, waste and litter;
- (f) gather, publish and disseminate information relating to contaminants, pollution, waste and litter;
- (g) make grants and loans for,
 - (i) research or the training of persons relating to contaminants, pollution, waste or litter, and
 - (ii) the development of waste management facilities,
 in such amounts and upon such terms and conditions as the regulations may prescribe;
- (h) establish and operate demonstration and experimental waste management systems, litter disposal sites and sewage systems under Part VIII;
- (i) appoint committees to perform such advisory functions as the Minister considers advisable; and
- (j) with the approval of the Lieutenant Governor in Council, enter into an agreement with any government or person relating to the protection or conservation of the natural environment. R.S.O. 1980, c. 141, s. 3.
- (c) faire des études sur la qualité de l'environnement naturel et sur la météorologie et dresser des programmes de surveillance;
- (d) faire des études sur la planification de l'environnement dont le but est de permettre de faire un usage sage et prudent de l'environnement naturel;
- (e) organiser des conférences et des colloques et mettre sur pied des programmes éducatifs et de formation qui ont trait aux contaminants, à la pollution, aux déchets et aux détritiques;
- (f) recueillir, publier et diffuser des renseignements qui ont trait aux contaminants, à la pollution, aux déchets et aux détritiques;
- (g) accorder des subventions et des prêts, d'un montant et aux conditions que les règlements peuvent prescrire, pour permettre :
 - (i) de faire des recherches ou de pourvoir à la formation de personnes en ce qui a trait aux contaminants, à la pollution, aux déchets ou aux détritiques,
 - (ii) de développer des installations de gestion des déchets;
- (h) créer et gérer, aux fins de démonstration et d'expérience, des systèmes de gestion des déchets, des lieux d'élimination des détritiques, ainsi que des systèmes d'égouts dans le cadre de la partie VIII;
- (i) créer des comités qui ont pour but d'exercer les fonctions consultatives que le ministre juge opportunes;
- (j) conclure, avec un gouvernement ou une personne, une entente avec l'approbation du lieutenant-gouverneur en conseil, ayant trait à la protection ou à la conservation de l'environnement naturel. L.R.O. 1980, chap. 141, art. 3.

Directors

5.—(1) The Minister may appoint in writing as Directors,

- (a) such employees of the Ministry;
- (b) the members of such classes of employees of the Ministry; and
- (c) subject to the approval of the Lieutenant Governor in Council, such other persons or the members of such other classes of persons,

5 (1) Le ministre peut nommer par écrit pour exercer les fonctions de directeur : Directeurs

- a) les employés du ministère;
- b) les membres des catégories d'employés du ministère;
- c) sous réserve de l'approbation du lieutenant-gouverneur en conseil, les autres personnes ou les membres des autres catégories de personnes,

or any of them, as the Minister considers necessary in respect of such sections of this Act and in respect of such of the regulations or sections of the regulations as are set out in the appointments.

Analysts and
provincial
officers

(2) The Minister may in writing appoint as analysts or designate as provincial officers,

- (a) such employees of the Ministry;
- (b) the members of such classes of employees of the Ministry;
- (c) such other persons; and
- (d) the members of such classes of other persons,

or any of them, as the Minister considers necessary in respect of such sections of any Act administered by the Minister and in respect of such of the regulations or sections of the regulations under such Act as are set out in the appointments or designations.

Limitation
of authority

(3) The Minister, in an appointment or designation under subsection (1) or (2), may limit the authority of a Director, analyst or provincial officer in such manner as the Minister considers necessary or advisable. 1986, c. 68, s. 2.

PART II

GENERAL PROVISIONS

Prohibition

6.—(1) No person shall discharge into the natural environment any contaminant, and no person responsible for a source of contaminant shall permit the discharge into the natural environment of any contaminant from the source of contaminant, in an amount, concentration or level in excess of that prescribed by the regulations. R.S.O. 1980, c. 141, s. 5 (1); 1988, c. 54, s. 2.

Exception

(2) Subsection (1) does not apply to animal wastes disposed of in accordance with normal farming practices. R.S.O. 1980, c. 141, s. 5 (2).

Control
orders

7.—(1) When the report of a provincial officer contains a finding that a contaminant discharged into the natural environment is a contaminant the use of which is prohibited by the regulations or is being discharged in contravention of section 14 or the regulations, the Director may issue a control order directed to,

qu'il juge nécessaires pour faire appliquer les articles de la présente loi et les règlements ou les articles des règlements qui sont énoncés dans les nominations.

(2) Le ministre peut nommer par écrit pour exercer les fonctions d'analyste ou désigner par écrit pour exercer les fonctions d'agent provincial :

Analystes
et agents
provinciaux

- a) les employés du ministère;
- b) les membres des catégories d'employés du ministère;
- c) les autres personnes;
- d) les membres des catégories d'autres personnes,

qu'il juge nécessaires pour faire appliquer les articles de toute loi dont l'application incombe au ministre et pour en faire appliquer les règlements et les articles des règlements qui sont énoncés dans les nominations ou les désignations.

(3) Lorsqu'il nomme un directeur ou un analyste ou qu'il désigne un agent provincial en vertu des paragraphes (1) ou (2) le ministre peut limiter les pouvoirs du directeur, de l'analyste ou de l'agent provincial de la façon qu'il juge nécessaire ou opportune. 1986, chap. 68, art. 2.

Limitation
des pouvoirs

PARTIE II

DISPOSITIONS GÉNÉRALES

6 (1) Nul ne doit rejeter un contaminant dans l'environnement naturel lorsque la quantité, la concentration ou l'intensité du contaminant excèdent celles que les règlements prescrivent. Quiconque est responsable d'une source de contamination ne doit pas permettre qu'un contaminant provenant de cette source soit rejeté dans l'environnement naturel lorsque la quantité, la concentration ou l'intensité du contaminant excèdent celles que les règlements prescrivent. L.R.O. 1980, chap. 141, par. 5 (1); 1988, chap. 54, art. 2.

Interdiction

(2) Le paragraphe (1) ne s'applique pas aux déchets animaux qui sont éliminés conformément aux pratiques normales en usage dans les exploitations agricoles. L.R.O. 1980, chap. 141, par. 5 (2).

Exception

7 (1) Lorsque le rapport d'un agent provincial contient une constatation selon laquelle un contaminant rejeté dans l'environnement naturel est un contaminant dont l'usage est interdit par les règlements ou dont le rejet enfreint l'article 14 ou les règlements, le directeur peut prendre un arrêté d'intervention adressé, selon le cas :

Arrêtés d'in-
tervention

- (a) an owner or previous owner of the source of contaminant;
- (b) a person who is or was in occupation of the source of contaminant; or
- (c) a person who has or had the charge, management or control of the source of contaminant. 1990, c. 18, s. 18.

Public notice

(2) The Director shall give notice of the control order to every municipality in which the contaminant is discharged and to the public in such manner as the Director considers appropriate. 1988, c. 54, s. 3 (2).

Stop orders

8.—(1) When the Director, upon reasonable and probable grounds, is of the opinion that a source of contaminant is discharging into the natural environment any contaminant that constitutes, or the amount, concentration or level of which constitutes, an immediate danger to human life, the health of any persons, or to property, the Director may issue a stop order directed to,

- (a) an owner or previous owner of the source of contaminant;
- (b) a person who is or was in occupation of the source of contaminant; or
- (c) a person who has or had the charge, management or control of the source of contaminant. R.S.O. 1980, c. 141, s. 7; 1988, c. 54, s. 4 (1); 1990, c. 18, s. 19.

Public notice

(2) The Director shall give notice of the stop order to every municipality in which the contaminant is discharged and to the public in such manner as the Director considers appropriate. 1988, c. 54, s. 4 (2).

Approval of Director

9.—(1) No person shall, except under and in accordance with a certificate of approval issued by the Director,

- (a) construct, alter, extend or replace any plant, structure, equipment, apparatus, mechanism or thing that may discharge or from which may be discharged a contaminant into any part of the natural environment other than water; or
- (b) alter a process or rate of production with the result that a contaminant may be discharged into any part of the natural environment other than water or the rate or manner of discharge of a contaminant into any part of the natural environment other than water may be altered. 1988, c. 54, s. 5 (1).

- a) au propriétaire ou au propriétaire précédent de la source de contamination;
- b) à la personne qui occupe ou qui occupait la source de contamination;
- c) à la personne qui assume ou qui assumait la responsabilité, la gestion ou le contrôle de la source de contamination. 1990, chap. 18, art. 18.

(2) Le directeur donne, de la façon qu'il juge appropriée, avis de l'arrêté d'intervention au public et à chaque municipalité dans laquelle le contaminant est rejeté. 1988, chap. 54, par. 3 (2).

Avis public

8 (1) Lorsque le directeur, en se fondant sur des motifs raisonnables et probables, est d'avis qu'une source de contamination rejette un contaminant dans l'environnement naturel, qui représente un danger immédiat pour la vie humaine, la santé des personnes ou des biens, ou que la quantité, la concentration ou l'intensité de ce contaminant sont telles qu'elles représentent un tel danger, il peut prendre un arrêté de suspension immédiate adressé, selon le cas :

Arrêtés de suspension immédiate

- a) au propriétaire ou au propriétaire précédent de la source de contamination;
- b) à la personne qui occupe ou qui occupait la source de contamination;
- c) à la personne qui assume ou qui assumait la responsabilité, la gestion ou le contrôle de la source de contamination. L.R.O. 1980, chap. 141, art. 7; 1988, chap. 54, par. 4 (1); 1990, chap. 18, art. 19.

(2) Le directeur donne, de la façon qu'il juge appropriée, avis de l'arrêté de suspension immédiate au public et à chaque municipalité dans laquelle le contaminant est rejeté. 1988, chap. 54, par. 4 (2).

Avis public

9 (1) Sauf en vertu d'un certificat d'autorisation délivré par le directeur et conformément à ce certificat, nul ne doit :

Autorisation du directeur

- a) construire, modifier, agrandir ou remplacer une usine, un ouvrage, de l'équipement, un appareil, un mécanisme ou une chose susceptible de rejeter ou desquels peut être rejeté un contaminant dans une partie de l'environnement naturel autre que l'eau;
- b) modifier un procédé ou un débit de production de façon qu'un contaminant puisse être rejeté dans une partie de l'environnement naturel autre que l'eau ou que le débit ou le mode de rejet d'un contaminant dans une partie de l'environnement naturel autre que

Director may
require
information

(2) The Director may require an applicant for a certificate of approval under subsection (1) to submit any plans, specifications and other information and to carry out and report on any tests or experiments relating to the plant, structure, equipment, apparatus, mechanism or thing or to the methods and devices to be employed to control or prevent the discharge of any contaminant into any part of the natural environment other than water and, subject to subsection (4), the Director may issue a certificate of approval. R.S.O. 1980, c. 141, s. 8 (2); 1988, c. 54, s. 5 (2).

Exceptions

- (3) Subsection (1) does not apply to,
- (a) routine maintenance carried out on any plant, structure, equipment, apparatus, mechanism or thing;
 - (b) equipment for the combustion of fuel, other than waste incinerators, in buildings or structures designed for the housing of not more than three families;
 - (c) any equipment, apparatus, mechanism or thing in or used in connection with a building or structure designed for the housing of not more than three families where the only contaminant produced by such equipment, apparatus, mechanism or thing is sound or vibration;
 - (d) any plant, structure, equipment, apparatus, mechanism or thing that may be a source of contaminant of a class exempted therefrom by the regulations;
 - (e) any plant, structure, equipment, apparatus, mechanism or thing used in agriculture;
 - (f) any motor or motor vehicle that is subject to Part III, R.S.O. 1980, c. 141, s. 8 (3); 1988, c. 54, s. 5 (3).

Powers of
Director

- (4) The Director may refuse to issue a certificate of approval or may issue a certificate of approval on such terms and conditions as the Director considers necessary,
- (a) to ensure that any construction, alteration, extension, replacement, use or

l'eau puissent être modifiés. 1988, chap. 54, par. 5 (1).

(2) Le directeur peut exiger que l'auteur d'une demande de certificat d'autorisation visé au paragraphe (1) présente des plans, devis descriptifs et autres renseignements et procède aux épreuves ou aux expériences dont il doit faire rapport en ce qui a trait à l'usine, l'ouvrage, l'équipement, l'appareil, le mécanisme ou la chose ou aux méthodes et moyens qui doivent être utilisés pour contrôler ou empêcher le rejet d'un contaminant dans une partie de l'environnement naturel autre que l'eau. Le directeur, sous réserve du paragraphe (4), peut délivrer un certificat d'autorisation. L.R.O. 1980, chap. 141, par. 8 (2); 1988, chap. 54, par. 5 (2).

Le directeur
peut exiger
des renseigne-
ments

(3) Le paragraphe (1) ne s'applique pas :

Exceptions

- a) à l'entretien ordinaire et habituel d'une usine, d'un ouvrage, d'un équipement, d'un appareil, d'un mécanisme ou d'une chose;
- b) à l'équipement utilisé pour la combustion du combustible, à l'exclusion des incinérateurs pour déchets, lorsque cet équipement est situé dans des bâtiments ou ouvrages conçus pour loger trois familles au maximum;
- c) à un équipement, un appareil, un mécanisme ou une chose qui se trouve à l'intérieur d'un bâtiment ou d'un ouvrage ou dont il est fait usage en rapport avec ce bâtiment ou cet ouvrage si ces derniers sont conçus pour loger trois familles au maximum, lorsque cet équipement, cet appareil, ce mécanisme ou cette chose produisent pour seuls contaminants des sons ou des vibrations;
- d) à une usine, un équipement, un ouvrage, un appareil, un mécanisme ou une chose qui peut être une source de contamination faisant partie d'une catégorie de sources de contamination soustraite au champ d'application de ce paragraphe par les règlements;
- e) à une usine, un ouvrage, un équipement, un appareil, un mécanisme ou une chose dont il est fait usage à des fins agricoles;
- f) à un moteur ou un véhicule automobile qui est subordonné à la partie III. L.R.O. 1980, chap. 141, par. 8 (3); 1988, chap. 54, par. 5 (3).

(4) Le directeur peut refuser de délivrer un certificat d'autorisation ou en délivrer un aux conditions qu'il juge nécessaires :

Pouvoirs du
directeur

- a) soit pour s'assurer que seront conformes à la présente loi, aux règlements

the removal of the stay, and the Board may grant the application.

Removal of
stay by
Board

(6) The Board, on the application of a party under subsection (4) or (5), shall remove a stay if failure to do so would have one or more of the results mentioned in clauses (3) (a) to (c). 1990, c. 18, s. 3.

Powers of
Board

144.—(1) A hearing by the Board shall be a new hearing and the Board may confirm, alter or revoke the action of the Director that is the subject-matter of the hearing and may by order direct the Director to take such action as the Board considers the Director should take in accordance with this Act and the regulations, and, for such purposes, the Board may substitute its opinion for that of the Director.

Appeal to
court

(2) Any party to a hearing before the Board under this section may appeal from its decision or order on a question of law to the Divisional Court in accordance with the rules of court. 1981, c. 49, s. 3 (1).

Appeal to
Minister

(3) A party to a hearing before the Board may, within thirty days after receipt of the decision of the Board or within thirty days after final disposition of an appeal, if any, under subsection (2), appeal in writing to the Minister on any matter other than a question of law and the Minister shall confirm, alter or revoke the decision of the Board as to the matter in appeal as the Minister considers in the public interest. R.S.O. 1980, c. 141, s. 123 (3).

Decision of
Board not
automatically
stayed on
appeal

(4) An appeal of a decision of the Board to the Divisional Court or to the Minister does not stay the operation of the decision, unless the Board orders otherwise.

Divisional
Court or
Minister may
grant or set
aside stay

(5) Where a decision of the Board is appealed to the Divisional Court or to the Minister, the Divisional Court or the Minister may,

- (a) stay the operation of the decision; or
- (b) set aside a stay ordered by the Board under subsection (4). 1990, c. 18, s. 4.

Parties to
hearing

145. The person requiring the hearing, the Director and any other person specified by the Board are parties to the hearing. R.S.O. 1980, c. 141, s. 124.

requête pour mettre fin à la suspension. La Commission peut accéder à la requête.

(6) La Commission, sur requête présentée par une partie en vertu du paragraphe (4) ou (5), met fin à la suspension si son maintien entraînerait une ou plusieurs des conséquences mentionnées aux alinéas (3) a) à c). 1990, chap. 18, art. 3.

La Commission met fin à la suspension

144 (1) L'audience tenue par la Commission est une nouvelle audience et la Commission peut confirmer, modifier ou révoquer l'action du directeur qui constitue l'objet de l'audience. Elle peut, par ordonnance, enjoindre au directeur de prendre les mesures qu'elle estime qu'il doit prendre conformément à la présente loi et aux règlements et, à ces fins, la Commission peut substituer son opinion à celle du directeur.

Pouvoirs de la Commission

(2) Une partie à une audience tenue devant la Commission en vertu du présent article, peut faire appel de sa décision ou de l'ordonnance qu'elle rend sur une question de droit devant la Cour divisionnaire, conformément aux règles de pratique. 1981, chap. 49, par. 3 (1).

Appel devant la Cour divisionnaire

(3) Une partie à une audience tenue devant la Commission peut, dans les trente jours qui suivent la réception de la décision de la Commission ou la conclusion définitive de l'appel porté, le cas échéant, en vertu du paragraphe (2), interjeter appel par écrit devant le ministre de toute question autre qu'une question de droit. Le ministre confirme, modifie ou révoque la décision de la Commission en ce qui concerne la question en appel, selon ce qu'il estime dans l'intérêt public. L.R.O. 1980, chap. 141, par. 123 (3).

Appel interjeté devant le ministre

(4) L'appel d'une décision de la Commission devant la Cour divisionnaire ou le ministre n'a pas pour effet de suspendre l'application de la décision, à moins que la Commission n'ordonne autrement.

La décision de la Commission n'est pas automatiquement suspendue pendant l'appel

(5) S'il est interjeté appel de la décision de la Commission devant la Cour divisionnaire ou le ministre, la Cour divisionnaire ou le ministre peut, selon le cas :

La Cour divisionnaire ou le ministre peut accorder ou annuler la suspension

- a) suspendre l'application de la décision;
- b) annuler la suspension ordonnée par la Commission en vertu du paragraphe (4). 1990, chap. 18, art. 4.

145 La personne qui demande la tenue de l'audience, le directeur et toute autre personne que précise la Commission sont parties à l'audience. L.R.O. 1980, chap. 141, art. 124.

Parties à l'audience

PART XIV

WORK DONE BY MINISTRY

Minister may
cause things
to be done

146. Where an order or decision made under this Act is stayed, the Minister may cause to be done any thing required by the order or decision. 1990, c. 18, s. 12, *part*.

Director may
cause things
to be done

147.—(1) Where an order or decision made under this Act is not stayed, the Director may cause to be done any thing required by it if,

(a) a person required by the order or decision to do the thing,

(i) has refused to comply with or is not complying with the order or decision,

(ii) is not likely, in the Director's opinion, to comply with the order or decision promptly,

(iii) is not likely, in the Director's opinion, to carry out the order or decision competently, or

(iv) requests the assistance of the Director in complying with the order or decision; or

(b) in the Director's opinion, it would be in the public interest to do so.

Notice of
intent to
cause things
to be done

(2) The Director shall give notice of an intention to cause a thing to be done under subsection (1) to each person required by an order or decision made under this Act to do the thing.

Idem

(3) A person who receives a notice under subsection (2) shall not do the thing referred to in the notice without the permission of the Director. 1990, c. 18, s. 12, *part*.

Person liable
unknown:
Director may
cause things
to be done

148. Where the Director is authorized by this Act to make a decision or order requiring a person to do a thing and the identity of the person cannot be ascertained, the Director may cause the thing to be done. 1990, c. 18, s. 12, *part*.

Entry
without judi-
cial order

149.—(1) A person who is responsible for doing a thing under section 146, 147 or 148 may, for the purpose, enter any place on or in which the thing is to be done and any adjacent place without a warrant if,

(a) the entry is made with the consent of an occupier or owner of the place; or

PARTIE XIV

TRAVAUX EXÉCUTÉS PAR LE MINISTÈRE

146 Si un arrêté pris ou une décision rendue aux termes de la présente loi est suspendu, le ministre peut faire faire toute chose qui y est exigée. 1990, chap. 18, art. 12, *en partie*. Le ministre peut faire faire une chose

147 (1) Si un arrêté pris ou une décision rendue aux termes de la présente loi n'est pas suspendu, le directeur peut faire faire toute chose qui y est exigée si, selon le cas :

Le directeur peut faire faire une chose

a) la personne qui est tenue de faire cette chose aux termes de l'arrêté ou de la décision, selon le cas :

(i) a refusé de se conformer ou ne se conforme pas à l'arrêté ou à la décision,

(ii) ne se conformera vraisemblablement pas avec promptitude, de l'avis du directeur, à l'arrêté ou à la décision,

(iii) n'exécutera vraisemblablement pas l'arrêté ou la décision d'une façon compétente, de l'avis du directeur,

(iv) demande l'aide du directeur pour se conformer à l'arrêté ou à la décision;

b) de l'avis du directeur, il est dans l'intérêt public de la faire faire.

