

CANADA
**A Comparison of National and Alberta
Legislation**

Submitted to Nonita T Yap

APRIL 14, 2009

**Submitted by
Anas Almujairy**

Table of Contents

INTRODUCTION.....	6
A.BACKGROUND INFORMATION.....	10
A.1. Relevant Legislation and Documents	10
A.1.1. Government Documents Reviewed In Preparing This Report.....	10
A.1.2. Non-Government Documents Reviewed In Preparing This Report.....	10
A.1.3. Potentially Relevant Documents Not Available When Preparing This Report.....	10
A.1.4. Glossary of Terms and Abbreviations.....	10
A.2. Name of Process	25
A.3. Purposes of the Legislation.....	25
A.3.1 Precautionary Principle.....	25
A.3.2 Promote Sustainable Development.....	25
A.3.3 Eliminate duplication and promote co-operation and harmonization.....	25
A.3.4 Avoid significant effects outside jurisdiction of the legislation.....	26
A.3.5 Ensure timely and meaningful public participation in the EA process.....	26
A.3.6 Other.....	26
A.4. Status of Process (discretionary or mandatory)	26
A.4.1 Mandatory Activities.....	26
A.4.2 Discretionary Activities.....	28
A.5. Are there legal mechanisms for enforcing compliance?	29
A.5.1. Procedural requirements?.....	29
A.5.2. Terms and conditions of Project Approval?.....	31
A.5.3. Legal Liabilities for Non-compliance and Violation.....	31
A.6. Definitions	39
A.6.1. Environment.....	39
A.6.2. Environmental Impact Assessment.....	39
A.6.3. Environmental impacts.....	39
A.6.4. Sustainable development.....	39
A.6.5. Significant impacts.....	39
A.6.6. Acceptable/justifiable impacts.....	39
A.6.7. Project.....	39
A.6.8. Plans and specific plans.....	39
A.6.9. Applicant.....	39
A.6.10. Developer.....	39
A.6.11. Relevant Agency.....	40
A.6.12. Transboundary Impact.....	40
A.6.13. Baseline.....	40
A.6.14. Others.....	40
B.1. Coverage of Assessment Process.....	42
B.1.1. Public sector projects.....	42
B.1.2. Private sector projects.....	42
B.1.3. ODA-funded projects.....	42
B.1.4 Other.....	42
B.1.5 Exemptions.....	43
B.2. Equivalent regulations	44

B.2.1. Law List	44
B.2.2. Exclusion List	44
B.2.3. Inclusion List	44
B.2.4. Comprehensive Study List.....	44
B.2.5. Projects Outside Canada Regulation	44
B.2.6. Other.....	44
B.3. What is the basis for the different lists?	44
B.3.1. Spatial scale of Project.....	45
B.3.2. Magnitude of Project (capitalisation).....	45
B.3.3. Previously known impacts of Project activities.....	45
B.3.4. Public concern.....	45
B.3.5. Funding source.....	45
B.3.6. Other.....	45
C. LEVELS AND SCOPE OF ASSESSMENT.....	46
C.1. Are there different levels of assessment?	46
C.2. CEAA equivalence of assessment levels	46
C.2.1. Screening.....	46
C.2.2. Class screening.....	46
C.2.3. Comprehensive study.....	46
C.2.4. Mediation.....	46
C.2.5. Panel review.....	46
C.2.6. Advisory Committee.....	46
C.2.7. Other?.....	46
C.3. Under what level do the majority of projects fall?	47
C.4. What determines the level?	47
C.4.1 Scale of potential negative impacts	47
C.4.2 Significance of potential negative impacts.....	47
C.4.3 Intensity of public concern.....	47
C.4.4 Established impacts.....	48
C.4.5 Others.....	48
C.5. What are the factors addressed?	48
D. PROCEDURAL DIMENSIONS	50
D.1. Triggers for Process.....	50
D.1.1. Execution of Project.....	50
D.1.2. Ownership of/or administration of Project site.....	50
D.1.3. Financing of Project.....	50
D.1.4. Issuance of license or permit for Project activities.....	50
D.1.5. Sale/lease of lands that enable the project to be carried out in part/whole.....	50
D.1.6. Other.....	50
D.2. Agency responsible for implementation	50
D.3. At what stage in project cycle is Process to be initiated?	50
D.3.1. Pre-feasibility.....	51
D.3.2. Feasibility.....	51
D.3.3. Project design.....	51
D.4. Initiation of pre-Project activities	51
D.4.1. the Process is completed?.....	51

D.4.2. the Report is reviewed?.....	51
D.4.3. the Decision is rendered?.....	51
D.5. Initiation of Project activities	51
D.5.1. the Process is completed?.....	51
D.5.2. the Report is reviewed?.....	52
D.5.3. the Decision is rendered?.....	52
D.6. Who directs the assessment?	52
D.6.1. Project proponent.....	52
D.6.2. Government Agency.....	52
D.6.3. Independent experts.....	52
D.7. Who conducts the assessment?	52
D.7.1. Project proponent.....	53
D.7.2. Government Agency.....	53
D.7.3. Independent experts.....	53
D.8. Who reviews the Report?	53
D.8.1. Project proponent.....	53
D.8.2. Government Agency.....	53
D.8.3. Independent experts.....	53
D.9. Report content	53
D.9.1. Public comments?.....	54
D.10. Who makes the final decision?	54
D.11. What decision options are available?	55
D.11.1. Proceed with minimal change	55
D.11.2. Proceed with mitigation	55
D.11.3. Proceed with design change	55
D.11.4. Investigate alternative	55
D.11.5. Reject	55
D.12. What is the legal basis for decision to Proceed with Project	55
D.12.1. Insignificant impacts	55
D.12.2. Favourable benefit to cost ratio	56
D.12.3. Impacts considered justifiable	56
D.12.4. National interest	56
D.12.5. Emergency	56
D.13. Is the basis for Decision required to be made public?	56
D.14. Is there legal appeal to the Decision?	56
D.15. Is there provision of funding for monitoring and follow-up?	59
E. PUBLIC INVOLVEMENT	60
E.1. IS PUBLIC INPUT IN THE PROCESS TO BE ALLOWED/SOLICITED?	60
E.1.1 allowed?.....	60
E.1.2 solicited?.....	60
E.2. ARE THERE PROCEDURAL REQUIREMENTS FOR:	60
E.2.1. Notification of commencement of EA	60
E.3. STAGE IN PROCESS WHERE PUBLIC INPUT IS ALLOWED/SOLICITED	61
E.3.1. Scoping	61
E.3.2. Guidelines for Report	61
E.3.3. Review of Report	61