(2) Le directeur donne un avis d'intention de faire faire une chose en vertu du paragraphe (1) à chaque personne tenue de faire cette chose dans un arrêté pris ou une décision rendue aux termes de la présente loi. Avis d'intention de faire faire une chose

(3) La personne qui reçoit l'avis visé au paragraphe (2) ne doit pas faire la chose mentionnée dans l'avis sans la permission du directeur. 1990, chap. 18, art. 12, *en partie*. Idem

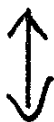
148 Si le directeur est autorisé par la présente loi à rendre une décision ou à prendre un arrêté exigeant qu'une personne fasse une chose et que l'identité de cette personne ne peut être établie, le directeur peut faire faire cette chose. 1990, chap. 18, art. 12, *en partie*. La personne responsable est inconnue

149 (1) La personne qui est tenue de faire une chose visée à l'article 146, 147 ou 148 peut, à cette fin, pénétrer sans mandat dans un lieu sur lequel ou dans lequel cette chose doit être faite et dans tout lieu adjacent si, selon le cas :

Entrée dans un lieu sans ordonnance du tribunal

a) l'entrée se fait avec le consentement d'un occupant ou d'un propriétaire du lieu;

	(b) the delay necessary to obtain a warrant under subsection (2) would result in, (i) danger to the health or safety of any person; (ii) impairment or serious risk of impairment of the quality of the natural environment for any use that can be made of it; or (iii) injury or damage or serious risk of injury or damage to any property or to any plant or animal life.	b) le délai nécessaire pour obtenir un mandat en vertu du paragraphe (2) entraînerait, selon le cas : (i) un danger pour la santé ou la sécurité de quiconque, (ii) la dégradation ou un risque grave de dégradation de la qualité de l'environnement naturel relativement à tout usage que l'on peut en faire, (iii) un tort, des dommages ou un risque grave de tort ou de dommages à des biens, à des végétaux ou à des animaux.	
Warrant authorizing entry	(2) Where a justice of the peace is satisfied on evidence under oath that there is reasonable ground to believe that entry into or on a place is necessary for the purpose of doing a thing under section 146, 147 or 148, the justice of the peace may issue a warrant authorizing the person named in the warrant to make the entry and do the thing.	(2) Si un juge de paix est convaincu, par preuves présentées sous serment, qu'il y a des motifs raisonnables de croire que l'entrée dans un lieu ou sur celui-ci est nécessaire pour faire une chose en vertu de l'article 146, 147 ou 148, il peut décerner un mandat autorisant la personne qui y est nommée à entrer dans ou sur le lieu et à faire la chose.	Mandat autorisant l'entrée
Execution and expiry of warrant	(3) A warrant issued under subsection (2) shall, (a) specify the times, which may be twenty-four hours each day, during which the warrant may be carried out; and (b) state when the warrant expires.	(3) Le mandat décerné en vertu du paragraphe (2) : a) précise les périodes, qui peuvent être de vingt-quatre heures chaque jour, pendant lesquelles le mandat peut être exécuté; b) indique la date d'expiration du mandat.	Exécution et expiration du mandat
Extension of time	(4) A justice of the peace may extend the date on which a warrant expires for such additional periods as the justice of the peace considers necessary.	(4) Le juge de paix peut reculer la date à laquelle expire le mandat pour les périodes supplémentaires qu'il estime nécessaires.	Prorogation du délai
Use of force	(5) A person authorized under clause (1) (b) or subsection (2) to enter a place for the purpose of doing a thing may call on police officers as necessary and may use force as necessary to make the entry and do the thing.	(5) La personne autorisée en vertu de l'alinéa (1) b) ou du paragraphe (2) à pénétrer dans un lieu dans le but de faire une chose peut faire appel aux agents de police et recourir à la force qui sont nécessaires pour pénétrer dans le lieu et faire cette chose.	Recours à la force
Assistance	(6) A person named in a warrant issued under subsection (2) may call on any other persons he or she considers advisable to execute the warrant.	(6) La personne nommée dans un mandat décerné en vertu du paragraphe (2) peut faire appel aux autres personnes qu'elle estime souhaitables pour exécuter le mandat.	Aide
Application without notice	(7) A justice of the peace may receive and consider an application for a warrant or extension of a warrant under this section without notice to the owner or occupier of the place.	(7) Le juge de paix peut recevoir et étudier une demande de mandat ou de prorogation de mandat en vertu du présent article sans avis au propriétaire ou à l'occupant du lieu.	Demande sans avis
Identification	(8) On the request of an owner or occupier of the place, a person who exercises a power conferred under subsection (1) or (2) shall identify himself or herself and shall explain the purpose of the entry. 1990, c. 18, s. 12, <i>part</i>.	(8) À la demande d'un propriétaire ou d'un occupant du lieu, la personne qui exerce un pouvoir qui lui est conféré en vertu du paragraphe (1) ou (2) révèle son identité et explique l'objet de l'entrée. 1990, chap. 18, art. 12, <i>en partie</i>.	Identification
Order to pay	150.—(1) The Director may issue an order to pay the costs of doing any thing caused to be done by the Minister or Direc-	150 (1) Le directeur peut remettre un arrêté de paiement des frais d'exécution d'une chose que le ministre ou le directeur a	Arrêté de paiement



tor under this Act to any person required by an order or decision made under this Act to do the thing.

fait faire en vertu de la présente loi à toute personne tenue dans un arrêté pris ou une décision rendue en vertu de la présente loi de faire cette chose.

Idem

(2) If, after the Minister or Director causes any thing to be done under this Act, the Director ascertains the identity of a person to whom a decision or order requiring the thing to be done could have been issued under this Act, the Director may issue an order to pay the costs of doing the thing to that person.

(2) Si, après que le ministre ou le directeur fait faire une chose en vertu de la présente loi, le directeur établit l'identité de la personne à qui une décision ou un arrêté exigeant que cette chose soit faite aurait pu être remis en vertu de la présente loi, le directeur peut remettre à la personne un arrêté de paiement des frais d'exécution de cette chose.

Idem

Order to pay: contents

(3) An order under subsection (1) or (2) to pay costs shall include,

(3) L'arrêté de paiement des frais prévu au paragraphe (1) ou (2) inclut ce qui suit :

Teneur de l'arrêté de paiement

- (a) a description of things that the Minister or Director caused to be done under this Act;
- (b) a detailed account of the costs incurred in doing the things; and
- (c) a direction that the person to whom the order is issued pay the costs to the Treasurer of Ontario.

- a) la description des choses que le ministre ou le directeur a fait faire en vertu de la présente loi;
- b) le détail des frais engagés pour faire ces choses;
- c) une directive indiquant que la personne à qui est remis l'arrêté doit payer les frais au trésorier de l'Ontario.

Idem

(4) An order under subsection (2) to pay costs shall also include a brief statement of the circumstances giving rise to the decision to cause the things to be done. 1990, c. 18, s. 12, *part*.

(4) L'arrêté de paiement des frais prévu au paragraphe (2) inclut également un bref exposé des circonstances qui ont entraîné la décision de faire faire les choses. 1990, chap. 18, art. 12, *en partie*.

Idem

Costs specified in order to pay may be increased by Board

151. At a hearing by the Board on an order to pay costs, the Director may, on reasonable notice to all parties, ask the Board to amend the order by adding new items of cost or by increasing the amounts set out in the order. 1990, c. 18, s. 12, *part*.

151 À une audience de la Commission relativement à un arrêté de paiement des frais, le directeur peut, après avoir donné un avis suffisant à toutes les parties, demander à la Commission de modifier l'arrêté en y ajoutant de nouveaux frais ou en augmentant les montants qui y sont fixés. 1990, chap. 18, art. 12, *en partie*.

Augmentation par la Commission des frais précisés dans l'arrêté de paiement

What Board may consider on subs. 150 (1) order to pay

152. At a hearing by the Board on an order under subsection 150 (1) to a person to pay the costs of doing things, the Board shall consider only whether any of the costs specified in the order,

152 À l'audience qu'elle tient relativement à un arrêté prévu au paragraphe 150 (1) enjoignant à une personne de payer les frais d'exécution de choses, la Commission n'examine que la question de savoir si des frais précisés dans l'arrêté :

Facteurs que la Commission peut examiner à une audience

- (a) do not relate to a thing that the person was required to do by an order or decision made under this Act, as amended by any Board decision or on any appeal from a Board decision; or
- (b) are unreasonable having regard to what was done. 1990, c. 18, s. 12, *part*.

- a) soit ne sont pas liés à une chose que la personne devait faire aux termes d'un arrêté pris ou d'une décision rendue en vertu de la présente loi et qu'une décision ou un appel de la décision de la Commission a modifié;
- b) soit sont déraisonnables compte tenu de ce qui a été fait. 1990, chap. 18, art. 12, *en partie*.

Order to pay may be enforced as judgment of the Ontario Court (General Division)

153.—(1) An order to pay costs may be filed with a local registrar of the Ontario Court (General Division) and enforced as if it were an order of the court.

153 (1) Un arrêté de paiement des frais peut être déposé auprès du greffier local de la Cour de l'Ontario (Division générale) et exécuté comme s'il s'agissait d'une ordonnance du tribunal.

Exécution de l'arrêté de paiement

Interest

(2) Section 129 of the *Courts of Justice Act*, applies in respect of an order filed with the Ontario Court (General Division) under subsection (1) and; for the purpose, the date of filing shall be deemed to be the date of the order. 1990, c. 18, s. 12, *part, revised*.

(2) L'article 129 de la *Loi sur les tribunaux judiciaires* s'applique à un arrêté déposé auprès de la Cour de l'Ontario (Division générale) aux termes du paragraphe (1). À cette fin, la date du dépôt est réputée la date de l'arrêté. 1990, chap. 18, art. 12, *en partie, révisé*.

Intéret

Interpretation

154.—(1) For the purposes of subsections (2) and (8), a thing done as a result of activities or conditions on real property is a thing done in connection with that property, whether or not the work is done on that property.

154 (1) Pour l'application des paragraphes (2) et (8), une chose faite par suite d'activités ou de conditions sur un bien immeuble l'est relativement à ce bien, que les travaux aient été effectués ou non sur celui-ci.

Interprétation

Costs specified in order to pay may be collected as taxes

(2) If an order to pay costs is directed to a person who owns real property in a municipality, and the Director instructs the municipality to recover amounts specified in the order that relate to things done in connection with that property, the municipality shall have a lien on the property for those amounts and they shall be deemed to be municipal taxes in respect of the property and shall be added by the clerk of the municipality to the collector's roll and collected in the same way and with the same priorities as municipal taxes.

(2) Si un arrêté de paiement des frais est adressé à une personne qui est propriétaire d'un bien immeuble situé dans une municipalité et si le directeur ordonne à cette dernière de recouvrer les montants précisés dans l'arrêté qui sont liés aux choses faites relativement à ce bien, la municipalité a un privilège sur le bien pour ces montants. Ceux-ci sont réputés des impôts municipaux à l'égard du bien et sont ajoutés au rôle de perception par le secrétaire de la municipalité et perçus de la même façon et avec la même priorité que les impôts municipaux.

Les frais précisés dans l'arrêté de paiement peuvent être perçus comme impôts

Idem

(3) A lien created under subsection (2) in favour of a municipality is not an estate or interest of the Crown within the meaning of clause 9 (5) (b) of the *Municipal Tax Sales Act*.

(3) Le privilège créé aux termes du paragraphe (2) en faveur d'une municipalité ne constitue pas un domaine ni un intérêt de la Couronne au sens de l'alinéa 9 (5) b) de la *Loi sur les ventes pour impôts municipaux*.

Idem

Idem

(4) Subject to subsection (6), money collected in accordance with subsection (2), less the costs reasonably attributable to the collection, shall be paid by the municipality to the Treasurer of Ontario.

(4) Sous réserve du paragraphe (6), les sommes perçues conformément au paragraphe (2), moins les frais raisonnablement imputables à leur perception, sont versées au trésorier de l'Ontario par la municipalité.

Idem

Definition: cancellation price

(5) In subsections (6) and (7), "cancellation price" has the same meaning as in the *Municipal Tax Sales Act*. ("coût d'annulation")

(5) Aux paragraphes (6) et (7), l'expression «coût d'annulation» a le même sens que dans la *Loi sur les ventes pour impôts municipaux*. («cancellation price»)

Définition

Proceeds of tax sale

(6) Where there is a sale of land under the *Municipal Tax Sales Act* and amounts are payable out of the proceeds to the Treasurer of Ontario under this Act, the *Fire Marshals Act* or the *Ontario Water Resources Act*, those amounts shall not be paid until after payment of all other amounts payable out of the proceeds in respect of the cancellation price of the land.

(6) Lorsqu'un bien-fonds fait l'objet d'une vente aux termes de la *Loi sur les ventes pour impôts municipaux* et que des parties du produit de la vente sont payables au trésorier de l'Ontario aux termes de la présente loi, de la *Loi sur les commissaires des incendies* ou de la *Loi sur les ressources en eau de l'Ontario*, ces sommes ne doivent pas être versées tant que ne sont pas réglées les autres parties du produit de la vente à affecter au paiement du coût d'annulation du bien-fonds.

Produit de la vente pour impôts

Cancellation price

(7) Despite any provision of the *Municipal Tax Sales Act*, the treasurer of a municipality may sell land under that Act for less than the cancellation price, so long as the land is not sold for less than what the cancellation price would have been but for this Act, the *Fire Marshals Act* and the *Ontario Water Resources Act*, and the purchaser may be

(7) Malgré la *Loi sur les ventes pour impôts municipaux*, le trésorier d'une municipalité peut vendre un bien-fonds en vertu de cette loi à un prix moindre que le coût d'annulation pourvu que ce prix ne soit pas inférieur à ce que le coût d'annulation aurait été si ce n'était la présente loi, la *Loi sur les commissaires des incendies* et la *Loi sur les ressources en eau de l'Ontario*. L'acquéreur

Coût d'annulation

CHAPTER 17

An Act to encourage the revitalization
of contaminated land and to make
other amendments relating
to environmental matters

Assented to November 2, 2001

CONTENTS

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I	<i>Education Act</i> Amendments
II	<i>Environmental Protection Act</i> Amendments
III	<i>Municipal Act</i> Amendments
IV	<i>Municipal Tax Sales Act</i> Amendments
V	<i>Ontario Water Resources Act</i> Amendments
VI	<i>Pesticides Act</i> Amendments
VII	<i>Planning Act</i> Amendments
VIII	Commencement and Short title

Her Majesty, by and with the advice and consent of the
Legislative Assembly of the Province of Ontario, enacts
as follows:

PART I
EDUCATION ACT AMENDMENTS

1. (1) Clause (b) of the definition of "education
funding" in subsection 234 (14) of the *Education Act*,
as re-enacted by the Statutes of Ontario, 2000, chap-
ter 25, section 45, is repealed and the following sub-
stituted:

- (b) from taxes under Division B of this Act or Part
XXII.3 of the *Municipal Act*, other than taxes for
the purposes of,
- (i) paying a board's share of the costs of re-
bates, if any, under section 442.1, 442.2,
442.4, 442.5 or 442.6 of the *Municipal Act*,
 - (ii) paying a board's share of the tax assistance
provided under section 442.7 of the *Muni-
cipal Act*, or
 - (iii) paying rebates under section 257.2.1 or
257.12.3 of this Act,

(2) Subsection 257.11 (17) of the Act, as re-enacted
by the Statutes of Ontario, 2000, chapter 25, section
45, is repealed and the following substituted:

CHAPITRE 17

Loi visant à encourager la revitalisation
des terrains contaminés et apportant
d'autres modifications se rapportant
à des questions environnementales

Sanctionnée le 2 novembre 2001

SOMMAIRE

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I	Modification de la <i>Loi sur l'éducation</i>
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VII	Modification de la <i>Loi sur l'aménagement du territoire</i>
VIII	Entrée en vigueur et titre abrégé

Sa Majesté, sur l'avis et avec le consentement de
l'Assemblée législative de la province de l'Ontario,
édicte :

PARTIE I
MODIFICATION DE LA LOI SUR L'ÉDUCATION

1. (1) L'alinéa b) de la définition de «financement
de l'éducation» au paragraphe 234 (14) de la *Loi sur
l'éducation*, tel qu'il est réédité par l'article 45 du
chapitre 25 des Lois de l'Ontario de 2000, est abrogé
et remplacé par ce qui suit :

- b) les impôts prélevés aux termes de la section B de
la présente loi ou de la partie XXII.3 de la *Loi sur
les municipalités*, à l'exclusion de ceux qui sont
prélevés aux fins suivantes :
- (i) payer la part, qui revient au conseil, du coût
des remises, s'il y a lieu, prévues à l'article
442.1, 442.2, 442.4, 442.5 ou 442.6 de la *Loi
sur les municipalités*,
 - (ii) payer la part, qui revient au conseil, de
l'aide fiscale prévue à l'article 442.7 de la
Loi sur les municipalités,
 - (iii) payer les remises prévues à l'article 257.2.1
ou 257.12.3 de la présente loi;

(2) Le paragraphe 257.11 (17) de la Loi, tel qu'il
est réédité par l'article 45 du chapitre 25 des Lois de
l'Ontario de 2000, est abrogé et remplacé par ce qui
suit :

Amounts deemed to be education funding

(17) Amounts paid by the Minister under subsection (14) or (15) shall be deemed to be education funding within the meaning of subsection 234 (14), other than amounts paid for the purposes of,

- (a) paying a board's share of the costs of rebates, if any, under section 442.1, 442.2, 442.4, 442.5 or 442.6 of the *Municipal Act*;
- (b) paying a board's share of the tax assistance provided under section 442.7 of the *Municipal Act*; or
- (c) paying rebates under section 257.2.1 or 257.12.3 of this Act.

(3) The definition of "tax rates for school purposes" in subsection 257.12 (1.1) of the Act, as re-enacted by the Statutes of Ontario, 2000, chapter 25, section 45, is amended by adding the following clause:

- (a.1) paying a board's share of the tax assistance provided under section 442.7 of the *Municipal Act*, or

PART II

ENVIRONMENTAL PROTECTION ACT
AMENDMENTS

2. (1) Subsection 1 (1) of the *Environmental Protection Act*, as amended by the Statutes of Ontario, 1992, chapter 1, section 22, 1998, chapter 35, section 1 and 2000, chapter 26, Schedule F, section 12, is further amended by adding the following definitions:

"certificate of property use" means a certificate of property use issued under section 168.6; ("certificat d'usage d'un bien")

"certification date" means, in respect of a record of site condition, a date determined in accordance with the regulations that is not later than the date the record of site condition is filed in the Environmental Site Registry; ("date d'attestation")

"fiduciary" means an executor, administrator, administrator with the will annexed, trustee, guardian of property or attorney for property, but does not include a trustee in bankruptcy or trustee in bankruptcy representative; ("représentant fiduciaire")

"fiduciary representative" means, with respect to a fiduciary, an officer, director, employee or agent of the fiduciary, or a lawyer, consultant or other advisor of the fiduciary who is acting on behalf of the fiduciary; ("représentant d'un représentant fiduciaire")

"municipal representative" means, with respect to a municipality, an officer, employee or agent of the municipality, or a lawyer, consultant or other advisor of

Sommes réputées constituer un financement de l'éducation

(17) Sont réputées constituer un financement de l'éducation au sens du paragraphe 234 (14) les sommes que verse le ministre en vertu du paragraphe (14) ou (15), à l'exclusion de celles qu'il verse aux fins suivantes :

- a) payer la part, qui revient au conseil, du coût des remises, s'il y a lieu, prévues à l'article 442.1, 442.2, 442.4, 442.5 ou 442.6 de la *Loi sur les municipalités*;
- b) payer la part, qui revient au conseil, de l'aide fiscale prévue à l'article 442.7 de la *Loi sur les municipalités*;
- c) payer les remises prévues à l'article 257.2.1 ou 257.12.3 de la présente loi.

(3) La définition de «taux des impôts scolaires» au paragraphe 257.12 (1.1) de la *Loi*, telle qu'elle est rééditée par l'article 45 du chapitre 25 des *Lois de l'Ontario de 2000*, est modifiée par adjonction de l'alinéa suivant :

- a.1) payer la part, qui revient au conseil, de l'aide fiscale prévue à l'article 442.7 de la *Loi sur les municipalités*;

PARTIE II

MODIFICATION DE LA LOI SUR LA
PROTECTION DE L'ENVIRONNEMENT

2. (1) Le paragraphe 1 (1) de la *Loi sur la protection de l'environnement*, tel qu'il est modifié par l'article 22 du chapitre 1 des *Lois de l'Ontario de 1992*, par l'article 1 du chapitre 35 des *Lois de l'Ontario de 1998* et par l'article 12 de l'annexe F du chapitre 26 des *Lois de l'Ontario de 2000*, est modifié de nouveau par adjonction des définitions suivantes :

«certificat d'usage d'un bien» Certificat d'usage d'un bien délivré en vertu de l'article 168.6. («certificate of property use»)

«créancier garanti» Personne qui détient une hypothèque, un nantissement, un gage, une charge, un privilège, une sûreté ou un grèvement sur un bien. Est toutefois exclue de la présente définition la personne qui a pris la possession ou le contrôle du bien. («secured creditor»)

«date d'attestation» À l'égard du dossier de l'état d'un site, s'entend d'une date fixée conformément aux règlements qui n'est pas postérieure à la date du dépôt du dossier de l'état d'un site dans le Registre environnemental des sites. («certification date»)

«représentant d'un créancier garanti» À l'égard d'un créancier garanti, s'entend d'un de ses dirigeants, administrateurs, employés ou mandataires ou d'un avocat, expert-conseil ou autre conseiller du créancier garanti qui agit pour le compte de celui-ci. («secured creditor representative»)

«représentant d'un représentant fiduciaire» À l'égard

(10) Section 133 of the Act is amended by adding the following subsection:

Same, certificate of property use

(3) Failure to provide financial assurance specified in a certificate of property use or in accordance with a stage specified in a certificate of property use is grounds for an order in writing by the Director prohibiting or restricting the use of the property to which the certificate of property use relates.

(11) Subsection 134 (1) of the Act is amended by striking out "in respect of a works" and substituting "in respect of a works or certificate of property use".

(12) Subsection 134 (2) of the Act is amended by striking out "in respect of the works" at the end and substituting "in respect of the works or certificate of property use".

(13) Subsection 136 (2) of the Act is amended by striking out "required by the approval or order" and substituting "required by the approval, order or certificate of property use".