E.3.4. Monitoring/follow-up program	62
E.4. MECHANISMS FOR PUBLIC INPUT	62
E.4.1. Written briefs.....	62
E.4.2. Public meetings.....	63
E.4.3 Other.....	63
E.5. REPRESENTATION OF PUBLIC INPUT	63
E.5.1. Individual	63
E.5.2. Recognized organizations	63
E.6. IS THERE PUBLIC ACCESS TO PROJECT DOCUMENTS?	63
E.7. MECHANISM FOR PUBLIC ACCESS TO PROJECT DOCUMENTS	63
E.7.1. Registry - Internet	63
E.7.2. Project Files	64
E.7.3. Others	65
E.8. FUNDING PROVISION	65
E.8.1. public access to Project documents?	65
E.8.2. technical experts for public interest groups?	65
E.8.3. public participation at meetings?	65
F.COORDINATION	66
F.1. IS THERE AN EQUIVALENT TO A FEDERAL ENVIRONMENTAL ASSESSMENT COORDINATOR WHO	66
WILL	66
F.1.1 Ensure specialist and expert information is identified	66
F.1.2 Coordinate the involvement of specialist and experts in the EA	66
F.1.3 Ensure central government obligations are met	66
F.1.4 Other.....	66
G. COHERENCE WITH CEAA	67
G.1. MAJOR AREAS OF DIVERGENCE	67
G.1.1 General.....	67
G.1.2 Levels of Assessment	67
G.1.3 Coverage of Assessment	67
G.1.4 Public Participation and Consensus-building	67
G.2. RECOMMENDATIONS FOR IMPROVING IMPLEMENTABILITY	67
ANNEX 1: SUMMARY MATRIX	68
ANNEX 2: ALBERTA EA PROCESS	72
ANNEX 3: EA LEGISLATION.....	73
.....	92

INTRODUCTION

Alberta has a comprehensive Environmental Legislation which embeds the Environmental Assessment process within it. The relevant legislation is: Environmental Protection and Enhancement Act (See sections 39-59); Environmental Assessment Regulation (112/93); Mandatory and Exempted Activities Regulation (111/93); and Water Act (See Section 16 and 17), with the Environmental Protection and Enhancement Act being the anchoring document for all the others. Frequently, aspects of one of these legal documents refer specifically to parts of the other. In addition, Alberta and the Canadian Federal Government have a harmonization agreement “Canada-Alberta Agreement for Environmental Assessment Cooperation” that first came into effect in 1999.

The analysis is framed within a set of standard questions derived from characteristics of the Canadian Environmental Assessment Act as amended in 2003 and developed as part of the initial Terms of Reference. YESA N.T. Environmental Systems Analysts Limited in Guelph, Ontario developed these questions and published them in their report regarding Indonesia's EIA Legislation on March 20, 2005. These questions are asked of Alberta's environmental assessment process and the answers are formulated with specific reference to Alberta's legislation and documents. The reader should note that this Report is an assessment of the legal EA process, not of EA implementation, in Alberta.

Unlike most work in academics, this report is strongly based upon another's work. The rationale is that this is a professional report and a valuable learning tool and resource for a future professional in Planning. Thus, this author would like to formally recognize and credit YESA for the format, and questions in this report - including the written structure of this introduction. The author would also like to acknowledge the assistance of the course professor in providing a digital copy of the YESA Indonesian report that has made the use of it as a template efficiently possible.

The legislated process in Alberta has several positive aspects. It is a streamlined process that is harmonized with the Federal Government legislation. Alberta's EA legislation is embedded in its Environmental Protection Act, and as such has greater significance and scope than if it were stand alone legislation. It gives special consideration to any project involving water. As water is a scarce resource in the parts of Alberta with long-grass prairie, occurs in sensitive areas in the mountains, and is in high demand in the north of Alberta (mostly for Oil Sands petrochemical extraction), the recognition of water as necessitating special attention is a prudent one.

The focus on Alberta's EA process being initiated and guided by the Director of the Environment Ministry is both a positive and negative aspect of Alberta's EA legislation. It is positive in that *any* project in the province has the potential of being subject to the EA process, even if it is on the Exclusions list (though this is unlikely, it is possible). It is a negative aspect, as it leaves a significant area of ambiguity in the EA process and opens

up the door to mismanagement and application of political and/or career advancement goals being applied to a process that is a public service.

The information upon which this judgement is made is set out in the following pages. The narrative report explores the features of Alberta's legislation in detail. Given the often significant spatial scale difference and overlap between the Canadian (Federal) and the Alberta (provincial) legislation the answers are not always definitive. The writers have attempted to illustrate the Indonesian process through both commentary and quotation. Where Alberta's legislation is silent on a particular question this fact is stated directly.

The first annex is a summary matrix which sets out the major questions raised in the narrative report and offers, where appropriate, a short answer to the questions posed. It also refers the reader to the pages in the narrative report where the relevant details of Alberta's legislation are discussed at greater length. The remaining annexes offer a set of supporting documents to which the reader is referred at various points in the narrative report.

NARRITAIVE REPORT

ALBERTA

A.BACKGROUND INFORMATION

A.1. Relevant Legislation and Documents

A.1.1. Government Documents Reviewed In Preparing This Report

Alberta Regulation 112/93. Environmental Protection and Enhancement Act. Government of Alberta

Environmental Assessment Regulation

Environmental Protection and Enhancement Act

Chapter E-12

Alberta Regulation 111/93. Environmental Protection and Enhancement Act. Environmental Assessment (Mandatory and Exempted Activities) Regulation. Government of Alberta

Water Act. Chapter W-3. Government of Alberta

Screening Report. Alberta Sulphur Terminals Ltd. Proposed Sulphur Management Facility. Bruderheim, Alberta. Environment Alberta.

Canadian Environmental Assessment Act 1992, c. 37 C-15.2
[Assented to June 23rd, 1992]. Government of Alberta.

A.1.2. Non-Government Documents Reviewed In Preparing This Report

Review and Analysis of Environmental Assessment Legislation in Indonesia. YESA N.T.

Environmental Systems Analysts Limited. Guelph, Ontario. March 20, 2005

A.1.3. Potentially Relevant Documents Not Available When Preparing This Report

- None Known

A.1.4. Glossary Of Terms And Abbreviations

Canada: The Canadian Environmental Assessment Act includes the following definitions:

"Agency"

«*Agence* »

"Agency" means the Canadian Environmental Assessment Agency established by section 61;

"assessment by a review panel"

«*examen par une commission* »

"assessment by a review panel" means an environmental assessment that is conducted by a review panel established pursuant to section 33 and that includes a consideration of the factors required to be considered under subsections 16(1) and (2);

"comprehensive study"

«*étude approfondie* »

"comprehensive study" means an environmental assessment that is conducted pursuant to sections 21 and 21.1, and that includes a consideration of the factors required to be considered pursuant to subsections 16(1) and (2);

"comprehensive study list"

«*liste d'étude approfondie* »

"comprehensive study list" means a list of all projects or classes of projects that have been prescribed pursuant to regulations made under paragraph 59(d);

"environment"

«*environnement* »

"environment" means the components of the Earth, and includes

(a) land, water and air, including all layers of the atmosphere,

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

(c) the interacting natural systems that include components referred to in paragraphs (a) and (b);

"environmental assessment"

«*évaluation environnementale* »

"environmental assessment" means, in respect of a project, an assessment of the environmental effects of the project that is conducted in accordance with this Act and the regulations;

"environmental effect"

«*effets environnementaux* »

"environmental effect" means, in respect of a project,

(a) any change that the project may cause in the environment, including any change it may

cause to a listed wildlife species, its critical habitat or the residences of individuals of that species, as those terms are defined in subsection 2(1) of the *Species at Risk Act*,

(b) any effect of any change referred to in paragraph (a) on

(i) health and socio-economic conditions,

(ii) physical and cultural heritage,

(iii) the current use of lands and resources for traditional purposes by aboriginal persons, or

(iv) any structure, site or thing that is of historical, archaeological, paleontological or architectural significance, or

(c) any change to the project that may be caused by the environment,

whether any such change or effect occurs within or outside Canada;

"exclusion list"

«*liste d'exclusion*»

"exclusion list" means a list of projects or classes of projects that have been exempted from the requirement to conduct an assessment by regulations made under paragraph 59(c) or (c.1);