(14) Subsection 136 (3) of the Act is repealed and the following substituted:

Parties affected

(3) An order under this section shall be directed to,

- (a) the person to whom the approval, order or certificate of property use was issued or any other person who is bound by the approval, order or certificate of property use; and
- (b) any person that to the knowledge of the Director has provided the financial assurance for or on behalf of a person referred to in clause (a), or any successor or assignee of a person that to the knowledge of the Director has provided the financial assurance for or on behalf of a person referred to in clause (a).

(15) Subsection 139 (1) of the Act, as amended by the Statutes of Ontario, 2000, chapter 26, Schedule F, section 12, is further amended by striking out "or" at the end of clause (d), by adding "or" at the end of clause (e) and by adding the following clause:

(f) issues a certificate of property use,

(16) Clauses 139 (2) (c) and (d) of the Act are repealed and the following substituted:

- (c) alters the terms and conditions of a certificate of approval, provisional certificate of approval, certificate of property use, licence or permit after it is issued; or
- (d) imposes new terms and conditions on a certificate of approval or certificate of property use,

(17) Subsection 139 (2) of the Act, as amended by the Statutes of Ontario, 2000, chapter 26, Schedule F,

(10) L'article 133 de la Loi est modifié par adjonction du paragraphe suivant :

Idem, certificat d'usage d'un bien

(3) L'omission de fournir la garantie financière que précise un certificat d'usage d'un bien, ou de la fournir selon une étape qu'il précise, est un motif suffisant pour que le directeur prenne par écrit un arrêté interdisant ou limitant l'usage du bien visé par le certificat.

(11) Le paragraphe 134 (1) de la Loi est modifié par substitution de «à l'égard de travaux ou d'un certificat d'usage d'un bien» à «à l'égard de travaux».

(12) Le paragraphe 134 (2) de la Loi est modifié par substitution de «à l'égard des travaux ou du certificat d'usage d'un bien» à «à l'égard des travaux» à la fin du paragraphe.

(13) Le paragraphe 136 (2) de la Loi est modifié par substitution de «exigée par l'autorisation, l'arrêté ou le certificat d'usage d'un bien à l'égard duquel» à «exigée par une autorisation ou un arrêté et à l'égard de laquelle».

(14) Le paragraphe 136 (3) de la Loi est abrogé et remplacé par ce qui suit :

Parties concernées

(3) Un arrêté pris en vertu du présent article est adressé :

- a) d'une part, au destinataire de l'autorisation, de l'arrêté ou du certificat d'usage d'un bien ou à quiconque est lié par l'un d'eux;
- b) d'autre part, à quiconque a fourni, à la connaissance du directeur, la garantie financière pour la personne visée à l'alinéa a) ou en son nom, ou à tout successeur ou ayant droit de la personne qui, à la connaissance du directeur, a fourni la garantie financière.

(15) Le paragraphe 139 (1) de la Loi, tel qu'il est modifié par l'article 12 de l'annexe F du chapitre 26 des Lois de l'Ontario de 2000, est modifié de nouveau par adjonction de l'alinéa suivant :

f) délivre un certificat d'usage d'un bien,

(16) Les alinéas 139 (2) c) et d) de la Loi sont abrogés et remplacés par ce qui suit :

- c) modifie les conditions d'un certificat d'autorisation, d'un certificat d'autorisation provisoire, d'un certificat d'usage d'un bien, d'une licence ou d'un permis après leur délivrance;
- d) assortit de nouvelles conditions un certificat d'autorisation ou un certificat d'usage d'un bien,

(17) Le paragraphe 139 (2) de la Loi, tel qu'il est modifié par l'article 12 de l'annexe F du chapitre 26

section 12, is further amended by striking out "the person to whom the licence or permit or certificate of approval or provisional certificate of approval is issued" in the portion after clause (d) and substituting "the person to whom the licence, permit, certificate of approval, provisional certificate of approval or certificate of property use is issued".

(18) Clause 142 (1) (a) of the Act is amended by striking out "the order, direction, term, condition, suspension, revocation or licence" and substituting "the order, certificate of property use, direction, term, condition, suspension, revocation or licence".

(19) Subsection 142 (2) of the Act, as amended by the Statutes of Ontario, 2000, chapter 26, Schedule F, section 12, is further amended by striking out "the order, direction, term, condition, suspension, revocation or licence" and substituting "the order, certificate of property use, direction, term, condition, suspension, revocation or licence".

(20) Subsection 143 (2) of the Act, as amended by the Statutes of Ontario, 2000, chapter 26, Schedule F, section 12, is repealed and the following substituted:

Tribunal may grant stay

(2) The Tribunal may, on the application of a party to a proceeding before it, stay the operation of a decision or order, other than,

- (a) an order to monitor, record and report; or
- (b) an order issued under section 168.8, 168.14 or 168.20.

(21) Subsection 147 (1) of the Act is amended by striking out "or" at the end of clause (a) and by adding the following clause:

- (a.1) a receiver or trustee in bankruptcy is not required to do the thing because of subsection 19 (5) or 168.20 (7); or

(22) Subsection 147 (2) of the Act is repealed and the following substituted:

Notice of intent to cause things to be done

(2) The Director shall give notice of an intention to cause a thing to be done under subsection (1),

- (a) to each person required by an order or decision made under this Act to do the thing; and
- (b) if a receiver or trustee in bankruptcy is not required to do the thing because of subsection 19 (5) or 168.20 (7), to the receiver or trustee in bankruptcy.

des Lois de l'Ontario de 2000, est modifié de nouveau par substitution de «à la personne en faveur de qui la licence, le permis, le certificat d'autorisation, le certificat d'autorisation provisoire ou le certificat d'usage d'un bien a été délivré» à «à la personne en faveur de qui la licence, le permis, le certificat d'autorisation ou le certificat d'autorisation provisoire a été délivré» dans le passage qui suit l'alinéa d).

(18) L'alinéa 142 (1) a) de la Loi est modifié par substitution de «de l'arrêté, du certificat d'usage d'un bien, de la directive, de la condition, de la suspension, de la révocation, de la licence» à «de l'arrêté, de la directive, de la condition, de la suspension, de la révocation, de la licence».

(19) Le paragraphe 142 (2) de la Loi, tel qu'il est modifié par l'article 12 de l'annexe F du chapitre 26 des Lois de l'Ontario de 2000, est modifié de nouveau par substitution de «de l'arrêté, du certificat d'usage d'un bien, de la directive, de la condition, de la suspension, de la révocation, de la licence» à «de l'arrêté, de la directive, de la condition, de la suspension, de la révocation, de la licence».

(20) Le paragraphe 143 (2) de la Loi, tel qu'il est modifié par l'article 12 de l'annexe F du chapitre 26 des Lois de l'Ontario de 2000, est abrogé et remplacé par ce qui suit :

Le Tribunal peut accorder la suspension

(2) Le Tribunal peut, sur requête présentée par une partie à une instance devant lui, suspendre l'application d'une décision ou d'un arrêté, à l'exclusion :

- a) d'un arrêté visant à surveiller, à enregistrer et à faire rapport;
- b) d'un arrêté pris en vertu de l'article 168.8, 168.14 ou 168.20.

(21) Le paragraphe 147 (1) de la Loi est modifié par adjonction de l'alinéa suivant :

- a.1) le séquestre ou le syndic de faillite n'est pas tenu de faire la chose en raison du paragraphe 19 (5) ou 168.20 (7);

(22) Le paragraphe 147 (2) de la Loi est abrogé et remplacé par ce qui suit :

Avis d'intention de faire faire des choses

(2) Le directeur donne un avis d'intention de faire faire une chose en vertu du paragraphe (1) :

- a) d'une part, à chaque personne tenue de faire cette chose aux termes d'un arrêté pris ou d'une décision rendue en application de la présente loi;
- b) d'autre part, à un séquestre ou à un syndic de faillite, s'il n'est pas tenu de faire cette chose en raison du paragraphe 19 (5) ou 168.20 (7).

(23) The Act is amended by adding the following section:

Parts XV.1 and XV.2:

Director may cause things to be done

148.1 (1) If, but for Part XV.1 or XV.2, the Minister, the Director or a provincial officer would be authorized by this Act to make an order requiring a person to do a thing, the Director may cause the thing to be done.

Same

(2) Subsection (1) applies even if the Director is authorized to make an order requiring another person to do the thing.

(24) Subsection 149 (1) of the Act, as re-enacted by the Statutes of Ontario, 1998, chapter 35, section 13, is amended by striking out "A person who is responsible for doing a thing under section 146, 147 or 148" and substituting "A person who is responsible for doing a thing under section 146, 147, 148 or 148.1".

(25) Subsection 149 (2) of the Act, as re-enacted by the Statutes of Ontario, 1998, chapter 35, section 13, is amended by striking out "for the purpose of doing a thing under section 146, 147 or 148" and substituting "for the purpose of doing a thing under section 146, 147, 148 or 148.1".

(26) Section 150 of the Act is amended by adding the following subsections:

Same

(2.1) If the Minister or Director has caused any thing to be done under this Act in circumstances where, pursuant to subsection 19 (5) or 168.20 (7) or a stay granted under Part I of the *Bankruptcy and Insolvency Act* (Canada), a receiver or trustee in bankruptcy was not required to do the thing, the Director may issue an order to the receiver or trustee in bankruptcy to pay the costs of doing the thing.

Same

(2.2) If an order to pay the costs of doing a thing is issued under subsection (1), (2) or (2.1) to a receiver or trustee in bankruptcy, the receiver or trustee in bankruptcy is not personally liable for those costs unless the order or decision that required the thing to be done arose from the gross negligence or wilful misconduct of the receiver or trustee in bankruptcy or of a receiver representative or trustee in bankruptcy representative.

(27) Subsection 150 (3) of the Act is amended by striking out "under subsection (1) or (2)" in the portion before clause (a) and substituting "under subsection (1), (2) or (2.1)".

(23) La Loi est modifiée par adjonction de l'article suivant :

Parties XV.1 et XV.2 : pouvoir du directeur de faire faire des choses

148.1 (1) Si le ministre, le directeur ou un agent provincial était, si ce n'était la partie XV.1 ou XV.2, autorisé par la présente loi à prendre un arrêté exigeant qu'une personne fasse une chose, le directeur peut faire faire cette chose.

Idem

(2) Le paragraphe (1) s'applique même si le directeur est autorisé à prendre un arrêté exigeant qu'une autre personne fasse la chose.

(24) Le paragraphe 149 (1) de la Loi, tel qu'il est réédité par l'article 13 du chapitre 35 des Lois de l'Ontario de 1998, est modifié par substitution de «La personne qui est tenue de faire une chose visée à l'article 146, 147, 148 ou 148.1» à «La personne qui est tenue d'accomplir un acte visé à l'article 146, 147 ou 148» et par substitution de «sur ou dans lequel cette chose doit être faite» à «sur lequel ou dans lequel cet acte doit être accompli» à la fin du paragraphe.

(25) Le paragraphe 149 (2) de la Loi, tel qu'il est réédité par l'article 13 du chapitre 35 des Lois de l'Ontario de 1998, est modifié par substitution de «pour faire une chose visée à l'article 146, 147, 148 ou 148.1» à «pour accomplir un acte visé à l'article 146, 147 ou 148» et par substitution de «y faire cette chose» à «y accomplir cet acte» à la fin du paragraphe.

(26) L'article 150 de la Loi est modifié par adjonction des paragraphes suivants :

Idem

(2.1) Si le ministre ou le directeur a fait faire une chose en vertu de la présente loi dans des circonstances dans lesquelles, conformément au paragraphe 19 (5) ou 168.20 (7) ou à une suspension accordée en application de la partie I de la *Loi sur la faillite et l'insolvabilité* (Canada), un séquestre ou un syndic de faillite n'était pas tenu de faire cette chose, le directeur peut remettre au séquestre ou au syndic de faillite un arrêté de paiement des frais d'exécution de cette chose.

Idem

(2.2) S'il lui est remis un arrêté de paiement des frais d'exécution d'une chose en vertu du paragraphe (1), (2) ou (2.1), le séquestre ou le syndic de faillite n'est pas tenu personnellement responsable de ces frais, sauf si l'arrêté ou la décision exigeant que la chose soit faite découle d'une négligence grave ou d'une inconduite délibérée de sa part ou de la part d'un représentant du séquestre ou d'un représentant du syndic de faillite.

(27) Le paragraphe 150 (3) de la Loi est modifié par substitution de «paragraphe (1), (2) ou (2.1)» à «paragraphe (1) ou (2)» dans le passage qui précède l'alinéa a).

(28) Section 152 of the Act, as amended by the Statutes of Ontario, 2000, chapter 26, Schedule F, section 12, is further amended by adding the following subsection:

Same, receiver or trustee in bankruptcy

(2) For the purpose of subsection (1), if the order under subsection 150 (1) or (2.1) was issued to a receiver or trustee in bankruptcy,

- (a) the receiver or trustee in bankruptcy shall be deemed to have been required to do any thing that was required to be done by the person whose property the receiver or trustee in bankruptcy holds or administers; and
- (b) the receiver or trustee in bankruptcy shall be deemed to have been required to do a thing that, pursuant to subsection 19 (5) or 168.20 (7), the receiver or trustee in bankruptcy was not required to do.

(29) Section 155 of the Act is repealed and the following substituted:

Costs may be recovered from deposit or financial assurance

155. Where an order to pay costs is directed to a person who has given a deposit under section 35 or is in respect of works or property for which financial assurance is required under Part XII, the deposit or financial assurance may be used to recover amounts specified in the order to pay costs.

(30) Subclause 156 (1) (d) (i) of the Act, as re-enacted by the Statutes of Ontario, 1998, chapter 35, section 14, is amended by striking out "provisional certificate of approval, program approval" and substituting "provisional certificate of approval, certificate of property use, program approval".

(31) Subclause 156 (1) (e) (i) of the Act, as enacted by the Statutes of Ontario, 1998, chapter 35, section 14, is amended by striking out "provisional certificate of approval, program approval" and substituting "provisional certificate of approval, certificate of property use, program approval".

(32) Subsection 156 (1) of the Act, as re-enacted by the Statutes of Ontario, 1998, chapter 35, section 14, is amended by adding the following clause:

- (e.1) entering any property for which a record of site condition has been filed in the Environmental Site Registry established under section 168.3 for the purpose of sampling, testing or examining anything referred to in the record of site condition;

(33) Clause 157 (1) (c) of the Act, as enacted by the Statutes of Ontario, 1998, chapter 35, section 16, is repealed and the following substituted:

(28) L'article 152 de la Loi, tel qu'il est modifié par l'article 12 de l'annexe F du chapitre 26 des Lois de l'Ontario de 2000, est modifié de nouveau par adjonction du paragraphe suivant :

Idem, séquestre ou syndic de faillite

(2) Pour l'application du paragraphe (1), si l'arrêté prévu au paragraphe 150 (1) ou (2.1) a été remis à un séquestre ou à un syndic de faillite :

- a) d'une part, le séquestre ou le syndic de faillite est réputé avoir été tenu de faire une chose qu'était tenue de faire la personne dont il détient ou administre le bien;
- b) d'autre part, le séquestre ou le syndic de faillite est réputé avoir été tenu de faire une chose qu'il n'était pas tenu de faire, conformément au paragraphe 19 (5) ou 168.20 (7).

(29) L'article 155 de la Loi est abrogé et remplacé par ce qui suit :

Recouvrement des frais précisés dans l'arrêté

155. Lorsqu'un arrêté de paiement des frais est remis à une personne qui a donné un dépôt en application de l'article 35 ou vise des travaux ou des biens pour lesquels une garantie financière est exigée en application de la partie XII, le dépôt ou la garantie financière peut être affecté au recouvrement des montants précisés dans l'arrêté.

(30) Le sous-alinéa 156 (1) d) (i) de la Loi, tel qu'il est réédité par l'article 14 du chapitre 35 des Lois de l'Ontario de 1998, est modifié par substitution de «d'un certificat d'autorisation provisoire, d'un certificat d'usage d'un bien, d'une autorisation de programme» à «d'un certificat d'autorisation provisoire, d'une autorisation de programme».

(31) Le sous-alinéa 156 (1) e) (i) de la Loi, tel qu'il est édicté par l'article 14 du chapitre 35 des Lois de l'Ontario de 1998, est modifié par substitution de «d'un certificat d'autorisation provisoire, d'un certificat d'usage d'un bien, d'une autorisation de programme» à «d'un certificat d'autorisation provisoire, d'une autorisation de programme».

(32) Le paragraphe 156 (1) de la Loi, tel qu'il est réédité par l'article 14 du chapitre 35 des Lois de l'Ontario de 1998, est modifié par adjonction de l'alinéa suivant :

- e.1) pénétrer dans un bien à l'égard duquel un dossier de l'état du site a été déposé dans le Registre environnemental des sites créé en application de l'article 168.3, afin de prélever des échantillons, de faire des essais ou de procéder à des examens relativement à toute chose visée dans le dossier de l'état du site;

(33) L'alinéa 157 (1) c) de la Loi, tel qu'il est édicté par l'article 16 du chapitre 35 des Lois de l'Ontario de 1998, est abrogé et remplacé par ce qui suit :

CHAPTER 12

An Act to amend the Environmental Protection Act and the Ontario Water Resources Act in respect of enforcement and other matters

Assented to June 13, 2005

Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

ENVIRONMENTAL PROTECTION ACT

Environmental Protection Act

1. (1) The definition of "contaminant" in subsection 1 (1) of the *Environmental Protection Act* is amended by striking out "that may cause an adverse effect" at the end and substituting "that causes or may cause an adverse effect".

(2) Subsection 1 (1) of the Act, as amended by the Statutes of Ontario, 1992, chapter 1, section 22, 1998, chapter 35, section 1, 2000, chapter 26, Schedule F, section 12, 2001, chapter 9, Schedule G, section 5, 2001, chapter 17, section 2 and 2002, chapter 17, Schedule F, Table, is amended by adding the following definition:

"environmental penalty" means a penalty imposed under section 182.1; ("pénalité environnementale")

(3) Subsection 1 (1) of the Act, as amended by the Statutes of Ontario, 1992, chapter 1, section 22, 1998, chapter 35, section 1, 2000, chapter 26, Schedule F, section 12, 2001, chapter 9, Schedule G, section 5, 2001, chapter 17, section 2 and 2002, chapter 17, Schedule F, Table, is amended by adding the following definition:

"regulated person" means,

- (a) a person who belongs to a class of persons prescribed by the regulations and who holds or is required to hold,

CHAPITRE 12

Loi modifiant la Loi sur la protection de l'environnement et la Loi sur les ressources en eau de l'Ontario en ce qui a trait à l'exécution et à d'autres questions

Sanctionnée le 13 juin 2005

Sa Majesté, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, édicte :

LOI SUR LA PROTECTION DE L'ENVIRONNEMENT

Loi sur la protection de l'environnement

1. (1) La définition de «contaminant» au paragraphe 1 (1) de la *Loi sur la protection de l'environnement* est modifiée par substitution de «qui ont ou peuvent avoir une conséquence préjudiciable» à «qui peuvent avoir une conséquence préjudiciable» à la fin de la définition.

(2) Le paragraphe 1 (1) de la Loi, tel qu'il est modifié par l'article 22 du chapitre 1 des Lois de l'Ontario de 1992, par l'article 1 du chapitre 35 des Lois de l'Ontario de 1998, par l'article 12 de l'annexe F du chapitre 26 des Lois de l'Ontario de 2000, par l'article 5 de l'annexe G du chapitre 9 et l'article 2 du chapitre 17 des Lois de l'Ontario de 2001 et par le tableau de l'annexe F du chapitre 17 des Lois de l'Ontario de 2002, est modifié par adjonction de la définition suivante :

«pénalité environnementale» Pénalité imposée en vertu de l'article 182.1. («environmental penalty»)

(3) Le paragraphe 1 (1) de la Loi, tel qu'il est modifié par l'article 22 du chapitre 1 des Lois de l'Ontario de 1992, par l'article 1 du chapitre 35 des Lois de l'Ontario de 1998, par l'article 12 de l'annexe F du chapitre 26 des Lois de l'Ontario de 2000, par l'article 5 de l'annexe G du chapitre 9 et l'article 2 du chapitre 17 des Lois de l'Ontario de 2001 et par le tableau de l'annexe F du chapitre 17 des Lois de l'Ontario de 2002, est modifié par adjonction de la définition suivante :

«personne réglementée» S'entend :

- a) d'une personne qui fait partie d'une catégorie de personnes prescrite par règlement et qui, selon le cas :

- (i) a certificate of approval, provisional certificate of approval, certificate of property use, licence or permit under this Act, or
- (ii) an approval, licence or permit under the *Ontario Water Resources Act*, or
- (b) a corporation that belongs to a class of corporations prescribed by the regulations; ("personne réglementée")

(4) Section 7 of the Act is amended by adding the following subsection:

Contravention of s. 14

(1.1) No order shall be issued under subsection (1) as a result of a finding that a contaminant is being discharged in contravention of section 14 unless the contravention causes or is likely to cause an adverse effect.

(5) Section 14 of the Act is repealed and the following substituted:

Prohibition, discharge of contaminant

14. (1) Subject to subsection (2) but despite any other provision of this Act or the regulations, a person shall not discharge a contaminant or cause or permit the discharge of a contaminant into the natural environment, if the discharge causes or may cause an adverse effect.

Exceptions

- (2) Subsection (1) does not apply to,
 - (a) a discharge that is authorized under this Act or the *Ontario Water Resources Act*, if the discharge does not cause and is not likely to cause an adverse effect; or
 - (b) a discharge of a contaminant that arises when animal wastes are disposed of in accordance with normal farming practices, if the only adverse effect that is caused or that may be caused by the discharge is an adverse effect referred to in clause (a) of the definition of "adverse effect" in subsection 1 (1).

(6) Subsection 15 (1) of the Act is repealed and the following substituted:

When Ministry to be notified, adverse effect

(1) Every person who discharges a contaminant or causes or permits the discharge of a contaminant into the natural environment shall forthwith notify the Ministry if the discharge is out of the normal course of events, the discharge causes or is likely to cause an adverse effect and the person is not otherwise required to notify the Ministry under section 92.

- (i) est titulaire d'un certificat d'autorisation, d'un certificat d'autorisation provisoire, d'un certificat d'usage d'un bien, d'une licence ou d'un permis délivré en vertu de la présente loi, ou est tenue de l'être,

- (ii) est titulaire d'une licence ou d'un permis délivré ou d'une approbation donnée en vertu de la *Loi sur les ressources en eau de l'Ontario*, ou est tenue de l'être;

- b) d'une personne morale qui fait partie d'une catégorie de personnes morales prescrite par règlement. («regulated person»)

(4) L'article 7 de la Loi est modifié par adjonction du paragraphe suivant :

Contravention à l'art. 14

(1.1) Aucun arrêté ne doit être pris en vertu du paragraphe (1) par suite de la constatation que le rejet d'un contaminant enfreint l'article 14, sauf si la contravention cause ou causera vraisemblablement une conséquence préjudiciable.

(5) L'article 14 de la Loi est abrogé et remplacé par ce qui suit :

Interdiction : rejet d'un contaminant

14. (1) Sous réserve du paragraphe (2), mais malgré toute autre disposition de la présente loi ou des règlements, nul ne doit rejeter un contaminant dans l'environnement naturel ou permettre ou faire en sorte que cela se fasse si le rejet cause ou peut causer une conséquence préjudiciable.

Exceptions

- (2) Le paragraphe (1) ne s'applique pas :
 - a) à un rejet qui est autorisé en vertu de la présente loi ou de la *Loi sur les ressources en eau de l'Ontario*, s'il ne cause ou ne causera vraisemblablement pas une conséquence préjudiciable;
 - b) au rejet d'un contaminant qui se produit lorsque des déchets animaux sont éliminés conformément aux pratiques normales en usage dans les exploitations agricoles, si la seule conséquence préjudiciable causée ou pouvant être causée par le rejet est celle visée à l'alinéa a) de la définition de «conséquence préjudiciable» au paragraphe 1 (1).

(6) Le paragraphe 15 (1) de la Loi est abrogé et remplacé par ce qui suit :

Moment où le ministère doit être avisé d'une conséquence préjudiciable

(1) Quiconque rejette un contaminant dans l'environnement naturel, ou permet ou fait en sorte que cela se fasse, en avise sans délai le ministère si un tel acte est accompli en dehors du cours normal des événements, s'il cause ou causera vraisemblablement une conséquence préjudiciable et si la personne qui l'accomplit n'est pas tenue par ailleurs d'aviser le ministère aux termes de l'article 92.

Same

(1.1) The notice required by subsection (1) shall be given in accordance with any requirements prescribed by the regulations.

(7) Clause 17 (c) of the Act is repealed and the following substituted:

- (c) where the discharge has damaged or endangered or is likely to damage or endanger existing water supplies, provide temporary or permanent alternate water supplies.

(8) The French version of subsection 18 (1) of the Act is amended by,

- (a) striking out "d'une propriété" in the portion before paragraph 1 and substituting "d'un bien"; and
- (b) striking out "de la propriété ou sur cette dernière" at the end of paragraph 4 and substituting "du bien".

(9) Paragraphs 5 and 6 of subsection 18 (1) of the Act are repealed and the following substituted:

5. To monitor and record the presence or discharge of a contaminant specified in the order and to report thereon to the Director.

6. To study and to report to the Director on,

- i. the presence or discharge of a contaminant specified in the order,
- ii. the effects of the presence or discharge of a contaminant specified in the order,
- iii. measures to control the presence or discharge of a contaminant specified in the order,
- iv. the natural environment into which a contaminant specified in the order may be discharged.

7. To develop and implement plans to,

- i. reduce the amount of a contaminant that is discharged into the natural environment,
- ii. prevent or reduce the risk of a spill of a pollutant within the meaning of Part X, or
- iii. prevent, decrease or eliminate any adverse effects that result or may result from a spill of a pollutant within the meaning of Part X or from any other discharge of a contaminant into the natural environment, including,

A. plans to notify the Ministry, other public authorities and members of the public who may be affected by a discharge, and

B. plans to ensure that appropriate equipment, material and personnel are avail-

Idem

(1.1) L'avis qu'exige le paragraphe (1) est donné conformément aux exigences que prescrivent les règlements.

(7) L'alinéa 17 c) de la Loi est abrogé et remplacé par ce qui suit :

- c) de fournir d'autres sources d'approvisionnement en eau temporaires ou permanentes si le rejet a causé ou causera vraisemblablement des dommages aux sources d'approvisionnement en eau existantes ou a mis ou mettra vraisemblablement celles-ci en danger.

(8) La version française du paragraphe 18 (1) de la Loi est modifiée :

a) par substitution de «d'un bien» à «d'une propriété» dans le passage qui précède la disposition 1;

b) par substitution de «du bien» à «de la propriété ou sur cette dernière» à la fin de la disposition 4.

(9) Les dispositions 5 et 6 du paragraphe 18 (1) de la Loi sont abrogées et remplacées par ce qui suit :

5. Surveiller et consigner la présence ou le rejet d'un contaminant précisé dans l'arrêté et faire à cet égard un rapport au directeur.

6. Faire un rapport au directeur, après étude, sur :

- i. la présence ou le rejet d'un contaminant précisé dans l'arrêté,
- ii. les conséquences de la présence ou du rejet d'un contaminant précisé dans l'arrêté,
- iii. les mesures visant à limiter la présence ou le rejet d'un contaminant précisé dans l'arrêté,
- iv. l'environnement naturel dans lequel un contaminant précisé dans l'arrêté peut être rejeté.

7. Élaborer et mettre en oeuvre des plans à l'une ou l'autre des fins suivantes :

- i. réduire la quantité de contaminant qui est rejeté dans l'environnement naturel,
- ii. empêcher le déversement d'un polluant au sens de la partie X ou en réduire le risque,
- iii. empêcher, diminuer ou éliminer les conséquences préjudiciables qui résultent ou peuvent résulter du déversement d'un polluant au sens de la partie X ou de tout autre rejet d'un contaminant dans l'environnement naturel, notamment :

A. des plans pour aviser le ministère, d'autres autorités publiques et les membres du public qui peuvent être touchés par le rejet,

B. des plans pour assurer que l'équipement, le matériel et le personnel appro-

TAB L

CHAPTER 10

An Act to Amend the
Environmental Protection Act

(Assented to May 9, 1991)

BE IT ENACTED by the Lieutenant Governor and the Legislative Assembly of the Province of Prince Edward Island as follows:

1. Section 1 of the *Environmental Protection Act* R.S.P.E.I. 1988, Cap. E-9 is amended

(a) by the repeal of clauses (a) and (b) and the substitution therefor of the following:

(a) "beach" includes that portion of the shoreline land beach
commencing at

(i) the base of the bank or slope where the terrestrial land meets the shoreline, or

(ii) the seaward extremity of a sand dune,

as may be relevant in the circumstances and extending seaward a distance of three miles, and containing water, sand, gravel, rock, shale or other earthen material;

(b) "contaminant" includes any solid, liquid, gas, waste, contaminant
odour, vibration, radiation, sound, or a combination of them

(i) which is foreign to or in excess of the natural constituents of the environment into which it is being introduced,

(ii) which will or may adversely affect, either directly or indirectly, the natural, physical, chemical, or biological quality of the environment,

(iii) which is or may be injurious to the health or safety of a person or be damaging to property or to plant or animal life,

(iv) which interferes with or is likely to interfere with the comfort, well-being, livelihood, or enjoyment of life of a person, or

(v) which is declared by regulation to be a contaminant.

(b) by the repeal of clause (n);

(c) by the insertion of the following as clause (o.1):

(o.1) "source of contaminant" means anything that discharges source of
contaminant
a contaminant into the environment;

(d) by the repeal of clauses (r) and (s) and the substitution therefor of the following:

water

(r) "water" includes liquid and frozen surface and ground water;

watercourse

(s) "watercourse" means the full width and length, including the bed, shore, bank, and adjacent land, within 10 metres of the high water mark of every stream, river, estuary, lake, pond, creek, spring, ravine, and gulch, or any part thereof, whether the same contains water or not;

(e) by the repeal of subclause (t)(ii) and the substitution therefor of the following:

(ii) a public building or place of assembly.

2. Subsection 6(2) of the said Act is repealed.

3. Section 7 of the said Act is repealed and the following is substituted therefor:

Application

7. (1) This section applies to natural persons.

Orders

(2) Where the Minister believes, on reasonable and probable grounds,

(a) that a contaminant has been, is being, or is going to be, discharged into the environment, or, otherwise, that an act or omission of a natural person is or may be a contravention of this Act or the regulations or otherwise be a threat to the environment or environmental health; and

(b) that it is necessary or advisable for the protection of the environment or the prevention or control of danger to human life or health or of damage to property,

he may issue an order to

(c) the natural person who is the owner or previous owner of the source of the contaminant;

(d) the natural person who is or was in occupation of the source of the contaminant;

(e) the natural person who has, or had, the charge, management, or control of the source of the contaminant;

(f) the natural person whose act or omission is or may be a contravention of this Act or the regulations or otherwise be a threat to the environment or environmental health; or

(g) one or more of the above persons.

Terms, conditions
and requirements

(3) An order issued pursuant to subsection (2) may specify terms and conditions, including time limits, and may require the natural person to whom it is directed, at his own cost, if any, to

- 
- (a) permit inspection;
 - (b) permit testing and sampling;
 - (c) carry out inspections, testing, and sampling, including professional hydro-geological or engineering investigations, to determine the extent and effects of the contaminant;
 - (d) cease an activity specified in the order;
 - (e) clean, repair, and restore the area affected by the contaminant to the extent indicated in the order or, otherwise, to the satisfaction of the Minister;
 - (f) take specified action to prevent or avoid danger to human life or health or damage to property;
 - (g) submit a written report with respect to his activities pursuant to clauses (c), (e) and (f);
 - (h) do any or all of those things specified in clauses (a) to (g).

(4) For the purpose of investigating threats to the environment or environmental health or otherwise ensuring compliance with this Act or the regulations, an environment officer, or a peace officer may

Powers of
environment
officers

- (a) subject to subsections (5), (6) and (7), at any reasonable time, enter and inspect any place in which he believes on reasonable grounds there is a contaminant or any other thing in respect of which this Act or the regulations apply;
- (b) examine any contaminant or suspected contaminant, or any other thing in respect of which this Act or the regulations apply and take samples of it;
- (c) require any natural person to produce for inspection or copying, in whole or in part, any record or other document that the environment officer or peace officer believes on reasonable grounds contains any information relevant to the administration of this Act or the regulations; and
- (d) conduct any tests or analyses or take any measurements.

(5) An environment officer or a peace officer may not enter a dwelling-place except with the consent of the occupant of the dwelling-place or under the authority of a warrant.

Entry to
dwelling-place

(6) Where on *ex parte* application a justice is satisfied by information on oath that

Authority to issue
warrant

- (a) the conditions for entry described in subsection (4) exist in relation to a dwelling-place;
- (b) entry to the dwelling-place is necessary for any purpose relating to the administration of this Act or the regulations; and



Use of force

Seizure

Warrant

Things liable to seizure

Execution of warrant

(c) entry to the dwelling-place has been refused or there are reasonable grounds to believe that entry will be refused, the justice may at any time sign and issue a warrant authorizing the environment or peace officer named in the warrant to enter the dwelling-place, subject to any conditions that may be specified in the warrant.

(7) An environment officer who executes a warrant shall not use force unless he is accompanied by a peace officer and the use of force is specifically authorized in the warrant.

(8) Where an environment officer or a peace officer believes on reasonable grounds that an offence under this Act or the regulations has been committed, he may seize and detain any thing

(a) by means of or in relation to which he believes on reasonable grounds the offence was committed; or

(b) that he believes on reasonable grounds will afford evidence in respect of the commission of an offence under this Act or the regulations.

(9) Where on *ex parte* application a justice is satisfied by information on oath that there are reasonable grounds to believe that there is in any place any thing

(a) by means of or in relation to which an offence under this Act or the regulations has been committed or is suspected of having been committed; or

(b) that there are reasonable grounds to believe will afford evidence in respect of the commission of an offence under this Act or the regulations,

the justice may at any time sign and issue a warrant authorizing the environment officer or peace officer named in the warrant to enter and search the place for the thing and, subject to any conditions that may be specified in the warrant, to seize and detain it.

(10) The environment officer or peace officer who executes a warrant may exercise the powers described in subsection (4) and may seize and detain, in addition to any thing mentioned in the warrant, any other thing

(a) by means of or in relation to which the inspector believes on reasonable grounds an offence under this Act or regulations has been committed; or

(b) that the inspector believes on reasonable grounds will afford evidence in respect of the commission of an offence under this Act.

(11) A warrant shall be executed by day unless the justice authorizes its execution by night.

(12) A peace officer or an environment officer may exercise any of the powers referred to in subsections (9) and (10) without a warrant if the conditions for obtaining a warrant exist, but, by reason of exigent circumstances, it would not be practical to obtain a warrant. Where warrant not necessary

(13) A peace officer or environment officer who seizes and detains a thing under this Act or the regulations shall, as soon as is practicable, advise the owner of the thing or the natural person having possession, care, or control of it at the time of its seizure, of the reason for the seizure. Notice of reason for seizure

(14) A peace officer or environment officer who seizes and detains a thing under this Act or the regulations or any person designated by such officer, may Storage, removal etc.

(a) store, treat, or dispose of the thing at the place where it was seized or move it to any other place for storage, treatment, or disposition; or

(b) recommend to the Minister that an order be issued pursuant to subsection (2) directing the natural person who owns or had the possession, care, or control of it at the time of its seizure, to store, treat, or dispose of it or move it to any other place and store, treat, or dispose of it, in which case the Minister may make such an order.

(15) Subject to subsection (16), a thing that is seized and detained under this Act shall not be detained after Detention

(a) a determination by a peace officer or an environment officer that the thing or use of it is in conformity with the Act or regulations or will not afford evidence in respect of a commission of an offence under this Act or the regulations; or

(b) the expiration of one hundred and eighty days after the day of seizure,

unless before that time proceedings are instituted in relation to the thing, in which case the thing may be detained until the proceedings are finally concluded.

(16) Where the Minister believes on reasonable and probable grounds that a thing is a threat to the environment or environmental health, or where proceedings mentioned in subsection (15) are instituted within the time provided in that subsection, and at the final conclusion thereof the court orders the forfeiture of the thing that was seized and detained, the Minister may dispose of the thing as he sees fit. Disposal of forfeited things

(17) Where subsection (16) does not apply, the thing shall be returned to the natural person who owns the thing or who had the possession, care or control of it at the time of its seizure. Return of things seized where no forfeiture ordered

Samples,
disposition of

(18) A sample taken under this Act or regulations may be disposed of in such manner as the Minister considers appropriate.

Liability

(19) The Crown, nor any agent or employee thereof is not liable for any costs, loss or damage, resulting from the exercise in good faith of powers pursuant to this Act or the regulations.

Order to bind
successors in title

(20) An order issued pursuant to subsection (2) shall run with the land and shall be binding upon the successor or assignee of the natural person to whom it is directed.

Copies of order
on request

(21) Upon the written request of any person as to whether an order has been issued against a particular person, the Minister shall provide the information and if an order has been issued, make a copy available.

Application

7.1 (1) This section applies to corporations.

Orders

(2) Where the Minister believes, on reasonable and probable grounds,

(a) that a contaminant has been, is being, or is going to be, discharged into the environment, or, otherwise, that an act or omission of a corporation is or may be a contravention of this Act or the regulations or otherwise be a threat to the environment or environmental health; and

(b) that it is necessary or advisable for the protection of the environment or the prevention or control of danger to human life or health or of damage to property,

he may issue an order to

(c) the corporation which is the owner or previous owner of the source of the contaminant;

(d) the corporation which is or was in occupation of the source of the contaminant;

(e) the corporation which has, or had, the charge, management, or control of the source of the contaminant;

(f) the corporation whose act or omission is or may be a contravention of this Act or the regulations or otherwise be a threat to the environment or environmental health; or

(g) one or more of the above persons.

Terms, conditions
and requirements

(3) An order issued pursuant to subsection (2) may specify terms and conditions, including time limits, and may require the corporation to whom it is directed, at its own cost, if any, to

(a) permit inspection;

(b) permit testing and sampling;

(c) carry out inspections, testing, and sampling, including professional hydro-geological or engineering investigations, to determine the extent and effects of the contaminant;

(d) cease an activity specified in the order;

(e) clean, repair, and restore the area affected by the contaminant to the extent indicated in the order or, otherwise, to the satisfaction of the Minister;

(f) take specified action to prevent or avoid danger to human life or health or damage to property;

(g) submit a written report with respect to its activities pursuant to clauses (c), (e) and (f);

(h) do any or all of those things specified in clauses (a) to (g).

(4) For the purpose of investigating threats to the environment or environmental health or otherwise ensuring compliance with this Act or the regulations, an environment officer, or a peace officer may,

Powers of
environment
officers

(a) subject to subsections (5), (6) and (7), at any reasonable time, enter and inspect any place in which he believes on reasonable grounds there is a contaminant or any other thing in respect of which this Act or the regulations apply;

(b) examine any contaminant or suspected contaminant, or any other thing in respect of which this Act or the regulations apply and take samples of it;

(c) require any corporation to produce for inspection or copying, in whole or in part, any record or other document that the environment officer or peace officer believes on reasonable grounds contains any information relevant to the administration of this Act or the regulations; and

(d) conduct any tests or analyses or take any measurements.

(5) An environment officer or a peace officer may not enter a dwelling-place except with the consent of the occupant of the dwelling-place or under the authority of a warrant.

Entry to
dwelling-place

(6) Where on *ex parte* application a justice is satisfied by information on oath that

Authority to
issue warrant

(a) the conditions for entry described in subsection (4) exist in relation to a dwelling-place;

(b) entry to the dwelling-place is necessary for any purpose relating to the administration of this Act or the regulations; and

(c) entry to the dwelling-place has been refused or there are reasonable grounds to believe that entry will be refused,

the justice may at any time sign and issue a warrant authorizing the environment or peace officer named in the warrant to enter the dwelling-place, subject to any conditions that may be specified in the warrant.

Use of force

(7) An environment officer who executes a warrant shall not use force unless he is accompanied by a peace officer and the use of force is specifically authorized in the warrant.

Seizure

(8) Where an environment officer or a peace officer believes on reasonable grounds that an offence under this Act or the regulations has been committed, he may seize and detain any thing

(a) by means of or in relation to which he believes on reasonable grounds the offence was committed; or

(b) that he believes on reasonable grounds will afford evidence in respect of the commission of an offence under this Act or the regulations.

Warrant

(9) Where on *ex parte* application a justice is satisfied by information on oath that there are reasonable grounds to believe that there is in any place any thing

(a) by means of or in relation to which an offence under this Act or the regulations has been committed or is suspected of having been committed; or

(b) that there are reasonable grounds to believe will afford evidence in respect of the commission of an offence under this Act or the regulations,

the justice may at any time sign and issue a warrant authorizing the environment officer or peace officer named in the warrant to enter and search the place for the thing and, subject to any conditions that may be specified in the warrant, to seize and detain it.

Things liable to seizure

(10) The environment officer or peace officer who executes a warrant may exercise the powers described in subsection (4) and may seize and detain, in addition to any thing mentioned in the warrant, any other thing

(a) by means of or in relation to which the inspector believes on reasonable grounds an offence under this Act or regulations has been committed; or

(b) that the inspector believes on reasonable grounds will afford evidence in respect of the commission of an offence under this Act.

Execution of warrant

(11) A warrant shall be executed by day unless the justice authorizes its execution by night.

(12) A peace officer or an environment officer may exercise any of the powers referred to in subsections (9) and (10) without a warrant if the conditions for obtaining a warrant exist, but, by reason of exigent circumstances, it would not be practical to obtain a warrant.

Where warrant
not necessary

(13) A peace officer or environment officer who seizes and detains a thing under this Act or the regulations shall, as soon as is practicable, advise the owner of the thing or the corporation having possession, care, or control of it at the time of its seizure, of the reason for the seizure.

Notice of reason
for seizure

(14) A peace officer or environment officer who seizes and detains a thing under this Act or the regulations or any person designated by such officer, may

Storage, removal
etc.

(a) store, treat, or dispose of the thing at the place where it was seized or move it to any other place for storage, treatment, or disposition; or

(b) recommend to the Minister that an order be issued pursuant to subsection (2) directing the corporation which owns or had the possession, care, or control of it at the time of its seizure, to store, treat, or dispose of it or move it to any other place and store, treat, or dispose of it, in which case the Minister may make such an order.

(15) Subject to subsection (16), a thing that is seized and detained under this Act shall not be detained after

Detention

(a) a determination by a peace officer or an environment officer that the thing or use of it is in conformity with the Act or regulations or will not afford evidence in respect of a commission of an offence under this Act or the regulations; or

(b) the expiration of one hundred and eighty days after the day of seizure,

unless before that time proceedings are instituted in relation to the thing, in which case the thing may be detained until the proceedings are finally concluded.

(16) Where the Minister believes on reasonable and probable grounds that a thing is a threat to the environment or environmental health, or where proceedings mentioned in subsection (15) are instituted within the time provided in that subsection, and at the final conclusion thereof the court orders the forfeiture of the thing that was seized and detained, the Minister may dispose of the thing as he sees fit.