"federal authority"

«*autorité fédérale*»

"federal authority" means

(a) a Minister of the Crown in right of Canada,

(b) an agency of the Government of Canada, a parent Crown corporation, as defined in subsection 83(1) of the *Financial Administration Act*, or any other body established by or pursuant to an Act of Parliament that is ultimately accountable through a Minister of the Crown in right of Canada to Parliament for the conduct of its affairs,

(c) any department or departmental corporation set out in Schedule I or II to the *Financial Administration Act*, and

(d) any other body that is prescribed pursuant to regulations made under paragraph 59(e), but does not include the Executive Council of — or a minister, department, agency or body of the government of — Yukon, the Northwest Territories or Nunavut, a council of the band within the meaning of the *Indian Act*, Export Development Canada, the Canada Pension Plan Investment Board, a Crown corporation that is a wholly-owned subsidiary, as defined in subsection 83(1) of the *Financial Administration Act*, The Hamilton Harbour Commissioners as constituted pursuant to *The Hamilton Harbour Commissioners' Act*, a harbour commission established pursuant to the *Harbour Commissions Act*, a not-for-profit corporation that enters into an agreement under subsection 80(5) of the *Canada Marine Act* or a port authority established under that Act;

"federal lands"

«*territoire domanial*»

"federal lands" means

(a) lands that belong to Her Majesty in right of Canada, or that Her Majesty in right of Canada has the power to dispose of, and all waters on and airspace above those lands, other than lands under the administration and control of the Commissioner of Yukon, the Northwest Territories or Nunavut,

(b) the following lands and areas, namely,

(i) the internal waters of Canada,

(ii) the territorial sea of Canada,

(iii) the exclusive economic zone of Canada, and

(iv) the continental shelf of Canada, and

(c) reserves, surrendered lands and any other lands that are set apart for the use and benefit of a band and are subject to the *Indian Act*, and all waters on and airspace above those reserves or lands;

"follow-up program"

«*programme de suivi*»

"follow-up program" means a program for

(a) verifying the accuracy of the environmental assessment of a project, and

(b) determining the effectiveness of any measures taken to mitigate the adverse environmental effects of the project;

"interested party"

«*partie intéressée*»

"interested party" means, in respect of an environmental assessment, any person or body having an interest in the outcome of the environmental assessment for a purpose that is neither frivolous nor vexatious;

"mediation"

«*médiation*»

"mediation" means an environmental assessment that is conducted with the assistance of a mediator appointed pursuant to section 30 and that includes a consideration of the factors required to be considered under subsections 16(1) and (2);

"Minister"

«*ministre*»

"Minister" means the Minister of the Environment;

"mitigation"

«*mesures d'atténuation* »

"mitigation" means, in respect of a project, the elimination, reduction or control of the adverse environmental effects of the project, and includes restitution for any damage to the environment caused by such effects through replacement, restoration, compensation or any other means;

"prescribed" «*Version anglaise seulement* »

"prescribed" means prescribed by the regulations;

"project"

«*projet* »

"project" means

(a) in relation to a physical work, any proposed construction, operation, modification, decommissioning, abandonment or other undertaking in relation to that physical work, or

(b) any proposed physical activity not relating to a physical work that is prescribed or is within a class of physical activities that is prescribed pursuant to regulations made under paragraph 59(b);

"proponent"

«*promoteur* »

"proponent" , in respect of a project, means the person, body, federal authority or government that proposes the project;

"record"

«*document* »

"record" includes any correspondence, memorandum, book, plan, map, drawing, diagram, pictorial or graphic work, photograph, film, microform, sound recording, videotape, machine readable record, and any other documentary material, regardless of physical form or characteristics, and any copy thereof;

"Registry"

«*registre* »

"Registry" means the Canadian Environmental Assessment Registry established under section 55;

"responsible authority"

«*autorité responsable* »

"responsible authority" , in relation to a project, means a federal authority that is required pursuant to subsection 11(1) to ensure that an environmental assessment of the project is conducted;

"screening"

«*examen préalable*»

"screening" means an environmental assessment that is conducted pursuant to section 18 and that includes a consideration of the factors set out in subsection 16(1);

"screening report"

«*rapport d'examen préalable*»

"screening report" means a report that summarizes the results of a screening;

"sustainable development"

«*développement durable*»

"sustainable development" means development that meets the needs of the present, without compromising the ability of future generations to meet their own needs.

Extended meaning of "administration of federal lands"

(2) In so far as this Act applies to Crown corporations, the expression "administration of federal lands" includes the ownership or management of those lands.

For greater certainty

(3) For greater certainty, any construction, operation, modification, decommissioning, abandonment or other undertaking in relation to a physical work and any activity that is prescribed or is within a class of activities that is prescribed for the purposes of the definition "project" in subsection (1) is a project for at least so long as, in relation to it, a person or body referred to in subsection 5(1) or (2), 8(1), 9(2), 9.1(2), 10(1) or 10.1(2) is considering, but has not yet taken, an action referred to in those subsections.

1992, c. 37, s. 2; 1993, c. 28, s. 78, c. 34, s. 18(F); 1996, c. 31, s. 61; 1998, c. 10, s. 164, c. 15, s. 50; 2002, c. 7, s. 122, c. 29, s. 137; 2003, c. 9, s. 1.

Alberta

- RSA 2000 cE-12 s1; RSA 2000 cT-6 s197; 2003 c2 s1(24); 2003 c37 s2; 2003 c42 s6; 2006 c15 s2; 2007 cU-1.5 s71 States:

(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 Appeals 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;

(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;

(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;

(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;

(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 *Traffic*

Safety 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;

(jj) “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) 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,

(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, or

(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;

(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, or

(ii) a sewer or sewage system and installations in connection with that sewer or sewage system;

(iii) repealed 2003 c37 s2;

(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;

(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, dish washing or other domestic purposes requiring water that is suitable for human consumption;

(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) repealed 2003 c2 s1(24);

(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;

(lll) “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 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;
 - (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 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;

(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.

RSA 2000 cE-12 s1;RSA 2000 cT-6 s197;
2003 c2 s1(24);2003 c37 s2;2003 c42 s6;
2006 c15 s2;2007 cU-1.5 s71

A.2. Name of Process

- Environmental Assessment

A.3. Purposes of the Legislation

A.3.1 Precautionary Principle

- 1992 cE-13.3 s38;1994 c15 s18 States:
 - (c) to predict the environmental, social, economic and cultural consequences of a proposed activity and to assess plans to mitigate any adverse impacts resulting from the proposed activity,

A.3.2 Promote Sustainable Development

- Yes. 1992 cE-13.3 s38;1994 c15 s18 States:
 - (a) to support the goals of environmental protection and sustainable development,

A.3.3 Eliminate Duplication And Promote Co-operation And Harmonization

- Yes, Harmonization Agreement with the Federal Government
- Yes. 1992 cE-13.3 s38;1994 c15 s18 States:

(d) to provide for the involvement of the public, proponents, the Government and Government agencies in the review of proposed activities.

A.3.4 Avoid Significant Effects Outside Jurisdiction Of The Legislation

- Not Specified.

A.3.5 Ensure Timely And Meaningful Public Participation In The EA Process

- Yes. 1992 cE-13.3 s38;1994 c15 s18 States:

(d) to provide for the involvement of the public, proponents, the Government and Government agencies in the review of proposed activities.