Disposal of
forfeited things

(17) Where subsection (16) does not apply, the thing shall be returned to the corporation which owns the thing or which had the possession, care or control of it at the time of its seizure.

Return of things
seized where no
forfeiture
ordered



Samples,
disposition of

Liability

Order to bind
successors in title

Copies of order
on request

(18) A sample taken under this Act or regulations may be disposed of in such manner as the Minister considers appropriate.

(19) The Crown, nor any agent or employee thereof is not liable for any costs, loss or damage, resulting from the exercise in good faith of powers pursuant to this Act or the regulations.

(20) An order issued pursuant to subsection (2) shall run with the land and shall be binding upon the successor or assignee of the corporation to which it is directed.

(21) Upon the written request of any person as to whether an order has been issued against a particular person, the Minister shall provide the information and if an order has been issued, make a copy available.

4. Section 10 of the said Act is amended

(a) in clause (b)

(i) by adding the word "water" after the word "soil", and

(ii) by deleting the word "rubbish" and substituting the word "litter";

(b) in clause (c) by adding the word "water" after the word "soil";

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

(d) placing or removing structures, including wharves, breakwaters, slipways, or placing or removing obstructions, including bridges, culverts, or dams;

(d) by adding the following clauses:

(e) operating machinery on the bed of a watercourse or wetland;

(f) disturbing the ground, either by excavating or depositing earthen or other material, within 10 metres of a watercourse or wetland;

(g) carrying out any type of instream activity, including debris removal, habitat development, or placement of instream structures.

5. Section 11 of the said Act is repealed and the following is substituted therefor:

Advisory
Committee

11. The Minister may appoint a watercourse alteration advisory committee to review applications for watercourse or wetland alteration permits and to advise the Minister on proposed watercourse and wetland alteration projects.

CHAPTER 11

An Act to Amend the Environmental Protection Act

(Assented to May 4, 1995)

BE IT ENACTED by the Lieutenant Governor and the Legislative Assembly of the Province of Prince Edward Island as follows:

- 
1. Clauses 7(2)(c), (d) and (e) of the *Environmental Protection Act* R.S.P.E.I. 1988, Cap. E-9 are amended by the insertion before the word "source" of the words "contaminant or the".
 2. Clauses 7.1(2)(c), (d) and (e) of the said Act are amended by the insertion before the word "source" of the words "contaminant or the".
 3. Section 18 of the said Act is amended
 - (a) in subsection (1) by the insertion after the words "waste treatment system" of the words ", waste management system";
 - (b) in clause (2)(a), by the insertion after the words "waste treatment systems" of the words ", waste management systems";
 - (c) in subsection (2), by the addition of the following:
 - (k) establish a system for the collection, transportation, separation, treatment or disposal of waste;
 4. Section 28 of the said Act is repealed and the following is substituted:

28. The Minister may, by order, with respect to any permit, license, certificate, approval or other authority to be granted or already granted under this Act

 - (a) revoke it;
 - (b) impose or alter such terms and conditions in relation to it as he considers necessary in the public interest.

Powers to revoke, impose conditions, etc.
 5. Section 33 of the said Act is repealed and the following is substituted:

33. (1) Where the Minister has issued an order or given a direction under this Act and the person to whom the order or direction is given has failed to comply with it, the Minister may apply to the Supreme Court for an order authorizing the Minister to take such remedial action as may be specified in the order.

Remedial action authorized by court

(2) After taking remedial action under a court order pursuant to subsection (1), the Minister may issue an order for the costs of the remedial action against the person to whom the original order or direction was given.

Order for costs of remediation

Immediate action
required, order or
direction

34. (1) Where the Minister has issued an order or given a direction under this Act and the person to whom the order or direction was given has failed to comply with it, and where the order or direction relates to a matter which in the opinion of the Minister requires immediate action to prevent further injury to the environment, the Minister may take the appropriate remedial action to carry out the terms of the order.

Order for costs

(2) After taking remedial action under subsection (1) the Minister may issue an order for the costs of the remedial action against the person to whom the original order or direction was given.

Immediate action
required, no order
or direction

35. (1) Where contamination or damage of any kind is caused by failure of any person to comply with the provisions of this Act or regulations and where the contamination or damage relates to a matter which in the opinion of the Minister requires immediate action to prevent further injury to the environment, the Minister may take the appropriate remedial action to clean up the contamination or damage.

Order for costs

(2) After taking remedial action under subsection (1) the Minister may issue an order for the costs of the remedial action against the person who has caused the contamination or damage.

Filed order has
effect as judgment

36. An order for cost of remediation under subsection 33(2), 34(2) or 35(2) may be filed with the Registrar of the Supreme Court at any time thirty days after it is issued and, when so filed, the order is of the same force and effect as if it were a judgment.

CHAPTER 32

An Act to Amend the Environmental Protection Act (No. 3)

(Assented to June 7, 2005)

BE IT ENACTED by the Lieutenant Governor and the Legislative Assembly of the Province of Prince Edward Island as follows:

1. (1) Subsection 7(2) of the *Environmental Protection Act* R.S.P.E.I. 1988, Cap. E-9 is amended by the addition of the words "or an environment officer" after the word "Minister";

(2) Subsection 7(3) of the Act is amended

(a) by the repeal of clause (d) and the substitution of the following:

(d) cease an activity specified in the order either permanently or for a period of time, as specified in the order;

(b) by the repeal of clause (h) and the substitution of the following:

(h) do any or all of those things specified in clauses (a) to (g) either forthwith or as of the future date specified in the order.

2. (1) Subsection 7.1(2) of the Act is amended by the addition of the words "or an environment officer" after the word "Minister".

(2) Subsection 7.1(3) of the Act is amended

(a) by the repeal of clause (d) and the substitution of the following:

(d) cease an activity specified in the order permanently or for the period of time specified in the order;

(b) by the repeal of clause (h) and the substitution of the following:

(h) do any or all of those things specified in clauses (a) to (g) forthwith or as of the future date specified in the order.

3. Section 11.1 of the Act is amended by the addition of the following after subsection (10):

(11) No person shall undertake fall tillage within a buffer zone.

Fall tillage
restriction

4. Section 29 of the Act is repealed and the following substituted:

Orders - service	29. (1) No person to whom an order is directed pursuant to this Act or the regulations is required to comply with the order until the order has been served on the person.
When order sufficiently served	(2) Any order issued pursuant to this Act or the regulations is deemed to be sufficiently served (a) upon a copy being personally served on the person to whom it is directed; (b) upon a copy being sent by facsimile or by other electronic means to the person to whom it is directed and an acknowledgement of receipt being received; (c) five days after a copy is sent by mail addressed to the person to whom it is directed at the last known address for that person; or (d) in the case of a registered owner of real property, five days after a copy is sent by mail to the address for the registered owner shown on the last revised assessment roll.
Service of director or officer of corporation	(3) Where the person to be served is a corporation, service on a director, officer or recognized agent of the corporation in accordance with subsection (2) is deemed to be service on the corporation for the purposes of this Act.
Order for substituted service	(4) Where it is impractical for any reason to serve an order in a manner referred to prescribed in subsection (2), an ex parte application may be made to a judge of the Supreme Court who may make an order for substituted service providing for such steps to be taken to bring the matter to the attention of the person to be served.
Evidence	(5) Any order issued pursuant to this Act or the regulations shall be <i>prima facie</i> proof in proceedings in any court not only that the order was legally made, but also that every administrative prerequisite necessary to enable the making of the order was done and satisfied, and no further proof than the mere production of the original order or a copy thereof certified by the Minister or his authorized representative, is necessary.
	5. Subsection 33(1) of the Act is repealed and the following substituted:
Remedial action authorized by court	33. (1) Where (a) pursuant to this Act or the regulations, (i) the Minister or an environment officer has issued an order, or (ii) the Minister has given a direction; and (b) the person to whom the order is issued, or the direction is given, has failed to comply with it, the Minister may apply to the Supreme Court for an order authorizing the Minister to take such remedial action as may be specified in the order.

CHAPTER 5

An Act to Amend the Environmental Protection Act

(Assented to December 15, 2006)

BE IT ENACTED by the Lieutenant Governor and the Legislative Assembly of the Province of Prince Edward Island as follows:

1. Subsection 7(3) of the *Environmental Protection Act* R.S.P.E.I. 1988, Cap. E-9 is amended by the repeal of clause (a) and the substitution of the following:

- (a) meet with a representative of the Department and other persons for such purposes as may be required by the order;
- (a.1) permit inspection;

2. Subsection 7.1(3) of the Act is amended by the repeal of clause (a) and the substitution of the following:

- (a) meet with a representative of the Department and other persons for such purposes as may be required by the order;
- (a.1) permit inspection;

3. Section 10 of the Act is amended by the addition of the following after subsection (2):

(3) Notwithstanding subsection (2), a person may, without a permit, alter a watercourse or wetland, or any part thereof, or water flow therein or the land within 10 metres of the watercourse boundary or wetland boundary, in any manner mentioned or not mentioned in that subsection, if

Alteration under
licence

- (a) the person holds a licence issued under the regulations; and
- (b) the alteration is of a type permitted by the regulations.

4. Section 28 of the Act is amended by the repeal of clauses (b) and (c) and the substitution of the following:

- (b) impose terms and conditions on any order, licence, certificate, approval, permit, permission or other authorization issued under this Act; and
- (c) alter any terms and conditions of any order, licence, certificate, approval, permit, permission or other authorization issued under this Act.

CHAPTER 13

An Act to Amend the Environmental Protection Act

(Assented to May 22, 2008)

BE IT ENACTED by the Lieutenant Governor and the Legislative Assembly of the Province of Prince Edward Island as follows:

1. Section 1 of the *Environmental Protection Act* R.S.P.E.I. 1988, Cap. E-9 is amended

- (a) by the repeal of clauses (a), (a.1), (a.6) and (a.7);
- (b) in clause (c), by the deletion of the words "Environment and Energy" and the substitution of the words "Environment, Energy and Forestry";
- (c) by the repeal of clause (i.01);
- (d) by the repeal of clauses (i.2) to (i.6);
- (e) in clause (k), by the deletion of the words "Environment and Energy" and the substitution of the words "Environment, Energy and Forestry";
- (f) by the repeal of clauses (n.1) and (n.2);
- (g) by the repeal of clauses (o.1) and (o.3);
- (h) by the repeal of clause (s) and the substitution of the following:
 - (s) "watercourse" means an area which has a sediment bed and may or may not contain water, and without limiting the generality of the foregoing, includes the full length and width of the sediment bed, bank and shore of any stream, spring, creek, brook, river, lake, pond, bay, estuary or coastal body, any water therein, and any part thereof, up to and including the watercourse boundary; watercourse
- (i) by the repeal of clause (v) and the substitution of the following:
 - (v) "wetland" means wetland
 - (i) an area which contains hydric soil, aquatic or water-tolerant vegetation, and may or may not contain water, and includes any

water therein and everything up to and including the wetland boundary, and

(ii) without limiting the generality of the foregoing, includes any area identified in the Prince Edward Island Wetland Inventory as open water, deep marsh, shallow marsh, salt marsh, seasonally flooded flats, brackish marsh, a shrub swamp, a wooded swamp, a bog or a meadow;

(j) by the repeal of clause (w).

2. Section 5 of the Act is repealed.

3. Subsection 6(3) of the Act is repealed and the following substituted:

Environment
officers

(3) The Minister may designate persons, by notice published in the Gazette, as environment officers.

Function

(4) The function of an environment officer is to enforce such requirements of this Act and the regulations as the Minister may authorize.

Environment
officers

(5) The following persons are environment officers by virtue of their office:

- (a) any officer or member of the Royal Canadian Mounted Police;
- (b) a conservation officer appointed under the *Wildlife Conservation Act* R.S.P.E.I. 1988, Cap. W-4.1;
- (c) a fisheries officer appointed under the *Fisheries Act* (Canada) R.S.C. 1985, c. F-14.

Identification

(6) A copy of an identification card purporting to be signed by the Minister is *prima facie* proof that the individual named therein is an environment officer.

4. Section 7 of the Act is amended

(a) in subsection (2), by the deletion of the words "he may issue an order" and the substitution of the words "the Minister or the environment officer, as the case may be, may issue an environmental protection order";

(b) in subsection (3),

(i) by the deletion of the word "order" wherever it occurs and the substitution of the words "environmental protection order", and

(ii) in clause (3)(f), by the addition of the words "or to protect the environment" after the words "or damage to property";





(c) in clause (14)(b), by the deletion of the word "order" wherever it occurs and the substitution of the words "environmental protection order";

(d) in subsection (20), by the deletion of the word "order" and the substitution of the words "environmental protection order"; and

(e) in subsection (21), by the deletion of the word "order" wherever it occurs and the substitution of the words "environmental protection order".

5. Section 7.1 of the Act is amended

(a) in subsection (2), by the deletion of the words "he may issue an order" and the substitution of the words "the Minister or the environment officer, as the case may be, may issue an environmental protection order";

(b) in subsection (3), by the deletion of the word "order" wherever it occurs and the substitution of the words "environmental protection order";

(c) in clause (3)(f), by the addition of the words "or to protect the environment" after the words "or damage to property";

(d) in clause (14)(b), by the deletion of the word "order" wherever it occurs and the substitution of the words "environmental protection order";

(e) in subsection (20), by the deletion of the word "order" and the substitution of the words "environmental protection order"; and

(f) in subsection (21), by the deletion of the word "order" wherever it occurs and the substitution of the words "environmental protection order".

6. The Act is amended

(a) by the repeal of the heading immediately before section 10 and by the repeal of sections 10 and 11; and

(b) by the repeal of the heading immediately before section 11.1 and by the repeal of sections 11.1 to 11.5.

7. Subsection 21.1(10) of the Act is amended by the deletion of the word "order" and the substitution of the words "environmental protection order".

8. Subsection 25(1) of the Act is amended

(a) in the wording preceding clause (a),

(i) by the deletion of the words “may make regulations,” and the substitution of the words “may make such regulations as the Lieutenant Governor in Council considers necessary or advisable”, and

(ii) by the deletion of the words “and in particular” and the substitution of the words “, and without limiting the generality of the foregoing, may make regulations”,

(b) by the repeal of clause (c) and the substitution of the following:

(c) respecting the licenses, permits, approvals, certificates, exemptions, variances, management plans and other authorizations required to be held by persons under this Act or the regulations in respect of the carrying on of an activity or undertaking,

including regulations respecting

(i) the process for applying for any such an authorization,

(ii) the issuance, approval, refusal, renewal, expiration, amendment, suspension or revocation of any such authorization,

(iii) the qualifications or requirements for, or the circumstances or standards applicable to, any decision referred to in subclause (ii), and

(iv) the imposition of terms and conditions on any such authorization and the alteration of or requirement for compliance with such terms and conditions;

(c) in subclause (d)(i), by the deletion of the words “license or permit” and the substitution of the words “license, permit or certificate”;

(d) in subclause (d)(vi), by the deletion of the word “of” and the substitution of the word “or”;

(e) by the repeal of clause (m) and the substitution of the following:

(m) prohibiting the alteration of any watercourse, or wetland, or the water flow therein unless the alteration is

(i) authorized by a license or permit issued under the regulations and the alteration is carried out in accordance with any terms or conditions imposed on such a license or permit, or

(ii) permitted by an exception or exemption set out in the regulations;

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ENVIRONMENTAL PROTECTION AND ENHANCEMENT ACT

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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 of Activities;
- (b) "adverse effect" means impairment of or damage to the environment, human health or safety or property;
- (c) "agricultural operation" means agricultural operation as defined in the *Agricultural Operation Practices Act*;
- (d) "analyst" means an analyst designated by the Minister under section 25;
- (e) "animal" means any animal other than a human;
- (f) "approval" means an approval issued under this Act in respect of an activity, and includes the renewal of an approval;
- (g) "Board" means the Environmental Appeal Board;
- (h) "borehole" means a hole advanced into the ground for the purpose of determining engineering or geological

classification and properties or for instrumentation purposes;

- 
- (i) "certificate of qualification" means a certificate of qualification issued under section 82, including the renewal of such a certificate, and a certificate or other qualification from another jurisdiction that is accepted under the regulations as a certificate of qualification for the purposes of this Act;
 - (j) "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*;
 - (k) "certificate of variance" means a certificate of variance issued under section 78;
 - (l) "conservation" means, except in sections 22 to 24, 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;
 - (m) "Co-ordinating Council" means the Sustainable Development Co-ordinating Council continued under section 5;
 - (n) "council", when used with reference to a local authority, includes a settlement council under the *Metis Settlements Act*;
 - (o) "Department" means the Department administered by the Minister;
 - (p) "designated livestock operation" means a designated livestock operation within the meaning of the regulations;
 - (q) "designated material" means a designated material within the meaning of the regulations;
 - (r) "Director" means, subject to section 42, a person designated as a Director for the purposes of this Act by the Minister;
 - (s) "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;

- 
- (t) "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);
 - (u) "Environmental Protection and Enhancement Fund" means the fund established under section 30;
 - (v) "Environmental Protection Security Fund" means the fund continued under section 32;
 - (w) "Government" means the Government of Alberta;
 - (x) "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;
 - (y) "groundwater" means all water under the surface of the ground;
 - (z) "hazardous recyclable" means hazardous recyclable within the meaning of the regulations;
 - (aa) "hazardous substance" means a substance or mixture of substances, other than a pesticide, that exhibits characteristics of flammability, corrosivity, reactivity or toxicity, including, without limitation, any substance that is designated as a hazardous substance within the meaning of the regulations;
 - (bb) "hazardous waste" means hazardous waste within the meaning of the regulations;
 - (cc) "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 920 kilograms per cubic metre;

- 
- (dd) "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;
 - (ee) "highway" means highway within the meaning of the *Highway Traffic Act*;
 - (ff) "industrial development" means an industrial development within the meaning of the regulations;
 - (gg) "inspector" means a person who is an inspector by reason of section 25 or 27;
 - (hh) "investigator" means a person who is an investigator by reason of section 25 or 27;
 - (ii) "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;
 - (ij) "local authority" means
 - (i) the corporation of a city, town, village, summer village, municipal district or specialized municipality,
 - (ii) in the case of an improvement district, the Minister responsible for the *Municipal Government Act*,
 - (iii) in the case of a special area, the Minister responsible for the *Special Areas Act*,
 - (iv) a settlement under the *Metis Settlements Act*,
 - (v) a regional services commission under Part 15.1 of the *Municipal Government Act*, and
 - (vi) a regional health authority under the *Regional Health Authorities Act*,

but for the purposes of sections 12(b), 22 to 24, 126, 184, 185 and 186 does not include an entity referred to in subclause (v) or (vi), and for the purposes of sections 147(b), 175(n) and 180(b) does not include an entity referred to in subclause (vi);

- 
- (kk) "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;
- (ll) "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;
- (mm) "Minister" means the Minister determined under section 16 of the *Government Organization Act* as the Minister responsible for this Act;
- (nn) "municipal development" means a municipal development within the meaning of the regulations;
- (oo) "municipality" means the geographical area of a city, town, village, summer village, municipal district, specialized municipality, improvement district, special area or settlement area within the meaning of the *Metis Settlements Act*;
- (pp) "oil production site" means oil production site within the meaning of the regulations;
- (qq) "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);
- (rr) "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;
 - (ss) "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;
 - (tt) "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, without limitation, 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),but does not include
 - (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

- 
- (vi) a person who investigates or tests a parcel of land for the purpose of determining the environmental condition of that parcel, unless the investigation or test 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;
- (uu) "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;
- (vv) "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);
- (ww) "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;
 - (xx) "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;
 - (yy) "place" includes any land, building, structure, machine, aircraft, vehicle or vessel;
 - (zz) "potable water" means water that is supplied by a waterworks system and is used for drinking, cooking, bathing, dish washing or other domestic purposes;
 - (aaa) "private utility" means a private utility within the meaning of the regulations;
 - (bbb) "privately owned development" means a privately owned development within the meaning of the regulations;
 - (ccc) "quarry" means any opening in, excavation in or working of the surface or subsurface for the purpose of working, recovering, opening up or proving
 - (i) any mineral other than coal, a coal bearing substance, oil sands or an oil sands bearing substance, or
 - (ii) ammonite shell,and includes any associated infrastructure;
 - (ddd) "reclamation" means any or all of the following:
 - (i) the removal of equipment or buildings or other structures or appurtenances;
 - (ii) the decontamination of buildings or other structures or other appurtenances, or land or water;
 - (iii) the stabilization, contouring, maintenance, conditioning or reconstruction of the surface of land;
 - (iv) any other procedure, operation or requirement specified in the regulations;
 - (eee) "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;

(fff) "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, 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 the Metis Settlements Land Registry established under that Act;

(ggg) "registration" means, except in sections 23, 24, 34(n), 154(b) and 175(d), a registration issued under this Act in respect of an activity, and includes the renewal of a registration;

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

(iii) "remediation certificate" means a remediation certificate issued under section 117;

(jjj) "revolving fund" means the revolving fund established under section 31;

(kkk) "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;



(mmm) "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);

(nnn) "surface water" means water in a watercourse;

(ooo) "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;

(ppp) "this Act" means this Act and the regulations;

(qqq) "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*;

(rrr) "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;

- (sss) "vehicle" means a device in, on or by which a person or thing may be transported or drawn on a highway;
- (ttt) "waste management facility" means a facility for the collection, storage, treatment or disposal of waste;
- (uuu) "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;
- (vvv) "water" means all water on or under the surface of the ground;
- (www) "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 a service connection;
- (xxx) "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;

(yyy) "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 artificial surface feature made by humans,

whether it contains or conveys water continuously or intermittently;

(zzz) "waterworks system" means any system providing potable water to a municipality, municipal development, industrial development, privately owned development, private utility or watering point, and includes any or all of the following components:

- (i) water wells connected to water supply lines, 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;
- (ix) water distribution systems;

(aaaa) "well" means an orifice in the ground that is completed or is being drilled

- (i) for the production of oil, oil sands or gas, or

- (ii) for injection into an underground formation.

1992 cE-13.3 s1; 1994 cR-9.07 s25(11); 1994 cM-26.1 s642(22);
1994 c15 s2; 1995 c24 ss99(4), 100; 1996 cW-3.5 s175;
1996 c17 s2; 1996 c30 s69; 1997 c9 s2; 1998 c15 s2

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 governments of other jurisdictions 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.

1992 cE-13.3 s2;1994 c15 s3

Crown is bound

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

1992 cE-13.3 s3

- (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.

1992 cE-13.3 s197

Assistance by peace officer

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

1992 cE-13.3 s198

Assistance to inspectors and investigators

209 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.

1992 cE-13.3 s199

Enforcement Orders**Enforcement orders by Director**

210(1) Where in the Director's opinion a person has contravened this Act, except section 178, 179, 180, 181 or 182, 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, registration 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 113, 129, 140, 150, 156, 159, 183 or 241, 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 must be served on the person to whom it is directed.

1992 cE-13.3 s200; 1996 cW-3.5 s175; 1996 c17 s55; 1997 c18 s6

Enforcement order concerning waste

211(1) Where an investigator or the Director has reason to believe that a person has contravened section 178, 179, 180, 181 or 182, 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 178, 179, 180, 181 or 182, 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.

1992 cE-13.3 s201; 1997 c18 s6

Amendment and cancellation of enforcement orders

212(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 amend an enforcement order by adding to the list of persons to whom the order is directed.
- (3) The Director may exercise powers under subsection (1) or (2) notwithstanding that the original enforcement order may have been issued by an investigator.
- (4) A copy of an enforcement order issued under subsection (1) must be served on the same person to whom the original order was directed.
- (5) A copy of an enforcement order issued under subsection (2) must be served on
- (a) any person whose name was added to it, and
 - (b) the same person to whom the original order was directed.

1992 cE-13.3 s202;1998 c15 s22

Court order for compliance

213(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 against the person to whom the enforcement order is directed for an offence under this Act in respect of the subject-matter that gave rise to the issuing of the enforcement order.

1992 cE-13.3 s203;1994 c15 s58

Failure to comply with enforcement order

214(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 purchases land to which the enforcement order relates including, without limitation, a purchase on the sale of the land to realize a security interest, to pay to the Minister



instead of to the vendor an amount not exceeding the amount owing in respect of the costs.

(3) 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.

(4) 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 125, compensation paid to a person in accordance with section 131.

(5) 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.

1992 cE-13.3 s204; 1996 c17 s47; 1998 c15 s23

Joint and several liability

215 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 214(2).

1992 cE-13.3 s205

Civil Remedies

Priority for costs

216 Costs incurred by the Director under section 214 or 245 and costs incurred by an inspector or investigator or the Director in taking emergency measures under section 115 or 152 constitute a charge in favour of the Government,

(a) in the case of costs incurred under section 214 or 245, on the land to which the order relates and on any other land that

(i) is contiguous to the land to which the order relates,

TRAFFIC SAFETY ACT

Chapter T-6

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(4) A regulation shall not be made under subsection (1) after the expiration of 3 years from the day that this section comes into force, but any regulation made under subsection (1) that is in force on the expiration of that 3-year period remains in force until it is repealed under subsection (2).

(5) A regulation shall not be made under subsection (1) altering the provisions of subsection (2) or extending the 3-year period provided for under subsection (4).

1999 cT-6.4 s191

192 The *Agricultural Pests Act* is amended in section 1(1)(c) by striking out "*Highway Traffic Act*" and substituting "*Traffic Safety Act*".

1999 cT-6.4 s192

193 The *Business Corporations Act* is amended in section 277(1)

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

(g) it is, in respect of a commercial vehicle as defined in the *Traffic Safety Act*, the holder of a certificate of registration under the *Traffic Safety Act*, unless it neither picks up nor delivers goods or passengers in Alberta,

(b) in clause (h) by striking out "issued by the Alberta Motor Transport Board", and substituting "as defined in section 130 of the *Traffic Safety Act*".

1999 cT-6.4 s193

194 The *Conflicts of Interest Act* is amended in Part 3 of the Schedule

(a) by striking out "Alberta Motor Transport Board";

(b) by adding "Alberta Transportation Safety Board" after "Alberta Securities Commission";

(c) by striking out "Driver Control Board".

1999 cT-6.4 s194

195 The *Court of Queen's Bench Act* is amended in section 9(2) by striking out "section 114(1)(a) of the *Motor Vehicle Administration Act*" and substituting "section 181(1)(a) of the *Traffic Safety Act*".

1999 cT-6.4 s195

196 The Dangerous Goods Transportation and Handling Act is amended in section 1

- (a) in clause (g) by striking out "*Highway Traffic Act*" and substituting "*Traffic Safety Act*";
- (b) in clause (j)(ii) by striking out "*Highway Traffic Act*" and substituting "*Traffic Safety Act*".

1999 cT-6.4 s196



197 The Environmental Protection and Enhancement Act is amended in section 1(ee) by striking out "*Highway Traffic Act*" and substituting "*Traffic Safety Act*".

1999 cT-6.4 s197

198(1) The Fuel Tax Act is amended by this section.

(2) Section 1(m)(i) is amended by striking out "public vehicle as defined under the *Motor Transport Act* or a fleet of public vehicles" and substituting "commercial vehicle as defined under the *Traffic Safety Act* or a fleet of commercial vehicles".

(3) Section 3(1)(c) is amended by striking out "public vehicle" and substituting "commercial vehicle".

(4) Section 7 is amended

- (a) in subsection (3)(b), (c) and (d) by striking out "*Highway Traffic Act*" and substituting "*Traffic Safety Act*";
- (b) in subsection (3)(f) by striking out "public vehicle" and substituting "commercial vehicle".

1999 cT-6.4 s198

199 The Government Organization Act is amended in Schedule 12 in section 12(5) by striking out "section 93 of the *Motor Vehicle Administration Act*" and substituting "section 77 of the *Traffic Safety Act*".

1999 cT-6.4 s199

200 The Innkeepers Act is amended in section 1(d) by striking out "*Motor Vehicle Administration Act*" and substituting "*Traffic Safety Act*".

1999 cT-6.4 s200

201 The *Livestock Identification and Brand Inspection Act* is amended in section 3(6) by striking out "*Motor Transport Act*" and substituting "*Traffic Safety Act*".

1999 cT-6.4 s202

202 The *Maintenance Enforcement Act* is amended in section 22

- (a) in subsection (1) by striking out "*Motor Vehicle Administration Act*" and substituting "*Traffic Safety Act*";
- (b) in subsection (2) by striking out "section 57.2(2) of the *Motor Vehicle Administration Act*" and substituting "section 58 of the *Traffic Safety Act*";
- (c) in subsection (4) by striking out "section 57.2(2) of the *Motor Vehicle Administration Act*" and substituting "section 58 of the *Traffic Safety Act*".

1999 cT-6.4 s203

203(1) The *Motor Vehicle Accident Claims Act* is amended by this section.

(2) Section 1 is amended

- (a) by repealing clauses (e) and (f) and substituting the following:
 - (e) "motor vehicle" means a vehicle propelled by any power, other than muscular power, except
 - (i) aircraft, tractors, whether equipped with rubber tires or not, traction engines, implements of husbandry, trolley buses and vehicles that run only on rails, and
 - (ii) machines designed for use primarily in connection with the building or maintenance of highways or other construction works that are not required to be licensed under the *Traffic Safety Act*,and includes a truck tractor required to be registered under the *Traffic Safety Act* or the regulations under that Act;
 - (f) "owner" means an owner as defined in the *Traffic Safety Act*;

Bill 36

**ENVIRONMENTAL PROTECTION AND
ENHANCEMENT AMENDMENT ACT, 2003**

Chapter 37

(Assented to December 4, 2003)

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 is amended

(a) by adding the following after clause (k):

(k.1) "code of practice" means a document governing an
activity or activities or a portion of an activity or
activities that is adopted or incorporated pursuant to
section 38;

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

(s.1) "electronic" includes created, recorded, transmitted or
stored in digital form or in any other intangible form by
electronic, magnetic or optical means or by any other
means that have similar capabilities for creation,
recording, transmission or storage;

(c) in clause (ww) by adding "or" at the end of subclause (i),
by striking out "or" at the end of subclause (ii) and by
repealing subclause (iii);

(d) by repealing clause (xx) and substituting the following:

(xx) "pit" means any opening in, excavation in or working of the surface or subsurface made for the purpose of removing sand, gravel, clay or marl and includes any associated infrastructure, but does not include a mine or quarry;

(e) by repealing clause (zz) and substituting the following:

(zz) "potable water" means water that is supplied by a waterworks system and is used for drinking, cooking, dish washing or other domestic purposes requiring water that is suitable for human consumption;

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

(uuu) "wastewater system" means a system for collecting, treating and disposing of wastewater and includes any or all of the following:

- (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;
- (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;

(g) by repealing clause (zzz) and substituting the following:

(zzz) "waterworks system" means any system providing potable water to a city, town, specialized municipality, village, summer village, hamlet, settlement area as defined in the *Metis Settlements Act*, municipal development, industrial development, privately owned



development or private utility, and includes any or all of the following components:

- (i) water wells connected to water supply lines, 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;
- (ix) water distribution systems;
- (x) watering points;

3 Section 32(3) is repealed and the following is substituted:

(3) All security required to be deposited with the Government in respect of an approval, a code of practice, a registration, a certificate of qualification or a certificate of variance or under section 88.2, 97, 135, 174 or 189 or with respect to an approval or licence under the *Water Act* shall be paid into the Environmental Protection Security Fund.

4 Section 35(1)(a) is amended

- (a) in subclause (iv) by adding "or a registration holder or provided pursuant to a code of practice" after "approval holder";
- (b) in subclause (v) by adding "or a code of practice" after "approval".

5 Section 60 is amended by adding "or that is redesignated under section 66.1 as requiring an approval" after "that is designated by the regulations as requiring an approval or registration".

6 Section 61 is amended by adding "or that is redesignated under section 66.1 as requiring an approval" after "that is designated by the regulations as requiring an approval or registration".

7 The following is added after section 66:

Director's discretion

66.1(1) Where

- (a) an application has been made for registration relating to an activity that is designated in the regulations as an activity in respect of which registration is required, and
- (b) the Director is of the opinion that an approval is necessary to address environmental protection in respect of the activity,

the Director may by notice in writing to the applicant

- (c) redesignate the activity as an activity in respect of which an approval is required notwithstanding the regulations, and
- (d) deem the application to be an application for an approval.

(2) Where

- (a) a notice has been given under section 87 or 88 relating to an activity that is designated in the regulations as an activity in respect of which notice to the Director under Part 3 must be given, and
- (b) the Director is of the opinion that an approval is necessary to address environmental protection in respect of the activity,

the Director may by notice in writing to the person giving the notice

- (c) redesignate the activity as an activity in respect of which an approval is required notwithstanding the regulations, and
- (d) deem the notice to be an application for an approval.

Bill 57

**MISCELLANEOUS STATUTES
AMENDMENT ACT, 2003 (NO. 2)**

Chapter 42

(Assented to December 4, 2003)

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

**Apprenticeship and
Industry Training Act**

Amends RSA 2000 cA-42

1(1) The *Apprenticeship and Industry Training Act* is amended
by this section.

(2) Section 2 is amended

(a) in subsection (2)(a) by striking out "presiding officer"
and substituting "chair";

(b) in subsection (3) by striking out "presiding officer"
wherever it occurs and substituting "chair".

(3) Section 4(4) is amended by striking out "presiding officer"
and substituting "chair".

Builders' Lien Act

Amends RSA 2000 cB-7

2 The *Builders' Lien Act* is amended in section 36(1) and (2)
by striking out "Minister of Resource Development" wherever it
occurs and substituting "Minister of Energy".

(4) Section 21(2) is amended by striking out "Section 20(3) to (5)" and substituting "Section 20(2) to (5)".

(5) Section 22(2) is amended by striking out "Section 20(3) to (5)" and substituting "Section 20(2), (4) and (5)".

(6) Section 40 is amended

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

Limitation periods

40(1) Subject to subsection (3), any limitation period applicable to a cause of action asserted in a proceeding, whether or not the proceeding is ultimately certified, is suspended in favour of a person if another proceeding is commenced and it is reasonable for the person to assume that he or she is a class member or subclass member for the purposes of that other proceeding.

(1.1) Subject to subsection (3), where

- (a) a limitation period is suspended under subsection (1) in favour of a person on account of another proceeding being commenced; and
- (b) the application to certify that other proceeding is dismissed, denied, discontinued or abandoned,

the limitation period that was suspended under subsection (1) resumes running against that person when the application to certify is dismissed, denied, discontinued or abandoned.

(1.2) Subject to subsection (3), where

- (a) a limitation period is suspended under subsection (1) in favour of a person on account of another proceeding being commenced;
- (b) that other proceeding is certified, and
- (c) at any time after that other proceeding is certified any one of the clauses of subsection (2) becomes applicable in respect of that person as though he or she were the member referred to in subsection (2),

the limitation period that was suspended under subsection (1) resumes running against that person when any one of the clauses of subsection (2) becomes applicable in respect of that person.

- (b) in subsection (3) by striking out "subsection (2)" and substituting "subsection (1), (1.1), (1.2) or (2)".

Cooperatives Act

Amends SA 2001 cC-28.1

5 The *Cooperatives Act* is amended in section 366

- (a) by repealing clause (g) and substituting the following:
- (g) it is, in respect of a commercial vehicle as defined in the *Traffic Safety Act*, the holder of a certificate of registration under the *Traffic Safety Act*, unless it neither picks up nor delivers goods or passengers in Alberta,
- (b) in clause (h) by striking out "issued by the Alberta Motor Transport Board" and substituting "as defined in section 130 of the *Traffic Safety Act*".

Environmental Protection and Enhancement Act

Amends RSA 2000 cE-12

6(1) The *Environmental Protection and Enhancement Act* is amended by this section.

(2) Section 1(g) is amended by striking out "Appeal" and substituting "Appeals".

(3) The heading following section 89 is repealed and the following is substituted:

Part 4 Environmental Appeals Board

(4) Section 90(1) is amended by striking out "Appeal" and substituting "Appeals".

(5) Section 91 is amended

(a) in subsection (1)(n) by striking out "section 227" and substituting "section 237";

(b) in subsection (5) by striking out "expiry of the period" and substituting "expiry of the appeal period".

(6) Section 95(5)(a)(ii) is amended by adding "of this Act or section 115(1)(a)(i) or (ii), (b)(i) or (ii), (c)(i) or (ii), (e) or (r) of the *Water Act*" after "section 91(1)(a)(i) or (ii), (g)(ii) or (m)".

(7) Section 97(4) is amended by striking out "Appeal" and substituting "Appeals".

(8) Section 220(e) is amended by striking out "Appeal" and substituting "Appeals".

(9) Section 237(4) is amended by striking out "Environmental Appeal Board" and substituting "Environmental Appeals Board".

(10) The *Agricultural Operation Practices Act* is amended

(a) in section 20(1)(b)(vii) and (viii) by striking out "Appeal" and substituting "Appeals";

(b) in section 25(2)(d) and (4)(j) by striking out "Appeal" wherever it occurs and substituting "Appeals".

(11) The *Financial Statutes Amendment Act, 2003* is amended in section 1(21) in the new Part 6 by striking out "Environmental Appeal Board" and substituting "Environmental Appeals Board".

(12) The *North Red Deer Water Authorization Act* is amended in section 2 by striking out "Environmental Appeal Board" and substituting "Environmental Appeals Board".

(13) The *Water Act* is amended

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

(s) "Environmental Appeals Board" means the Environmental Appeals Board established under Part 4 of the *Environmental Protection and Enhancement Act*;

(b) in section 114 by striking out "Environmental Appeal Board" and substituting "Environmental Appeals Board";

(c) in section 115(1) by striking out "Environmental Appeal Board" and substituting "Environmental Appeals Board";

(d) in section 116 by striking out "Environmental Appeal Board" wherever it occurs and substituting "Environmental Appeals Board";

(e) in section 152(3) by striking out "Environmental Appeal Board" and substituting "Environmental Appeals Board";

(f) in section 157(e) by striking out "Appeal" and substituting "Appeals".

Bill 29
Mr. Mitzel

**ENVIRONMENTAL PROTECTION AND
ENHANCEMENT AMENDMENT ACT, 2006**

Chapter 15

(Assented to May 24, 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

Bill 23

**UNCLAIMED PERSONAL PROPERTY
AND VESTED PROPERTY ACT**

Chapter U-1.5

(Assented to December 7, 2007)

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**Division 1
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- 16 Duties of holder

delivered to the Minister responsible for the *Unclaimed Personal Property and Vested Property Act* in accordance with that Act.

Amends RSA 2000 cC-21

69(1) The *Companies Act* is amended by this section.

(2) Section 206(1) is amended by adding “within 5 years from the date on which the company was struck off the register” after “on the application of the company or member or creditor”.

(3) Section 270 is amended

- (a) In subsection (1) by striking out “to the Public Trustee that share of the property of the company belonging to the member to be held in trust for the member, and thereupon subsections (5), (6), (7), (8) and (9) apply thereto” and substituting “to the Minister responsible for the *Unclaimed Personal Property and Vested Property Act* that share of the property of the company belonging to the member to be held in trust for the member in accordance with that Act”;**
- (b) In subsection (3) by striking out “to the Public Trustee an amount equal to the amount of the debt due to the creditor to be held in trust for the creditor and thereupon subsections (6), (7), (8) and (9) apply thereto” and substituting “to the Minister responsible for the *Unclaimed Personal Property and Vested Property Act* an amount equal to the amount of the debt due to the creditor to be held in trust for the creditor in accordance with that Act”;**
- (c) by repealing subsections (5), (6), (7), (8) and (9).**

Amends SA 2001 cC-28.1

70(1) The *Cooperatives Act* is amended by this section.

(2) Section 328 is amended

- (a) In subsection (1) by striking out “the Minister of Finance for payment into the General Revenue Fund” and substituting “the Minister responsible for the *Unclaimed Personal Property and Vested Property Act*”;**

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

(3) A person who asserts an entitlement to any money paid to the Minister responsible for the *Unclaimed Personal Property and Vested Property Act* must submit a claim in accordance with that Act.

- (3) Section 329 is amended

- (a) in subsection (1) by adding "within 5 years of the date of dissolution" after "may apply to the Director";
- (b) by adding the following after subsection (1):

(1.1) A cooperative may not be revived after the expiry of 5 years from the date of dissolution.

(1.2) Notwithstanding subsection (1.1), a cooperative that was dissolved before the coming into force of the *Unclaimed Personal Property and Vested Property Act* may be revived at any time within 5 years after the coming into force of that Act.

- (4) Section 330(2) is repealed and the following is substituted:

- (2) If a cooperative is revived as a cooperative,
- (a) any property of the cooperative that has not been paid, transferred or delivered to the Minister responsible for the *Unclaimed Personal Property and Vested Property Act* remains the property of the cooperative, and
- (b) the cooperative may make a claim for any of the cooperative's property that has been paid, transferred or delivered to the Minister responsible for the *Unclaimed Personal Property and Vested Property Act* in accordance with that Act.

Amends RSA 2000 cE-12

71 The *Environmental Protection and Enhancement Act* is amended in section 1(ff) by striking out "or" at the end of subclause (v), adding ", or" at the end of subclause (vi) and adding the following after subclause (vi):





- (vii) the Minister responsible for the *Unclaimed Personal Property and Vested Property Act*, with respect to a parcel of land to which that Act applies, unless after the date on which the Minister takes possession of the parcel of land the actions of the Minister or persons under the control of the Minister release 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;

Amends RSA 2000 cM-14

72 The *Metis Settlements Act* is amended in section 222(1)(v) by striking out "the *Ultimate Heir Act*" and substituting "the *Unclaimed Personal Property and Vested Property Act*".

Amends RSA 2000 cM-26

73 The *Municipal Government Act* is amended

- (a) in section 412(1) by striking out "and" at the end of clause (b) and adding the following after clause (b):
- (b.1) send a copy of the tax arrears list to the Minister responsible for the *Unclaimed Personal Property and Vested Property Act*, and
- (b) in section 427(3.1)
- (i) by striking out "If" and substituting "Subject to subsection (3.3), if";
- (ii) by adding the following after subsection (3.2):
- (3.3) For the purposes of this Division, "previous owner" includes the Crown in right of Alberta if the municipality has been notified by the Minister responsible for the *Unclaimed Personal Property and Vested Property Act* that the land has vested in the Crown, and any money remaining after payment of the tax arrears and costs set out in subsection (2) must be paid to the Minister responsible for the *Unclaimed Personal Property and Vested Property Act*.