A.3.6 Other

- Yes. 1992 cE-13.3 s38;1994 c15 s18 States:

(b) to integrate environmental protection and economic decisions at the earliest stages of planning an activity,

A.4. Status of Process (discretionary or mandatory)

A.4.1 Mandatory Activities

- Regulation AR 111/93 Sched.1;88/2000;62/2008 states that assessment is:

Mandatory for activities listed on schedule 1

- Schedule 1

The construction, operation or reclamation of

(a) a pulp, paper, newsprint or recycled fibre mill with a capacity of more than 100 tonnes per day;

(b) a quarry producing more than 45 000 tonnes per year;

(c) a dam greater than 15 metres in height when measured to the top of the dam

(i) from the natural bed of the watercourse at the downstream toe of the dam, in the case of a dam across a watercourse, or

(ii) from the lowest elevation at the outside limit of the dam, in the case of a

dam that is not across a watercourse;

(d) a water diversion structure and canals with a capacity greater than 15 cubic metres per second;

(e) a water reservoir with a capacity greater than 30 million cubic metres;

(f) a tourism facility that is expected to attract more than 250 000 visitors per year and will be immediately adjacent to an ecological reserve, a natural area or a wilderness area under the Wilderness Areas, Ecological Reserves and Natural Areas Act;

(g) a surface coal mine producing more than 45 000 tonnes per year;

(h) a coal processing plant within the meaning of the Coal Conservation Act;

(i) an oil sands mine;

(j) a commercial oil sands, heavy oil extraction, upgrading or processing plant producing more than 2000 cubic metres of crude bitumen or its derivatives per day;

(k) a thermal electrical power generating plant that uses non-gaseous fuel and has a capacity of 100 megawatts or greater;

(l) a hydroelectric power generating plant with a capacity of 100 megawatts or greater;

(m) repealed AR 62/2008 s2;

(n) an oil refinery;

(o) an ethylene or ethylene derivative manufacturing plant;

- (p) a benzene, ethyl benzene or styrene manufacturing plant;
- (q) a sour gas processing plant that emits more than 2.8 tonnes of sulphur per day;
- (r) a chlor-alkali manufacturing plant;
- (s) a vinyl chloride or polyvinyl chloride manufacturing plant as defined in the Air Emissions Regulation;
- (t) a formaldehyde manufacturing plant;
- (u) a pesticide manufacturing plant;
- (v) an explosives manufacturing plant;
- (w) a cement or lime plant;
- (x) a chemical fertilizer manufacturing plant;
- (y) a steel mill with a coke oven;
- (z) a hazardous waste incinerator that accepts hazardous waste from an off-site source;
- (aa) a landfill that accepts hazardous waste from an off-site source.

A.4.2 Discretionary Activities

- According to 1992 cE-13.3 s43;1994 c15 s20;1996 c17 s55:

A report is required at the discretion of the Director

45(1) Where the Director decides under section 44(1)(b)(i) that further assessment of a proposed activity is required, the Director shall, in accordance with the regulations,

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

A.5. Are there legal mechanisms for enforcing compliance?

A.5.1. Procedural Requirements?

- On the Terms of Reference:

Alberta Regulation AR 112/93 s6;251/2001 states:

6(1) Where a proponent is required to prepare an environmental impact assessment report, the notice of proposed terms of reference required under section 48(2) of the Act must be published in at least one issue of a newspaper that is approved by the Director and has general circulation in the area where the proposed activity is to be located.

(2) A notice referred to in subsection (1) must contain the following information:

- (a) the name of the proponent;
- (b) the type of proposed activity;
- (c) the location of the proposed activity, referring to the municipality and the legal description;
- (d) a statement that persons wishing to provide written comments on the proposed terms of reference may provide them to the Director by a date determined by the Director and specified in the notice;

-
- (e) the locations where the proposed terms of reference and information about the proposed terms of reference may be obtained or are available for inspection;
 - (f) any other information that the Director may require.
- (3) The proponent must give a copy of the notice to the Director.
- (4) The proponent must make the proposed terms of reference available for inspection by any person during normal business hours and must provide a copy of the proposed terms of reference to any person who requests it.

In regards to Notice of final terms of reference Alberta Regulation AR 112/93 s7;251/2001 states:

- 7(1) Where the Director issues final terms of reference under section 48(3) of the Act, the Director shall publish a notice in at least one issue of a newspaper having general circulation in the area where the proposed activity is to be located.
- (2) The notice must state that the final terms of reference are available for inspection in the register and give the addresses of other locations at which the final terms of reference are located.

In General the EPEA section 1992 cE-13.3 s46 states

Terms of reference

- 48(1) Where a proponent is required to prepare an environmental impact assessment report, the proponent shall prepare proposed terms of reference for the preparation of the report in accordance with requirements specified by the Director and shall submit the proposed terms of reference to the Director.
- (2) The proponent shall provide notice of the proposed terms of reference and make them available in accordance with the regulations.

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

(4) The Director shall make the final terms of reference available in accordance with the regulations.

- On communication of decisions:

Notice of decision re e.i.a. report

5(1) Subject to subsection (2), compliance with section 2(1)(f) of this Regulation constitutes providing notice of the Director's decision regarding preparation of an environmental impact assessment report for the purposes of section 45(5) of the Act.

(2) The Director shall give notice of a decision under section 45(1)(b) of the Act to each person who submitted a statement of concern in respect of the proposed activity in accordance with section 44(6) of the Act.

AR 112/93 s5;243/93;251/2001

- On expired "environmental worthy" decision
- On changes of project location
- On changes of technology and process
- On changes in project environment

A.5.2. Terms And Conditions Of Project Approval?

A.5.3. Legal Liabilities For Non-compliance And Violation

- Yes, particularly under the Water Act where a licence is required for the activity, and the performing an Environmental Impact Assessment is required for that licence.
This especially applies to any activity involving the diversion of water.
- Yes. EPEA: 1992 cE-13.3 s200;1996 cW-3.5 s175;1996 c17 s55;1997 c18 s6 States:
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.

- Yes. 1992 cE-13.3 s203;1994 c15 States:

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.

s58

- Administrative sanctions

- Yes. Water Act

Water Act: RSA 2000 cW-3 s152;2002 c4 s5;2003 c42 s6 States:

152(1) Where the Director is of the opinion that a person has contravened a provision of this Act that is specified for the purposes of this section in the regulations, the Director may, subject to the regulations, by notice in writing given to that person, require that person to pay to the Government an administrative penalty in the amount set out in the notice for each contravention.

(1.1) A notice of administrative penalty may require the person to whom it is directed to pay either or both of the following:

- (a) a daily amount for each day or part of a day on which the contravention occurs and continues;
- (b) a one-time amount to address economic benefit where the Director is of the opinion that the person has derived an economic benefit directly or indirectly as a result of the contravention.

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

(3) Subject to the right to appeal a notice of administrative penalty to the Environmental Appeals Board, where a person fails to pay an administrative penalty in accordance with the notice of administrative penalty and the regulations, the Minister may file a copy of the notice of administrative penalty with the clerk of the Court of Queen's Bench and, on being filed, the notice has the same force and effect and may be enforced as if it were a judgement of the Court.