TAB N

Chapter Q-2

ENVIRONMENT QUALITY ACT

CHAPTER I

PROVISIONS OF GENERAL APPLICATION

DIVISION I

DEFINITIONS

Interpretation: 1. In this Act, unless the context indicates a different meaning, the following words and expressions mean or designate:

"water"; (1) "water": surface water and underground water wherever located;

"atmosphere"; (2) "atmosphere": the ambient air surrounding the earth, excluding the air within any structure or underground space;

"soil"; (3) "soil": any land or underground space even if submerged in water, including an area of land covered by a structure;

"environment"; (4) "environment": the water, atmosphere and soil or a combination of any of them or, generally, the ambient milieu with which living species have dynamic relations;

"contaminant"; (5) "contaminant": a solid, liquid or gaseous matter, a microorganism, a sound, a vibration, rays, heat, an odour, a radiation or a combination of any of them likely to alter the quality of the environment in any way;

"pollutant"; (6) "pollutant": a contaminant or a mixture of several contaminants present in the environment in a concentration or quantity greater than the permissible level determined by regulation of the Government, or whose presence in the environment is prohibited by regulation of the Government;

"pollution"; (7) "pollution": the condition of the environment when a pollutant is present;

"source of contamination"; (8) "source of contamination": any activity or condition causing the emission of a contaminant into the environment;

"person"; (9) "person": a natural person, partnership, cooperative or a legal person other than a municipality;

"municipality"; (10) "municipality": any municipality, the Communauté métropolitaine de Montréal, the Communauté métropolitaine de Québec, as well as an intermunicipal management board;

"residual materials"; (11) "residual materials": any residue resulting from a production, treatment or utilization process and any substance, material or product or, more generally, any object that is discarded or that the holder intends to discard;

(12) *(paragraph replaced)*;

"ray"; (13) "ray": any transmission of energy in the form of particles or electromagnetic waves with or without production of ions when they pass through matter;

"material wave"; (14) "material wave": a line or surface propagated by shock or vibration of gaseous, liquid or solid matter including infrasounds (0 to 16 Hertz), sounds (16Hz to 16KHz) including shock waves, ultrasounds (16KHz to MHz), and any mechanical oscillation;

ENVIRONMENT QUALITY

Provisions not applicable.

19.7. Sections 19.2 to 19.6 do not apply in the case where a depollution project, land rehabilitation plan or program has been duly authorized or approved under this Act, or in the case where a depollution attestation has been issued under this Act, except with regard to any act contrary to the provisions of a certificate of authorization, a rehabilitation plan, a depollution program, a depollution attestation or any applicable regulation.

1978, c. 64, s. 4; 1988, c. 49, s. 3; 2002, c. 11, s. 1.

DIVISION IV

PROTECTION OF THE ENVIRONMENT

Emission of a contaminant.

20. No one may emit, deposit, issue or discharge or allow the emission, deposit, issuance or discharge into the environment of a contaminant in a greater quantity or concentration than that provided for by regulation of the Government.

Emission of a contaminant.

The same prohibition applies to the emission, deposit, issuance or discharge of any contaminant the presence of which in the environment is prohibited by regulation of the Government or is likely to affect the life, health, safety, welfare or comfort of human beings, or to cause damage to or otherwise impair the quality of the soil, vegetation, wildlife or property.

1972, c. 49, s. 20.

Accident.

21. Whoever is responsible for the accidental presence in the environment of a contaminant contemplated in section 20 must advise the Minister without delay.

1972, c. 49, s. 21; 1979, c. 49, s. 33; 1988, c. 49, s. 38.

Certificate.

22. No one may erect or alter a structure, undertake to operate an industry, carry on an activity or use an industrial process or increase the production of any goods or services if it seems likely that this will result in an emission, deposit, issuance or discharge of contaminants into the environment or a change in the quality of the environment, unless he first obtains from the Minister a certificate of authorization.

Certificate of authorization.

However, no one may erect or alter any structure, carry out any works or projects, undertake to operate any industry, carry on any activity or use any industrial process or increase the production of any goods or services in a constant or intermittent watercourse, a lake, pond, marsh, swamp or bog, unless he first obtains a certificate of authorization from the Minister.

Application.

The application for authorization must include the plans and specifications of the structure or project to use the industrial process, operate the industry or increase production and must contain a description of the apparatus or activity contemplated, indicate its precise location and include a detailed evaluation in accordance with the regulations of the Government of the quantity or concentration of contaminants expected to be emitted, deposited, issued or discharged into the environment through the proposed activity.

Requirements.

The Minister may also require from the applicant any supplementary information, research or assessment statement he may consider necessary to understand the impact the project will have on the environment and to decide on its acceptability, unless the project has already been the subject of a certificate of authorization issued under section 31.5, 31.6, 134 or 189, of an authorization issued under section 167 or 203 or of a certificate of exemption from the assessment and review procedure issued under section 154 or 189.

1972, c. 49, s. 22; 1978, c. 64, s. 5; 1979, c. 49, s. 33; 1988, c. 49, s. 4.

Requirements.

23. In the case of an application for authorization relating to certain classes of projects, activities or industries likely to harm or destroy the surface of the soil and determined by regulation of the Government, the applicant must submit a land reclamation plan as well

as any guarantee exigible, the whole in accordance with the standards, terms and conditions prescribed by regulation of the Government.

1972, c. 49, s. 23.

Compliance with Act.

24. The Minister shall, before giving his approval to an application made under section 22, ascertain that the emission, deposit, issuance or discharge of contaminants into the environment will be in accordance with the Act and regulations. He may, for that purpose, require any alteration in the plan or project submitted.

Certificate non-transferable.

A certificate of authorization issued under section 22 is non-transferable, except where the Minister authorizes the transfer on such conditions as he shall determine.

1972, c. 49, s. 24; 1979, c. 49, s. 33; 1988, c. 49, s. 5.

Administrative certificate.

24.1. On the application of the holder of several certificates of authorization issued under section 22 relating to the same works or establishment, the same activity or the same work, the Minister may, on the conditions the Minister determines, combine the certificates of authorization into a single certificate, referred to as an "administrative certificate".

Prohibition.

When issuing an administrative certificate, the Minister may not make any modification to the conditions set out in the certificates of authorization so combined that would have the effect of either reducing the protection of the environment ensured by those conditions or subjecting the holder to new obligations.

2002, c. 35, s. 2.

Administrative certificate.

24.2. From the date of its issue, the administrative certificate replaces the certificates of authorization it combines, which cease to have effect without prejudice, however, to any offences committed, proceedings instituted or penalties incurred before that date in relation to those certificates.

2002, c. 35, s. 2.

Administrative certificate.

24.3. Once issued, the administrative certificate stands in lieu of the certificate of authorization as if it had been issued under section 22 and is considered to be a certificate of authorization for the purposes of this Act.

2002, c. 35, s. 2.

24.4. (Repealed).

2002, c. 35, s. 2; 2002, c. 53, s. 1.

Cessation.

25. When he ascertains the presence in the environment of a contaminant contemplated in section 20, the Minister may order whoever is responsible for the source of contamination to cease finally or temporarily or to limit, according to the conditions prescribed by him, the emission, deposit, issuance or discharge of such contaminant.

Service of notice.

Before issuing an order, the Minister shall, as prescribed by section 5 of the Act respecting administrative justice (chapter J-3), notify to whoever is responsible for the source of contamination prior notice of not less than 15 days setting out the reasons which appear to justify an order, the date on which it is to have effect and the fact that whoever is responsible for the contamination may present observations. The prior notice shall be accompanied with a copy of every analysis, study or other technical report considered by the Minister for the purposes of the proposed order.

Notice transmitted and published.

The Minister shall transmit a copy of the prior notice to any person who has submitted to him a sworn complaint in respect of the object of such notice. Notice of the contemplated order shall be published in a daily newspaper circulated in the region in which the contemplated source of contamination is located.

ENVIRONMENT QUALITY

Notice to secretary-treasurer.

The Minister shall also transmit a copy of the prior notice to the secretary-treasurer or clerk of the municipality in whose territory the contemplated source of contamination is located. The latter shall place the prior notice at the disposal of the public for the period of 15 days provided for in the second paragraph.

Statement of grounds.

The order shall include a statement of the grounds invoked by the Minister. It shall take effect on the date it is notified to whoever is responsible for the source of contamination or on any later date indicated in the order.

1972, c. 49, s. 25; 1978, c. 64, s. 6; 1979, c. 49, s. 33; 1986, c. 95, s. 272; 1988, c. 49, s. 38; 1996, c. 2, s. 841; 1997, c. 43, s. 508.

Exception.

26. The Minister may, however, without prior notice but for a period of not over 30 days, order whoever is responsible for a source of contamination to cease or abate to the extent that he determines, the emission, deposit, issuance or discharge of a contaminant when in his opinion an immediate danger results to the life or health of persons or a danger of serious or irreparable damage to property.

Contents of order.

Such order must contain a summary of the reasons of the Minister. It shall take effect on the date of its notification upon the one responsible for the source of contamination.

1972, c. 49, s. 26; 1979, c. 49, s. 33; 1986, c. 95, s. 273; 1988, c. 49, s. 38; 1997, c. 43, s. 509.

Apparatus.

27. The Minister may, when he considers it necessary in order to ensure the protection or sanitary condition of the environment, order whoever is responsible for a source of contamination to use any class or type of apparatus which he indicates to abate or eliminate the emission, deposit, issuance or discharge of a contaminant.

Installation.

He may, likewise, when he considers it necessary in order to ensure the supervision of the environmental quality, order whoever is responsible for a source of contamination to install, within the delays and at the place designated by him, any class or type of equipment or apparatus for measuring the concentration, quality or quantity of any contaminant and oblige the person responsible for the source of contamination to send the data collected according to the terms and conditions that he determines.

Installation.

He may, finally, order whoever is responsible for a source of contamination to install, within the delays and at the place designated by him, all the works that he considers necessary to enable the sampling and analysis of any source of contamination or the installation of any equipment or apparatus described in the preceding paragraph.

1972, c. 49, s. 27; 1979, c. 49, s. 33; 1988, c. 49, s. 38.

Re landscaping.

27.1. The Minister may order the operator of any quarry or sand pit already in operation, to prepare and implement a re landscaping program, according to the conditions indicated by him.

Prior notice.

That order must be preceded by the prior notice and other formalities provided for in section 25.

1978, c. 64, s. 7; 1979, c. 49, s. 33; 1988, c. 49, s. 38.

28. (Repealed).

1972, c. 49, s. 28; 1979, c. 49, s. 33; 1988, c. 49, s. 6.

Order.

29. The Minister may, after inquiry, order a municipality to exercise the powers relating to the quality of the environment conferred on such municipality by this Act or by any other general law or special Act.

1972, c. 49, s. 29; 1977, c. 5, s. 14; 1978, c. 64, s. 8; 1984, c. 38, s. 158; 1987, c. 25, s. 3; 1988, c. 84, s. 705; 1990, c. 26, s. 1.

29.1. (Repealed).

1994, c. 41, s. 2; 1999, c. 75, s. 54.

30. (Repealed).

1972, c. 49, s. 30; 1979, c. 49, s. 33; 1988, c. 49, s. 38; 1990, c. 26, s. 2.

Regulations.

31. The Government may make regulations to:

- (a) classify contaminants and sources of contamination;
- (b) withdraw classes of contaminants or sources of contamination from the application of this Act or from any part of it;
- (c) prohibit, limit and control sources of contamination as well as the emission, deposit, issuance or discharge into the environment of any class of contaminants throughout all or part of the territory of Québec;
- (d) determine for any class of contaminants or sources of contamination a maximum permissible quantity or concentration of emission, deposit, issuance or discharge into the environment throughout all or part of the territory of Québec;
- (e) define standards for the protection and quality of the environment or any of its parts throughout all or part of the territory of Québec;
 - (e.1) establish measures providing for the use of economic instruments, including tradeable permits, emission, effluent and waste-disposal fees or charges, advance elimination fees or charges, and fees or charges related to the use, management or purification of water, for the purpose of protecting the environment and achieving environmental quality objectives for all or any part of the territory of Québec, and establish any rule necessary or relevant to the functioning of the measures pertaining in particular to the determination of the persons or municipalities required to pay such fees or charges, the conditions applicable to their collection and the interest and penalties exigible in case of non-payment;
- (f) determine the terms and conditions whereunder an application for a certificate of authorization of plans and specifications or projects must be made to the Minister under sections 22 and 24, classify for that purpose the structures and industrial processes, industries, works, activities and projects and, as the case may be, withdraw certain classes of them from all or part of this Act;
- (g) determine the form and tenor of any authorization certificate, certificate, authorization, permit, permission or approval granted under this Act or a regulation thereunder;
 - (g.1) prescribe, in cases where a person responsible for a source of contamination has, in accordance with sections 116.2 to 116.4, submitted a depollution program to the Minister and received the Minister's approval, annual duties payable by the person or a method and factors for the computation of such duties, together with the time and the terms and conditions of payment. The annual duties may vary according to certain factors such as
 - i. the class of the source of contamination;
 - ii. the territory in which the source of contamination is located;
 - iii. the nature or extent of the emission of contaminants into the environment;
 - iv. the duration of the depollution program;

(6.1) prescribe, for the holder of a depollution attestation, annual duties which may vary depending on one or several of the following factors:

- (a) one of the factors referred to in paragraph 6;
- (b) the nature or extent of the discharge of contaminants resulting from the operation of the industrial establishment;
- (c) the period during which the operator is the holder of a depollution attestation;

(6.2) determine the periods during which the annual fees must be paid and the terms and conditions of payment;

(7) determine which classes of natural persons must sign applications or reapplications for a depollution attestation or applications to amend a depollution attestation under subdivision 1 of this division, as well as the documents to be included therein and determine which classes of natural persons must sign the statements of results or reports furnished to the Minister under subdivision 1 of this division;

(8) indicate the records that must be kept and preserved by every holder of a depollution attestation, the conditions which apply to keeping and preserving such records and determine the form and content thereof, as well as the period for which they must be preserved;

(9) indicate the reports which must be furnished to the Minister by every holder of a depollution attestation and determine the form and content thereof, as well as the date on which and the manner in which they must be transmitted;

(9.1) determine the form and content of the technical report to be submitted by the holder of a depollution attestation in the cases provided for in the second paragraph of section 31.23 and determine the qualifications required of the natural persons who may prepare and sign such reports;

(10) prescribe, for every holder of a depollution attestation, the time within which and manner in which he must inform the Minister in the cases provided for in paragraph 8 of section 31.23;

(11) prescribe the documents which must be included in the application record and prescribe the duration of any consultation period exceeding the minimum period contemplated in section 31.21 during which the Minister shall make the application record available for public consultation;

(12) *(paragraph repealed)*;

(13) determine the cases in which sections 31.18 to 31.21.1 apply to applications to amend a depollution attestation and the cases in which the second paragraph of section 31.19 and sections 31.20 to 31.21.1 apply to reapplications for a depollution attestation;

(14) *(paragraph repealed)*;

(15) determine the time limits to be respected by the holder of a depollution attestation when applying to the Minister to revoke the attestation in the case of cessation of the operations of the industrial establishment;

(16) exempt from the application of part of this Act certain classes of constructions, works, activities and projects carried out on the site of an industrial establishment, or on part of such a site, for which a depollution attestation has been issued, and certain classes of industrial processes used in the operation of the establishment.

1988, c. 49, s. 8; 1991, c. 30, s. 22; 1995, c. 53, s. 6; 2002, c. 35, s. 6; 2002, c. 53, s. 4.

DIVISION IV.2.1

LAND PROTECTION AND REHABILITATION

"land": **31.42.** For the purposes of this division, "land" includes the groundwater and surface water present.

1990, c. 26, s. 4; 1997, c. 43, s. 518; 2002, c. 11, s. 2.

§ 1. — *General powers of the Minister relating to land characterization and rehabilitation*

Contaminants.

31.43. Where it appears to the Minister that contaminants are present in the land in a concentration exceeding the limit values prescribed by a regulation made under section 31.69, or that the contaminants, even though they are not determined in the regulation, are likely to adversely affect the life, health, safety, welfare or comfort of human beings, other living species or the environment in general; or to be detrimental to property, the Minister may order any person or municipality that,

— even before the coming into force of this section, had emitted, deposited, released or discharged all or part of the contaminants or had allowed the contaminants to be emitted, deposited; released or discharged ; or

— after the coming into force of this section, has or has had custody of the land as owner or lessee or in any other capacity,

to submit for the Minister's approval within the time specified a rehabilitation plan setting out the measures that will be implemented to protect human beings, the other living species and the environment in general, including property, together with an implementation schedule.

Exception.

Such an order may not be made against a person or municipality that has or has had custody of the land as owner or lessee or in any other capacity, where

(1) it is established that the person or municipality was unaware of and had no reason to suspect the presence of contaminants in the land, having regard to the circumstances, practices and duty of care ;

(2) it is established that, once becoming aware of the presence of contaminants in the land, the person or municipality acted in conformity with the law, as to the custody of the land, in particular as regards the duty of care and diligence ; or

(3) it is established that the presence of contaminants in the land results from outside migration from a source attributable to a third person.

1990, c. 26, s. 4; 1997, c. 43, s. 519; 2002, c. 11, s. 2.

Registration.

31.44. An order under section 31.43 must require a notice of contamination containing the information set out in section 31.58, with the necessary modifications, to be registered without delay in the land register.

Notification.

The order must be notified to the owner of the land and to every holder of a real right registered in the land register.

1990, c. 26, s. 4; 1997, c. 43, s. 520; 2002, c. 11, s. 2.

Rehabilitation plan.

31.45. The rehabilitation plan submitted under section 31.43 may provide that contaminants in a concentration exceeding the regulatory limit values are to be left in the land, on the condition, however, that a toxicological and ecotoxicological risk assessment and groundwater impact assessment be submitted with the plan.

Land use restrictions.

In such case, the plan must contain a statement of the land use restrictions that will apply, in particular the resulting charges and obligations.

1990, c. 26, s. 4; 2002, c. 11, s. 2.

Approval.

31.46. Approval of the rehabilitation plan may be subject to conditions. Subject to the provisions of the second paragraph, the Minister may amend the rehabilitation plan or implementation schedule submitted, or order that a new plan or schedule be submitted within the time specified.

Notice.

The Minister shall notify all documents submitted for the Minister's approval to any land owner not subject to the order, with a notice indicating the time within which the owner may present observations. If the rehabilitation plan provides for land use restrictions, the Minister shall not approve it unless the owner has given consent in writing to the plan and the consent document accompanies the plan submitted for approval. Furthermore, an amendment made by the Minister to a rehabilitation plan may take effect only if the owner has consented in writing to the amendment.

1990, c. 26, s. 4; 1997, c. 43, s. 521; 2002, c. 11, s. 2.

Registration.

31.47. If the rehabilitation plan approved by the Minister provides for land use restrictions, the person or municipality having submitted the plan shall, as soon as possible following the approval, apply for registration in the land register of a notice of use restriction containing, in addition to the description of the land,

- (1) the name and address of the applicant for registration ;
- (2) a description of the work or works required under the rehabilitation plan and a statement of the land use restrictions including the resulting charges and obligations ; and
- (3) an indication of the place where the rehabilitation plan may be consulted.

Copies.

In addition, the applicant must immediately transmit to the Minister and to the owner of the land a duplicate of the notice bearing a registration certificate or a copy of the notice certified by the land registrar. On receipt of the document, the Minister shall transmit a copy to the municipality in which the land is situated ; if the land is situated in a territory referred to in section 133 or 168 that is not constituted as a municipality, the document is transmitted to the body designated by the Minister.

Registration.

Registration of the notice renders the rehabilitation plan effective against third persons and any subsequent acquirer of the land is bound by the charges and obligations provided for in the rehabilitation plan as regards land use restrictions.

1990, c. 26, s. 4; 1997, c. 43, s. 522; 2000, c. 42, s. 207; 2002, c. 11, s. 2.

Certificate.

31.48. As soon as the work or works made necessary by the implementation of a rehabilitation plan approved by the Minister have been completed, the person or municipality required to carry out the work or works shall transmit to the Minister a certificate of an expert referred to in section 31.65 stating that they were carried out in accordance with the plan.

1990, c. 26, s. 4; 1997, c. 43, s. 523; 1999, c. 40, s. 239; 2000, c. 42, s. 208; 2002, c. 11, s. 2.

Characterization study.

31.49. Where the Minister has reason to believe that contaminants referred to in section 31.43 may be present in land, the Minister may order any person or municipality that, in the Minister's opinion, could be subject to an order under that section, to perform a characterization study on the conditions and within the time specified.

Notification.

The Minister's order must be notified to the owner of the land and to every holder of a real right registered in the land register.

1990, c. 26, s. 4; 2002, c. 11, s. 2.



Order. **31.50.** An order under section 31.43 or 31.49 is without prejudice to civil remedies available to the person or municipality subject to the order for the total or partial recovery of the costs incurred to comply with the order or of any increase in the value of the land as a result of the rehabilitation.

1990, c. 26, s. 4; 2000, c. 42, s. 209; 2002, c. 11, s. 2.

§ 2. — *Special provisions relating to certain industrial or commercial activities*

Characterization study. **31.51.** A person who permanently ceases an industrial or commercial activity of a category designated by regulation of the Government is required to perform a characterization study of the land on which the activity was carried on within six months of the cessation or within such additional time as the Minister may grant, subject to the conditions fixed by the Minister, with a view to the resumption of activity. Upon completion, the study must be transmitted to the Minister and to the owner of the land.

Contaminants. If the characterization study reveals the presence of contaminants in a concentration exceeding the regulatory limit values, the person who carried on the activity concerned is required to transmit for the Minister's approval, as soon as possible after being informed of the presence of the contaminants, a rehabilitation plan setting out the measures that will be implemented to protect human beings, the other living species and the environment in general, including property, together with an implementation schedule and, where applicable, a plan for the dismantling of the installations on the land.

Provisions applicable. The provisions of sections 31.45 to 31.48 apply in such a case, with the necessary modifications.

1990, c. 26, s. 4; 2002, c. 11, s. 2.

Characterization study. **31.51.1.** The owner or operator of a tank that is part of a petroleum equipment installation within the meaning of the Building Act (chapter B-1.1) must, in the cases, under the conditions and within the time limits prescribed by regulation, notify the Minister and perform or commission a characterization study of all or part of the land where the tank is located. If the characterization study reveals the presence of contaminants in a concentration exceeding the regulatory limit values, the owner or operator must present to the Minister, for approval, a rehabilitation plan setting out the measures that will be implemented to protect human beings, the other living species and the environment in general, including property, together with an implementation schedule.

Provisions applicable. Sections 31.46 to 31.48 apply in such a case, with the necessary modifications.
2005, c. 10, s. 70.