- Criminal sanctions

A list of offences in the Water Act Section 1996 cW-3.5 s142 States:

142(1) A person who

- (a) provides false or misleading information, data, records, reports or documents pursuant to a requirement under this Act to provide them;
- (b) fails to provide information, data, records, reports or documents as required under this Act;
- (c) contravenes a water management order;
- (d) contravenes an enforcement order;
- (e) contravenes a term or condition of the approval, preliminary certificate or licence that has been issued to that person;
- (f) if required to provide notice under section 111(2)(b), fails to do so;
- (g) makes a false or misleading statement in response to inquiries under section 120(1)(k);
- (h) commences or continues an activity except under an approval or as otherwise authorized by this Act;
- (i) contravenes section 36(2);
- (j) contravenes section 39;
- (k) contravenes section 40(1);
- (l) contravenes section 40(2);
- (m) contravenes section 43(3);

- (n) commences or continues a diversion of water for any purpose or operates a works except under a licence or as otherwise authorized by this Act;
- (o) contravenes section 65;
- (p) contravenes an order under section 92(1)(a);
- (q) contravenes section 108(1);
- (r) contravenes section 124(1);
- (s) contravenes section 130(1);

is guilty of an offence.

(2) A person who knowingly

- (a) provides false or misleading information, data, records, reports or documents pursuant to a requirement under this Act to provide them;
- (b) fails to provide information, data, records, reports or documents as required under this Act;
- (c) contravenes a water management order;
- (d) contravenes an enforcement order;
- (e) commences or continues a diversion of water for any purpose, or operates a works for the diversion of water except under a licence or as otherwise authorized by this Act;
- (f) commences or continues an activity except under an approval or

as otherwise authorized by this Act;

(g) contravenes section 40(1);

(h) contravenes section 40(2);

is guilty of an offence.

(3) An approval holder, preliminary certificate holder, licensee or traditional agriculture user who fails to keep works to which the approval, preliminary certificate, licence or registration is appurtenant in a proper or safe condition is guilty of an offence.

Penalties are listed in Section 143 of the Water Act:

- Penalties

143(1) A person who is guilty of an offence under section 142(2) is liable

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

(b) in the case of a corporation, to a fine of not more than \$1 000 000.

(2) A person who is guilty of an offence under section 142(1)(a), (b), (c), (d), (e), (g), (h), (i), (k), (l), (n), (q), (r) or (s) or (3) is liable

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

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

(3) A person who is guilty of an offence under section 142(1)(f), (j), (m), (o) or (p) is liable

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

(4) A person shall not be convicted of an offence referred to in subsection (2) if that person establishes on a balance of probabilities that the person took all reasonable steps to prevent its commission.

1996 cW-3.5 s143

- **Additional fine if monetary benefits acquired**

- Yes. Water Act: 1996 cW-3.5 s144 States:

144 If a person is convicted of an offence under this Act and the court is satisfied that as a result of the commission of the offence monetary benefits accrued to the offender, the court may order the offender to pay, in addition to a fine under section 143, a fine in an amount equal to the court's estimation of the amount of those monetary benefits.

- **Court orders relating to penalty**

- Yes, Water Act: 1996 cW-3.5 s148 States:

148(1) When a person is convicted of an offence under this Act, in addition to any other penalty that may be imposed under this Act, the court may, having regard to the nature of the offence and the circumstances surrounding its commission, make an order doing any or all of the following:

- (a) prohibiting the offender from doing anything that may result in the continuation or repetition of the offence;

- (b) directing the offender to take any action the court considers appropriate to remedy or prevent any harm to the aquatic environment that results or may result from the act or omission that constituted the offence;

(c) directing the offender to publish, in the prescribed manner and at the offender's cost, the facts relating to the conviction;

(d) directing the offender to notify any person aggrieved or affected by the offender's conduct of the facts relating to the conviction, in the prescribed manner and at the offender's cost;

(e) directing the offender to post a bond or pay money into court in an amount that will ensure compliance with any order made pursuant to this section;

(f) on application to the court by the Minister made within 3 years after the date of conviction, directing the offender to submit to the Minister any information with respect to the conduct of the offender that the court considers appropriate in the circumstances;

(g) directing the offender to compensate the Government, in whole or in part, for the cost of any remedial or preventive action that was carried out by the Government or caused by the offender to be carried out by the Government and that was made necessary by the act or omission that constituted the offence;

(h) directing the offender to perform community service;

(i) requiring the offender to comply with any other conditions the court considers appropriate in the circumstances for securing the offender's good conduct and for preventing the offender from repeating the same offence or committing other offences.

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

(3) If the court makes an order under subsection (1)(g) or the Minister incurs publication costs under subsection (2), the costs are a debt due to the Government by the offender and may be recovered by an action in debt.

(4) An order made under subsection (1) comes into force on the day on which it is made or on any other day specified in the order and continues in force for the period

specified in the order, not to exceed 3 years.

A.6. Definitions

- Note that Alberta uses different terms than those in A.6.1 to A.6.13. These are outlined in A.6.14

A.6.1. Environment

- No

A.6.2. Environmental Impact Assessment

- No

A.6.3. Environmental Impacts

- No

A.6.4. Sustainable Development

- No

A.6.5. Significant Impacts

- No

A.6.6. Acceptable/justifiable Impacts

- No

A.6.7. Project

- No

A.6.8. Plans And Specific Plans

- No

A.6.9. Applicant

- No

A.6.10. Developer

- No

A.6.11. Relevant Agency

- No

A.6.12. Transboundary Impact

- No

A.6.13. Baseline

- No

A.6.14. Others

- Yes. 1992 cE-13.3 s37;1994 c15 s17;1996 c17 s55 States:

a) “environmental assessment process” means the procedure established under Division 1 for reviewing proposed activities;

(b) “environmental impact assessment report” means an environmental impact assessment report required to be prepared under this Part;

(c) “mandatory activity” means an activity designated as a mandatory activity under the regulations;

(d) “proponent” means a person, the Government, a Government agency, the government of another jurisdiction or an agency of that government that undertakes a proposed activity;

(e) “proposed activity” means

(i) an activity that has not been commenced,

(ii) an activity that is being carried on and for which an approval or registration, other than a renewal, is required but has not been obtained,

(iii) a change to an activity where the change is one to which section 67(1) applies and, in the Director’s opinion, is of a substantial nature, and

(iv) in the case of an activity that is the subject of an approval or registration and is carried out in stages, those stages of the activity that are not yet covered by the approval or registration.

- Yes. 1992 cE-13.3 s40 states:

In sections 43 to 56, “Director” means the Director who is designated for the purposes of those sections.

B.1. Coverage of Assessment Process

B.1.1. Public Sector Projects

- Yes. The AR 111/93 Mandatory and Excluded Activities does not differentiate between public and private.

B.1.2. Private Sector Projects

- Yes. The AR 111/93 Mandatory and Excluded Activities does not differentiate between public and private.

B.1.3. ODA-funded Projects

- n/a

B.1.4 Other

- Yes. Directors or the Minister may require any project
- 1992 cE-13.3 s39 States: Any Director may require assessment:
41 Where any Director is of the opinion that the potential environmental impacts of a proposed activity warrant further consideration under the environmental assessment process, that Director may refer the proponent or the proposed activity to the Director who is designated for the purposes of sections 43 to 56 so that the proposed activity may be dealt with under section 44.
- 1992 cE-13.3 s41 States: Director's power to require environmental assessment:
43 Where the Director is of the opinion that the potential environmental impacts of a proposed activity warrant further consideration under the environmental assessment process, the Director may by notice in writing to the proponent advise the proponent that the proposed activity must be dealt with under section 44.
- 1992 cE-13.3 s45 States: Minister may order environmental impact assessment report:
47 If the Minister is of the opinion that an environmental impact assessment report is necessary because of the nature of a proposed activity, the Minister may by order in writing direct the proponent to prepare and submit the report in accordance with this Division, notwithstanding that
 - (a) the Director has not ordered an environmental impact assessment report, or

- (b) the proposed activity is the subject of an exemption under regulations under section 59(b).