Notice. **31.52.** A person who, as owner or lessee or in any other capacity, has the custody of land in which contaminants resulting from an industrial or commercial activity of a category designated by regulation of the Government are found in a concentration exceeding the regulatory limit values is required, on being informed of the presence of the contaminants at the limits of the land or of a serious risk of off-site contamination which could compromise a use of water, to give immediate notice thereof in writing to the owner of the neighbouring land concerned. A copy of the notice must also be transmitted to the Minister.

Notification. The person who has the custody of land referred to in the first paragraph is also required to notify the Minister on being informed of any serious risk of off-site contamination.

1990, c. 26, s. 4; 1999, c. 75, s. 10; 2002, c. 11, s. 2.

§ 3. — *Change in land use*

Site characterization study.

31.53. Any person intending to change the use of land where an industrial or commercial activity of a category designated by regulation of the Government has been carried on is required to first perform a site characterization study unless such a study is already available and a certificate of an expert referred to in section 31.65 states that the study meets the requirements of the guide prepared by the Minister under section 31.66 and is still current.

Characterization study and certificate.

The characterization study, once completed, and the certificate, if any, must be transmitted to the Minister and to the owner of the land unless the documents have previously been so transmitted.

Change in use of land.

The carrying on of an activity different from the activity previously carried on, whether it is a new industrial or commercial activity of a category designated by regulation of the Government or any other activity, in particular an industrial, commercial, institutional, agricultural or residential activity, constitutes a change in the use of the land within the meaning of this section.

2002, c. 11, s. 2; 2004, c. 24, s. 6.

Approval.

31.54. Any change in the use of land referred to in section 31.53 is subject to the Minister's approval of a rehabilitation plan if contaminants are present in the land in a concentration exceeding the regulatory limit values.

Rehabilitation plan.

The rehabilitation plan must be transmitted to the Minister, together with an implementation schedule, and set out the measures that will be implemented to protect human beings, the other living species and the environment in general, including property. The plan must also indicate any measures intended to render the projected land use consistent with the condition of the land.

2002, c. 11, s. 2.

Rehabilitation plan.

31.55. The rehabilitation plan referred to in section 31.54 may provide that contaminants in a concentration exceeding the regulatory limit values are to be left in the land, on the condition, however, that a toxicological and ecotoxicological risk assessment and groundwater impact assessment be submitted with the plan.

Notice.

In such a case, the person submitting the plan must inform the public by means of a notice published in a newspaper circulated in the municipality in which the land is situated and containing

(1) a description of the land and the name and address of the owner ;

(2) a summary of the land use change proposal, the characterization study, the toxicological and ecotoxicological risk assessment and groundwater impact assessment and the proposed rehabilitation plan ;

(3) the date, time and place in the municipality where a public information meeting is to be held, which may not take place until ten days have elapsed after publication of the notice ; and

(4) a statement that the full text of each document referred to in subparagraph 2 may be examined at the office of the municipality.

Report.

A report of the observations made at the public meeting and a copy of the public notice published in the newspaper must accompany the rehabilitation plan submitted for approval. The report may also be examined at the office of the municipality.

2002, c. 11, s. 2.

Provisions applicable. **31.56.** The provisions of sections 31.45 to 31.48 apply, with the necessary modifications, to the rehabilitation plan.

2002, c. 11, s. 2.

§ 4. — *Voluntary land rehabilitation*

Approval. **31.57.** Any person intending to rehabilitate all or any part of contaminated land on a voluntary basis without being required to do so under a provision of this division and to leave contaminants in the land in a concentration exceeding the regulatory limit values shall, before any work is undertaken, submit for the Minister's approval a rehabilitation plan setting out the measures that will be implemented to protect human beings, the other living species and the environment in general, including property, together with an implementation schedule and a toxicological and ecotoxicological risk assessment and groundwater impact assessment. A characterization study must also be submitted with the rehabilitation plan.

Provisions applicable. The provisions of sections 31.45 to 31.48 apply in such a case, with the necessary modifications.

2002, c. 11, s. 2.

§ 5. — *Contamination and decontamination notices*

Registration. **31.58.** Where a characterization study performed pursuant to this Act reveals the presence in land of contaminants in a concentration exceeding the regulatory limit values, the person or municipality who had the study performed shall apply for registration in the land register of a notice of contamination on being informed of the presence of such contaminants.

Notice. The notice of contamination must contain, in addition to a description of the land,

- (1) the name and address of the applicant for registration of the notice and of the owner of the land ;
- (2) the name of the municipality in which the land is situated and the land use authorized by the zoning by-laws ; and
- (3) a summary of the characterization study, certified by an expert referred to in section 31.65, stating among other things the nature of the contaminants present in the land.

Copies. In addition, the person or municipality must transmit to the Minister and to the owner of the land a duplicate of the notice bearing a registration certificate or a copy of the notice, certified by the land registrar. On receipt of the document, the Minister shall transmit a copy to the municipality in which the land is situated ; if the land is situated in a territory referred to in section 133 or 168 that is not constituted as a municipality, the document is transmitted to the body designated by the Minister.

2002, c. 11, s. 2.

Registration. **31.59.** A person or municipality having registered a notice of contamination under section 31.58 or the owner of the land concerned may apply for registration in the land register of a notice of decontamination if decontamination work has been carried out and a subsequent characterization study has shown that no contaminants are present, or that contaminants are present in a concentration not exceeding the regulatory limit values.

Notice. The provisions of the second and third paragraphs of section 31.58 apply, with the necessary modifications, to the notice of decontamination. The notice must also mention any land use restrictions registered in the land register that have been rendered unnecessary as a result of the decontamination.

ENVIRONMENT QUALITY

Characterization study. The characterization study mentioned in the first paragraph shall be made available to the Minister.
2002, c. 11, s. 2.

§ 6. — General provisions

Amendment. **31.60.** The Minister may amend any rehabilitation plan approved pursuant to the provisions of this division on the request of the person or municipality required to implement the plan.

Notification. The request to amend the plan must be notified to any land owner not required to implement the plan, with a notice indicating the time within which the owner may present observations to the Minister. If the rehabilitation plan to be amended provides for land use restrictions, it may not be amended unless the owner has given consent in writing to the amendments and the consent document has been transmitted to the Minister with the request for amendment.

Registration. In addition, if an amendment to a rehabilitation plan is such that it modifies land use restrictions, the person or municipality requesting the amendment must immediately apply for registration of the amendment in the land register by means of a notice setting out the modifications. As of the registration of the notice, the amended rehabilitation plan is effective against third persons and any subsequent acquirer of the land is bound by the charges and obligations provided for in the rehabilitation plan as regards land use restrictions.

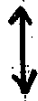
Applicability. The provisions of the last paragraph of section 31.58 apply, with the necessary modifications; to the notice.
2002, c. 11, s. 2.

Additional information. **31.61.** The Minister may require any person or municipality required to transmit a characterization study, a toxicological and ecotoxicological risk assessment and groundwater impact assessment or a land rehabilitation plan to the Minister, or any person or municipality requesting an amendment to an approved rehabilitation plan, to furnish any additional information, document, study or expert evaluation the Minister considers necessary to determine the nature and extent of the contamination involved, the risk and impacts for the environment or for human beings, and the effectiveness of the rehabilitation or protection measures.
2002, c. 11, s. 2.

Default. **31.62.** If a person or municipality fails to perform a characterization study or furnish any additional information, document, study or expert evaluation required under this division, or fails to apply for registration in the land register, the Minister may take any measure necessary to remedy the default.

Default. The same applies if a person or municipality fails to transmit or amend a land rehabilitation plan required under this division, or fails to carry out a land rehabilitation or decontamination plan as approved and according to the implementation schedule, or to comply with the conditions of the plan once it has been carried out. In such a case, the Minister may take any measure the Minister considers appropriate to decontaminate the land or to ensure the plan is implemented.

Costs. The Minister may, in the same manner as for any debt due to the State, recover from the person or municipality in default the direct and indirect costs incurred by reason of measures taken pursuant to this section.



- Legal hypothec.** Every amount due to the State under this section is secured by a legal hypothec on the movable and immovable property of the person in default.
2002, c. 11, s. 2.
- Free access to land.** **31.63.** The person who, as owner or lessee or in any other capacity, has the custody of the land shall give free access to the land at any reasonable time to any person required under this division to perform a characterization study or a toxicological and ecotoxicological risk assessment and groundwater impact assessment or to implement a rehabilitation plan, subject, however, to that person restoring the premises to their former state and compensating the owner or custodian of the land, as the case may be, for any damage.
2002, c. 11, s. 2.
- Exemption.** **31.64.** Work or works that are necessary to implement a land rehabilitation plan approved by the Minister under this division are exempt from the application of section 22.
2002, c. 11, s. 2.
- List of experts.** **31.65.** The Minister shall draw up and maintain a list of experts authorized to furnish the certificates required under this division and sections 120 and 121 of the Act respecting land use planning and development (chapter A-19.1). The list shall be made available to the public in the manner determined by the Minister.
- Conditions.** The conditions to be met for entry on the list, including the fees payable, shall be determined by the Minister after consultation with groups or organizations which in the Minister's opinion are comprised of persons having qualifications susceptible of satisfying those conditions. Once determined, the conditions must be published in the *Gazette officielle du Québec*.
2002, c. 11, s. 2.
- Guide.** **31.66.** The Minister shall prepare a guide setting out the objectives and elements to consider in performing a site characterization study, in particular as regards the assessment of soil quality and the impacts that contaminants present in the land may have on the groundwater and surface water.
- Consultation.** For that purpose, the Minister may consult any government department, group, body or person interested in the matter.
- Guide.** The guide shall be made available to the public in the manner determined by the Minister.
2002, c. 11, s. 2.
- Certification.** **31.67.** Every site characterization study performed under this division must be certified by an expert referred to in section 31.65.
- Certification.** In certifying a study, the expert shall attest that the study was performed in accordance with the guide prepared by the Minister and the requirements, if any, fixed by the Minister pursuant to section 31.49.
2002, c. 11, s. 2.
- List of contaminated lands.** **31.68.** Every municipality shall, on the basis of the notices registered in the land register pursuant to sections 31.44, 31.47, 31.58 and 31.59, prepare and maintain a list of contaminated lands situated in its territory; that obligation shall also apply, with the necessary modifications, to every body which, under the second paragraph of section 31.47 or the third paragraph of section 31.58, receives from the Minister a copy of a document referred to in those provisions. The information contained in the list is public information.

Additional fine. **109.1.2.** Where a person is convicted of an offence under a provision of this Act, a judge may, on an application by the prosecutor which is attached to the statement of offence, in addition to imposing any other penalty, impose an additional fine of an amount equal to the amount of the monetary benefit acquired by or accrued to the person as a result of the commission of the offence, notwithstanding any maximum fine elsewhere provided imposed upon him.

1988, c. 49, s. 23; 1992, c. 61, s. 498.

Party to the offence. **109.2.** A person who does or omits to do something in order to assist a person in committing an offence against this Act or who counsels, encourages or incites a person to commit an offence, also commits the offence and is liable to the same penalty.

1978, c. 64, s. 37.

Party to the offence. **109.3.** Every director or officer of a legal person who, by means of an order or authorization or through his advice or encouragement, leads the legal person to refuse or neglect to comply with an order or to emit, deposit, release or discharge a contaminant into the environment, in contravention of the provisions of this Act or the regulation hereunder, commits an offence and is liable to the same penalties as those prescribed in paragraph a of section 106.1.

1988, c. 49, s. 24; 1990, c. 26, s. 11; 1999, c. 40, s. 239.

Separate offence. **110.** Where an offence contemplated in sections 106 to 109 is continued for more than one day, it shall constitute a separate offence for each day during which it continues.

Separate offence. The person who continues, day after day, the use of a structure or industrial process, the operation of an industry, the carrying on of an activity or the production of any goods or services without holding the certificate of authorization required by section 22 or by section 31.1 is also guilty of a separate offence, day by day, to the extent that the said certificate is required. The sentences contemplated in section 106 apply to these offences.

1972, c. 49, s. 110; 1978, c. 64, s. 38; 1990, c. 4, s. 738.

Prescription. **110.1.** Penal proceedings in view of imposing a penal sanction for offences under this Act are prescribed by two years from the commission of the offence.

Prescription. Notwithstanding the foregoing, where false representations have been made to the Minister, a functionary contemplated in section 119 or 120 or a person who exercises any of the powers enumerated in those sections, and in the case of an offence relating to hazardous materials, penal proceedings are prescribed by two years from the time those persons become aware of the facts giving rise to the proceedings.

Proof of date.

The certificate of the Minister, functionary or person referred to in the second paragraph indicating the date on which the investigation or inspection began constitutes, in the absence of evidence to the contrary, conclusive proof of such fact.

1978, c. 64, s. 39; 1979, c. 49, s. 33; 1982, c. 25, s. 13; 1984, c. 29, s. 19; 1985, c. 30, s. 80; 1988, c. 49, s. 25; 1990, c. 4, s. 739; 1992, c. 61, s. 659; 1992, c. 61, s. 499; 1991, c. 80, s. 10.

110.2. (Repealed).

1978, c. 64, s. 39; 1986, c. 95, s. 279.

111. (Repealed).

1972, c. 49, s. 111; 1990, c. 4, s. 740.

Presumption.	112. In any prosecution relating to an offence against this Act, proof that it has been committed by an agent, mandatary or employee of another is sufficient to establish that it has been committed by the latter unless he establishes that the offence has been committed without his knowledge or consent and despite measures taken to prevent its commission. 1972, c. 49, s. 112. 112.1. (Repealed). 1988, c. 49, s. 26; 1990, c. 4, s. 741; 1992, c. 61, s. 500.
Acts done.	113. When someone refuses or neglects to do something he has been ordered to do under this Act, the Minister may have the thing done at the expense of the offender and recover the cost from him with interest and costs in the same manner as for any debt due to the Government. The Minister may also have the thing done at the expense of the directors or officers of the legal person which refuses or neglects to do the thing and recover the cost from them with interest and costs; such directors or officers are severally liable if (1) they authorized or encouraged the legal person to refuse or neglect to do the thing, or ordered or advised the legal person to refuse or neglect to do the thing; (2) they tolerated the legal person's refusal or neglect to do the thing.
Legal hypothec.	Every amount due to the Government under the first paragraph is secured by a legal hypothec on the movable and immovable property of the offender. 1972, c. 49, s. 113; 1977, c. 5, s. 14; 1984, c. 29, s. 20; 1990, c. 26, s. 12; 1992, c. 57, s. 680; 1999, c. 40, s. 239.
Powers of Minister.	114. The Minister may order the demolition of any works done by anyone in contravention of this Act or the regulations made thereunder, or contrary to an order he has issued or a certificate of approval or of authorization.
Motion.	When the one contemplated by such order refuses or neglects to give effect to it, the Minister may present a motion to a judge of the Superior Court to have the works demolished to put the things in the condition they were in before the works began. Sections 231 to 233 of the Act respecting land use planning and development (chapter A-19.1) and sections 57 and 58 of the Municipal Powers Act (chapter C-47.1) apply with the necessary modifications to such motion. 1972, c. 49, s. 114; 1979, c. 49, s. 33; 1988, c. 49, s. 27; 2005, c. 50, s. 77.
Emergency measures.	114.1. Where he considers that there is urgency, the Minister may order any person or municipality being the owner of certain contaminants or having had the custody or control thereof, to collect or to remove any contaminant dumped, emitted, issued or discharged into the water or onto the soil, accidentally or contrary to the provisions of this Act or the regulations of the Government, and to take the measures required to clean the water and the soil so that these contaminants cease to be spread or to propagate in the environment. 1978, c. 64, s. 40.
Quarry and sand pit.	114.2. The Minister may issue an order in accordance with section 27.1 to any person who has undertaken the operation of a quarry or sand pit on or since 21 December 1972 without the certificate of authorization required under section 22. 1978, c. 64, s. 40; 1979, c. 49, s. 33; 1988, c. 49, s. 38.
Costs.	114.3. The Minister may claim the direct and indirect costs of issuing an order under this Act, in the same manner as any debt owing to the Government may be claimed, from the person or municipality to whom the order applies.



- Solidary liability.** If the order applies to more than one person or municipality, the debtors are solidarily liable.
- Claim suspended.** If the order issued by the Minister is contested before the Administrative Tribunal of Québec, the claim is suspended until the Tribunal confirms all or part of the order.
2004, c. 24, s. 9.
- Restoration.** **115.** In all cases where an offender is found guilty of an offence against this Act, the Minister may, at the expense of the offender, take the steps necessary to put the things in the condition they were in before the cause of the offence occurred.
1972, c. 49, s. 115.
- Costs.** **115.0.1.** When contaminants are, could be or could be prevented from being emitted, deposited, discharged or ejected into the environment, the Minister may claim from a person or municipality the costs of any intervention by the Minister to avert or diminish the risk of damage to public or private property, human beings, wildlife, vegetation or the general environment.
- Person or municipality responsible.** The first paragraph refers to a person or municipality that has custody or control of a contaminant or that had custody or control of it when the emission, deposit, discharge or issuance into the environment occurred, or that is responsible for the occurrence.
- Intervention.** The Minister may intervene in any situation referred to in the first paragraph until the situation is corrected.
- Costs.** The Minister may claim the direct and indirect costs related to the Minister's interventions, in the same manner as any debt owing to the Government may be claimed, from a person or municipality referred to in the first paragraph, whether or not that person or municipality was prosecuted for an offence under this Act. If there is more than one debtor, they are solidarily liable.
2004, c. 24, s. 10.
- Powers of the Minister.** **115.1.** The Minister may take all such measures as he may indicate to clean, collect or contain contaminants that are or that are likely to be emitted, deposited, discharged or ejected into the environment or to prevent their being emitted, deposited, discharged or ejected into the environment, where he considers such measures necessary to avert or diminish the risk of damage to public or private property, human beings, wildlife, vegetation or the general environment.
- Registration.** The Minister may also, where the measures the Minister takes under the first paragraph concern the presence of land contaminants, require registration in the land register of a notice of use restriction, a notice of contamination or a notice of decontamination, as the case may be, respectively referred to in sections 31.47, 31.58 and 31.59, which apply with the necessary modifications.
- Costs.** The Minister may claim the direct and indirect costs related to such measures or registration in the land register, in the same manner as any debt owing to the Government, from any person or municipality who had custody of or control over the contaminants and from any person or municipality responsible for the emission, deposit, discharge or issuance of the contaminants, as the case may be, whether or not the latter has been prosecuted for infringement of this Act. Liability is joint and several where there are several debtors involved.
1978, c. 64, s. 41; 1982, c. 25, s. 14; 1984, c. 29, s. 21; 2002, c. 11, s. 8.
- 116. (Repealed).**
1972, c. 49, s. 116; 1978, c. 64, s. 42; 1990, c. 4, s. 742; 1992, c. 61, s. 501.

- Certificate of analysis. **116.1.** In all civil or penal proceedings instituted pursuant to this Act and in any proceeding brought in accordance with Division XI, a certificate of the analysis of a contaminant or other substance signed by a person having made the analysis at the request of the Minister of Sustainable Development, Environment and Parks is admissible in lieu of the sworn statement of the person as regards the facts declared in it if the person attests on the certificate that he personally observed the facts. The certificate is proof, in the absence of any evidence to the contrary, of the quality of the signatory.
1978, c. 64, s. 43; 1979, c. 49, s. 38; 1990, c. 4, s. 743; 1994, c. 17, s. 60; 1997, c. 43, s. 545; 1999, c. 36, s. 158; 2004, c. 24, s. 11; 2006, c. 3, s. 35.
- Rate. **116.1.1.** In all civil or penal proceedings instituted under this Act, the cost of any sampling, analysis, inspection or investigation, at the rate established by regulation of the Minister, shall be included in the cost of the proceedings.
- Publication. A regulation made under this section is preceded by the publication of a draft regulation in the *Gazette officielle du Québec* for the purposes of a 60-day consultation.
2004, c. 24, s. 12.
- Depollution program. **116.2.** Any person responsible for a source of contamination not resulting from the operation of an industrial establishment contemplated by section 31.10 may submit a depollution program to the Minister for approval.
1978, c. 64, s. 43; 1979, c. 49, s. 33; 1982, c. 25, s. 15; 1988, c. 49, s. 28.
- Notice. **116.3.** If the person responsible for the source of contamination requests the approval of a depollution program contemplated in section 116.2, he shall publish a notice in two consecutive issues of a daily newspaper circulated in the region where the source of contamination is situated.
- Publication. Proof of the publication of such notice shall be furnished to the Minister.
- Request transmitted. The Minister shall also transmit the request for approval to the secretary-treasurer or clerk of the municipality in whose territory the source of contamination is situated. The latter shall place such file at the disposal of the public for a period of 15 days.
1978, c. 64, s. 43; 1979, c. 49, s. 33; 1988, c. 49, s. 38; 1996, c. 2, s. 841.
- Observations to the Minister. **116.4.** Every person, group or municipality may present observations to the Minister until the expiry of the period of 15 days contemplated in section 116.3 and the period of 15 days following the publication of the second notice published under section 116.3; these periods may be wholly or partly simultaneous.
- Approval. The Minister shall not issue his approval before the end of these periods.
1978, c. 64, s. 43; 1979, c. 49, s. 33; 1988, c. 49, s. 38; 1997, c. 43, s. 546.

DIVISION XIV GENERAL PROVISIONS

- Inquiry. **117.** If a person believes that he can attribute to the presence of a contaminant in the environment or to the emission, deposit, issuance or discharge of a contaminant, impairment to his health or damage to his property, he may within thirty days after ascertaining the damage request the Minister to make an inquiry.
- Application. The first paragraph applies to a municipality as regards damage to its property.
1972, c. 49, s. 117; 1990, c. 26, s. 13.
- Report. **118.** The Minister must furnish a report of the results of any inquiry which he considers necessary to undertake under section 117 to the one he believes responsible, the