B.1.5 Exemptions

- Yes, AR 11/93 Sched.2;62/2008 lists exceptions:

- (a) the construction, operation or reclamation of
- (i) a sweet gas processing plant that emits less than 384 kilograms of oxides of nitrogen per day;
- (ii) a plant, structure or thing
- (A) for the manufacture of ready-mixed concrete;
 - (B) for the manufacture of containers as primary metal or metal products;
 - (C) for the manufacture of tools or hardware as primary metal or metal products;
 - (D) for the manufacture or processing of secondary food products, beverages or animal by-products;
 - (E) for seed cleaning or forage drying;
 - (F) for the manufacture of furniture, cabinets, structure members, boxes, pallets or containers from wood;
- (iii) a waterworks system that is subject to the Potable Water Regulation or a wastewater system that is subject to the Wastewater and Storm Drainage Regulation;
- (iv) a subsurface sewage disposal system;
- (v) a pipeline with a length in kilometres times diameter in millimetres resulting in an index number of less than 2690;
- (vi) a transmission line;
- (vii) a sand, gravel, clay or marl pit that is less than 2 hectares (5 acres) in size;
- (b) the widening or realignment of an existing highway;
- (c) the drilling or reclamation of a water well;
- (d) the drilling or reclamation of a water observation well or monitoring borehole;
- (e) the drilling, construction, operation or reclamation of an oil or gas well;
- (f) the construction, operation or reclamation of a day use recreation site and associated facilities, a campground, a facility for the interpretation and study of the environment, a downhill skiing facility or a combined downhill and cross country skiing facility in a non-mountainous area;
- (g) the maintenance and rehabilitation of a water management project, including a dyke,

dam, weir, floodgate, breakwater, drain, groyne, ditch, basin, reservoir, canal, tunnel, bridge, culvert, crib, embankment, headwork, fishway, flume, aqueduct, pipe, pump or measuring weir.

AR 111/93

B.2. Equivalent regulations

B.2.1. Law List

- Implied, but not specified

B.2.2. Exclusion List

- Yes AR 111/92 Sched. 2;62/2008

B.2.3. Inclusion List

- Yes. AR 111/93 Sched.1;88/2000;62/2008

B.2.4. Comprehensive Study List

- Yes. Online listing.

B.2.5. Projects Outside Canada Regulation

- No.

B.2.6. Other

- None

B.3. What is the basis for the different lists?

B.3.1. Spatial Scale Of Project

- Not specified

B.3.2. Magnitude Of Project (capitalisation)

- Not specified

B.3.3. Previously Known Impacts Of Project Activities

- Not specified

B.3.4. Public Concern

- Not specified

B.3.5. Funding Source

- Not specified

B.3.6. Other

- **All** current and historic EAI projects are listed in the online and physical registry.

C. LEVELS AND SCOPE OF ASSESSMENT

C.1. Are there different levels of assessment?

- Yes

C.2. CEAA equivalence of assessment levels

C.2.1. Screening

- Yes 1992 cE-13.3 s43;1994 c15 s20;1996 c17 s55

C.2.2. Class Screening

- No

C.2.3. Comprehensive Study

- Yes 1992 cE-13.3 s43;1994 c15 s20;1996 c17 s55

C.2.4. Mediation

- No

C.2.5. Panel Review

- No

C.2.6. Advisory Committee

- No

C.2.7. Other?

- Levels will be harmonized with Federal EIA where warranted

C.3. Under what level do the majority of projects fall?

- Uncertain

C.4. What determines the level?

- Activity on list of Mandatory Activities: 1992 cE-13.3 s42;1994 c15 s19;1996 c17 s55
 - the Director shall,
 - (a) if the proposed activity is a mandatory activity, direct the proponent by order in writing to prepare and submit an environmental impact assessment report in accordance with this Division, or
- Director's Discretion 1992 cE-13.3 s42;1994 c15 s19;1996 c17 s55
 - (b) if the proposed activity is not a mandatory activity,
 - (i) make a decision that the potential environmental impacts of the proposed activity warrant further consideration under the environmental assessment process and require that further assessment of the proposed activity be undertaken, or
 - (ii) make a decision that further assessment of the proposed activity is not required and, if it is an activity for which an approval or registration is required, advise the proponent that it may apply for the approval or registration.

C.4.1 Scale Of Potential Negative Impacts

- Not specifically, but implied in 1992 cE-13.3 s42;1994 c15 s19;1996 c17 s55 which states:
 - (a) the location, size and nature of the proposed activity;
 - (b) the complexity of the proposed activity and the technology to be employed in it;

C.4.2 Significance Of Potential Negative Impacts

- No

C.4.3 Intensity Of Public Concern

- Yes. 1992 cE-13.3 s42;1994 c15 s19;1996 c17 s55 States:
 - (c) any concerns in respect of the proposed activity that have been expressed by the public of which the Director is aware;

C.4.4 Established Impacts

- No

C.4.5 Others

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

- (a) the location, size and nature of the proposed activity;
- (b) the complexity of the proposed activity and the technology to be employed in it;
- (c) the proximity of the proposed activity to other activities in the same general area;
- (d) the presence of other similar activities in the same general area;
- (e) any other criteria established in the regulations;
- (f) any other factors the Director considers to be relevant.

C.5. What are the factors addressed?

Factors to be Considered in Assessment	Business/Activity Plan
Project objectives/purpose/need	Yes. See 1992 cE-13.3 s47
Alternatives	Yes. See 1992 cE-13.3 s47
Biophysical Effects	Yes. See 1992 cE-13.3 s47
Social and Health Effects	Yes. See 1992 cE-13.3 s47
Economic Effects	Yes. See 1992 cE-13.3 s47
Cultural/heritage effects	Yes. See 1992 cE-13.3 s47
Off-site effects	Yes. See 1992 cE-13.3 s47
Risk of Accidents/Malfunions	Yes. See 1992 cE-13.3 s47
Effects of pre-Project Activities	Yes. See 1992 cE-13.3 s47
Effects of post-Project Activities	Yes. See 1992 cE-13.3 s47
Mitigative measures	Yes. See 1992 cE-13.3 s47
Preventative measures	Yes. See 1992 cE-13.3 s47
Monitoring follow-up	Yes. See 1992 cE-13.3 s47
Community Knowledge and Aboriginal Traditional Knowledge	Implied. Yes. See 1992 cE-13.3 s47 (d)

Public Comments	Yes. See 1992 cE-13.3 s47
Identification of information gaps and uncertainties	Yes. See 1992 cE-13.3 s47
Budgetary implications and financial measures to be taken to ensure that mitigation measures can be adequately carried out.	No.

D. PROCEDURAL DIMENSIONS

D.1. Triggers for Process

D.1.1. Execution Of Project

- Implied in regards to Water Act. See D.1.4 below

D.1.2. Ownership Of/or Administration Of Project Site

- Not indicated

D.1.3. Financing Of Project

- Not indicated

D.1.4. Issuance Of License Or Permit For Project Activities

- Yes, in regards to activities in the Water Act that require a licence

D.1.5. Sale/lease Of Lands That Enable The Project To Be Carried Out In Part/whole

- Not indicated

D.1.6. Other

- Yes, at discretion of Director or Ministr

D.2. Agency responsible for implementation

- Government of Alberta, Ministry of the Environment

D.3. At what stage in project cycle is Process to be initiated?

D.3.1. Pre-feasibility

- Not indicated

D.3.2. Feasibility

- If an Environment Alberta Director decides that the activity should be subject to an EIA.

D.3.3. Project Design

- Presumably yes, in particular if the activity is on the Mandatory list &/or on the activities requiring a licence in the Water Act.

D.4. Initiation of pre-Project activities

- Can pre-Project activities be initiated before:

D.4.1. The Process Is Completed?

- No

D.4.2. The Report Is Reviewed?

- No

D.4.3. The Decision Is Rendered?

- No

D.5. Initiation of Project activities

D.5.1. The Process Is Completed?

- No

D.5.2. The Report Is Reviewed?

- No

D.5.3. The Decision Is Rendered?

- Yes

D.6. Who directs the assessment?

D.6.1. Project Proponent

- Required to have an EIA done.

D.6.2. Government Agency

- Yes 1992 cE-13.3 s43;1994 c15 s20;1996 c17 s55 States:

45(1) Where the Director decides under section 44(1)(b)(i) that further assessment of a proposed activity is required, the Director shall, in accordance with the regulations,

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

D.6.3. Independent Experts

- Not indicated

D.7. Who conducts the assessment?

D.7.1. Project Proponent

- Yes. 1992 cE-13.3 s47

D.7.2. Government Agency

- Oversees the process. Can request further information be included. 1992 cE-13.3 s49

D.7.3. Independent Experts

- Not indicated

D.8. Who reviews the Report?

D.8.1. Project Proponent

- No.

D.8.2. Government Agency

- Yes. The Alberta Ministry of the Environment. 1992 cE-13.3 s49

D.8.3. Independent Experts

- Not indicated

D.9. Report content

- 1992 cE-13.3 s47 States that an EIA Report should contain:
 - (a) a description of the proposed activity and an analysis of the need for the activity;
 - (b) an analysis of the site selection procedure for the proposed activity, including a statement of the reasons why the proposed site was chosen and a consideration of alternative sites;
 - (c) an identification of existing baseline environmental conditions and areas of major concern that should be considered;

-
- (d) a description of potential positive and negative environmental, social, economic and cultural impacts of the proposed activity, including cumulative, regional, temporal and spatial considerations;
 - (e) an analysis of the significance of the potential impacts identified under clause (d);
 - (f) the plans that have been or will be developed to mitigate the potential negative impacts identified under clause (d);
 - (g) an identification of issues related to human health that should be considered;
 - (h) a consideration of the alternatives to the proposed activity, including the alternative of not proceeding with the proposed activity;
 - (i) the plans that have been or will be developed to monitor environmental impacts that are predicted to occur and the plans that have been or will be developed to monitor proposed mitigation measures;
 - (j) the contingency plans that have been or will be developed in order to respond to unpredicted negative impacts;
 - (k) the plans that have been or will be developed for waste minimization and recycling;
 - (l) the manner in which the proponent intends to implement a program of public consultation in respect of the undertaking of the proposed activity and to present the results of that program;
 - (m) the plans that have been or will be developed to minimize the production or the release into the environment of substances that may have an adverse effect;
 - (n) the final terms of reference issued by the Director under section 48(3);
 - (o) any other information that the Director considers necessary to assess the proposed activity.

D.9.1. Public Comments?

- No. Included in the process in Director's decision in the public's reaction to the release of the EIA. 1992 cE-13.3 s42;1994 c15 s19;1996 c17 s55

D.10. Who makes the final decision?

- The Environmental Assessment Director.

D.11. What decision options are available?

- Generally, if the project is not approved additional information is sought from the proponent. This could take one or more of the options of D.11.1 to D.11.4 below. These options are not as sectioned as the CEAA.

D.11.1. Proceed With Minimal Change

- Yes. Implied. See D.11 above

D.11.2. Proceed With Mitigation

- Yes. Implied. See D.11 above

D.11.3. Proceed With Design Change

- Yes. Implied. See D.11 above

D.11.4. Investigate Alternative

- Yes. Implied. See D.11 above

D.11.5. Reject

- Yes.

D.12. What is the legal basis for decision to Proceed with Project

- In regards to section D.12 in this report, as with much of Alberta's EIA the Director and/or the Minister's decision provides the basis.

D.12.1. Insignificant Impacts

- As with much of Alberta's EIA the Director and/or the Minister's decision provides the basis.

D.12.2. Favourable Benefit To Cost Ratio

- As with much of Alberta's EIA the Director and/or the Minister's decision provides the basis.

D.12.3. Impacts Considered Justifiable

- As with much of Alberta's EIA the Director and/or the Minister's decision provides the basis.

D.12.4. National Interest

- Not indicated and N/a

D.12.5. Emergency

- Yes. 1992 cE-13.3 s21 States:
Emergency response plan

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

D.13. Is The Basis For Decision Required To Be Made Public?

- Yes. It is entered in the public registry.

D.14. Is there legal appeal to the Decision?

- Yes. RSA 2000 cE-12 s90;2003 c42 s6 States that there is an Environmental Appeals Board established, and that:

90(1) There is hereby established the Environmental Appeals Board consisting of persons appointed by the Lieutenant Governor in Council.

(2) The Board shall hear appeals as provided for in this Act or any other enactment.

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

(4) Where a panel is convened, the panel has all the powers of the Board and is subject to all the same duties the Board is subject to, and a reference in this Act to the Board is to be read as a reference to the panel.

- Yes. Criteria are outlined in RSA 2000 cE-12 s91;2002 c4 s1;2003 c37 s14; 2003 c42 s6;2006 c15 s10. Notice of appeal States:

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

(a) where the Director issues an approval, makes an amendment, addition or deletion pursuant to an application under section 70(1)(a) or makes an amendment, addition or deletion pursuant to section 70(3)(a), a notice of appeal may be submitted

(i) by the approval holder or by any person who previously submitted a statement of concern in accordance with section 73 and is directly affected by the Director's decision, in a case where notice of the application or proposed changes was provided under section 72(1) or (2), or

(ii) by the approval holder or by any person who is directly affected by the Director's decision, in a case where no notice of the application or proposed changes was provided by reason of the operation of section 72(3);

(b) where the Director refuses

(i) to issue an approval, or

(ii) to make an amendment, addition or deletion in respect of an approval pursuant to an application under section 70(1)(a), the applicant may submit a notice of appeal;

(c) where the Director cancels or suspends an approval under section 70(3)(b) or (4), the approval holder may submit a notice of appeal;

(d) where the Director cancels a certificate of qualification under section 83(1)(b), the holder of the certificate of qualification may submit a notice of appeal;

(e) where the Director issues an enforcement order under section 210(1)(a), (b) or (c), the person to whom the order is directed may submit a notice of appeal;

(f) where an inspector issues an environmental protection order regarding conservation and reclamation under section 140 or 141, the person to whom the order is directed may submit a notice of appeal;

(g) where the Director issues an environmental protection order under section 129,

(i) the person to whom the order is directed, and
(ii) any person who is directly affected by the designation of the contaminated site

may submit a notice of appeal;

(h) where the Director issues an environmental protection order, except an environmental protection order directing the performance of emergency measures under section 114, 151 or 160 and an environmental protection order referred to in clause (g), the person to whom the order is directed may submit a notice of appeal;

(i) where an inspector issues a reclamation certificate under section 138, or the Director or an inspector amends a reclamation certificate under section 139, the operator and any person who receives a copy of the certificate or amendment under section 145 may submit a notice of appeal;

(j) where the Director or an inspector cancels a reclamation certificate, the operator may submit a notice of appeal;

(k) where the Director or an inspector refuses to accept an application for a reclamation certificate or an inspector refuses to issue a reclamation certificate, the operator may submit a notice of appeal;

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

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

(m) where the Director designates an area as a contaminated site under section 125, any person who is directly affected by the designation may submit a notice of appeal;

(n) where the Director requires a person to pay an administrative penalty under section 237, the person to whom the notice is directed may submit a notice of appeal;

(o) where the Director refuses a request for confidentiality under section 35(5)(b), the person to whom the notice is directed under section 35(6) may submit a notice of appeal;

(p) persons authorized under Part 9 of the *Water Act*, in accordance with Part 9 of the *Water Act*.

(2) Notwithstanding subsection (1)(b), where the Director refuses to issue an approval pursuant to an order of the Minister under section 64, no notice of

appeal may be submitted in respect of that refusal.

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

(4) A notice of appeal must be submitted to the Board

(a) not later than 7 days after receipt of a copy of the enforcement order or the environmental protection order, in a case referred to in subsection (1)(e), (f) or (h),

(b) not later than one year after receipt of a copy of the reclamation certificate, in a case referred to in subsection (1)(i) relating to the issuing of a reclamation certificate, and

(c) not later than 30 days after receipt of notice of the decision appealed from or the last provision of notice of the decision appealed from, as the case may be, in any other case.

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

(6) A notice of appeal submitted to the Board under this Act or in accordance with the *Water Act* must contain the information and be made in the manner provided for in the regulations.

(7) A notice of appeal initiates an appeal of the decision objected to.

D.15. Is there provision of funding for monitoring and follow-up?

- Unclear/undefined. RSA 2000 cE-12 s30;2003 c2 s1(24);2004 c7 s19; 2006 c23 ss27,31 states that there is an Environmental Protection and Enhancement fund as well as what monies are to be paid into the fund, but not specifically what the funds can be used for.

E. PUBLIC INVOLVEMENT

E.1. IS PUBLIC INPUT IN THE PROCESS TO BE ALLOWED/SOLICITED?

E.1.1 Allowed?

- Yes. 1992 cE-13.3 s44 States:

46 The Director shall, in accordance with the regulations, give due consideration to all statements of concern that have been submitted and shall not make a decision under section 45(1)(b) until the applicable period referred to in section 44(6) has expired.

E.1.2 Solicited?

- Not Specified, but EIAs are made public and time is given for public to review and respond to with Statements of Concern.

E.2. ARE THERE PROCEDURAL REQUIREMENTS FOR:

E.2.1. Notification Of Commencement Of EA

- Yes. 1992 cE-13.3 s43;1994 c15 s20;1996 c17 s55 States:

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

And,

45(1) Where the Director decides under section 44(1)(b)(i) that further assessment of a proposed activity is required, the Director shall, in accordance with the regulations,

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

E.3. STAGE IN PROCESS WHERE PUBLIC INPUT IS ALLOWED/SOLICITED

E.3.1. Scoping

- N/a

E.3.2. Guidelines For Report

- Yes. 1992 cE-13.3 s47 states that an EIA Report must contain:
 - (l) the manner in which the proponent intends to implement a program of public consultation in respect of the undertaking of the proposed activity and to present the results of that program;

E.3.3. Review Of Report

- Yes. AR 112/93 s3;251/2001. States:
 - 3(1) Where the Director decides under section 44(1)(b)(i) of the Act that a proposed activity requires further assessment, the proponent's notice under section 44(5) of the Act
 - (a) must be published in at least one issue of a newspaper that is approved by the Director and has general circulation in the area where the proposed activity is to be located, and
 - (b) must contain the following information:
 - (i) the location of the proposed activity, referring to the municipality and the legal description;
 - (ii) brief details of the proposed activity;

(iii) notice that a person who is directly affected by the proposed activity may submit a written statement of concern to the Director, and the date by which the statement of concern must be submitted;

(iv) the locations where information about the proposed activity may be obtained or is available for public inspection;

(v) any other information the Director may require.

(2) The proponent must give a copy of the notice to the Director.

E.3.4. Monitoring/follow-up Program

- Not specified

E.4. MECHANISMS FOR PUBLIC INPUT

E.4.1. Written Briefs

- Yes. 1992 cE-13.3 s42;1994 c15 s19;1996 c17 s55
 - (6) Any person who is directly affected by a proposed activity that is the subject of a decision of the Director under subsection (1)(b)(i) may, within 30 days after the last notice under subsection (5) or within any longer period allowed by the Director in the notice, submit a written statement of concern to the Director setting out the person's concerns with respect to the proposed activity.

E.4.2. Public Meetings

- If plan in the proponent's EIA indicated

E.4.3 Other

- Yes. 1992 cE-13.3 s50 states:
 - 52 The Director shall require the proponent to publish the environmental impact assessment report and otherwise make it available in accordance with the regulations.
- Yes. If plan in the proponent's EIA indicated

E.5. REPRESENTATION OF PUBLIC INPUT

E.5.1. Individual

- Not indicated

E.5.2. Recognized Organizations

- Not indicated

E.6. IS THERE PUBLIC ACCESS TO PROJECT DOCUMENTS?

- Yes. Online and in print. See E.7.1 and E.7.2 below

E.7. MECHANISM FOR PUBLIC ACCESS TO PROJECT DOCUMENTS

E.7.1. Registry - Internet

Yes.

Online: Current Assessment Activity Posted at: <http://environment.alberta.ca/1283.html>.

Online: Historical Assessment Activity Posted at: <http://environment.alberta.ca/2791.html>

E.7.2. Project Files

Public Registry. AR 112/93 s2;251/2001;254/2007 Register of Environmental Assessment Information:

(3) Subject to the Disclosure of Information Regulation, a person may, during usual business hours, examine any information or document contained in the register, and may obtain one copy of any document contained in the register free of charge.

2(1) The Director shall keep in the register referred to in section 56 of the Act the following documents and information, where applicable, in respect of each proposed activity dealt with under Part 2, Division 1 of the Act:

- (a) the name of the proponent;
- (b) a brief description of the proposed activity;
- (c) the location of the proposed activity, including the legal description;
- (d) a copy of any notice under section 43 of the Act advising that the proposed activity must be dealt with under section 44 of the Act;
- (e) any disclosure documents submitted under section 44(2) of the Act;
- (f) particulars of the Director's decision under section 45(1)(b) of the Act regarding preparation of an environmental impact assessment report;
- (g) a copy of any notice provided under section 44(5) or 48(2) of the Act and sections 7(1) and 8(1) of this Regulation;
- (h) all statements of concern submitted in accordance with section 44(6) of the Act;
- (i) any screening report prepared under section 45(1)(a) of the Act;
- (j) proposed terms of reference submitted under section 48(1) of the Act;
- (k) all comments received from the public in respect of proposed terms of reference;
- (l) final terms of reference issued under section 48(3) of the Act;
- (m) the location where the environmental impact assessment report, any summaries of the report and any additional information submitted pursuant to section 51 of the Act can be obtained or inspected;
- (n) a copy of any letter of referral given to the Energy Resources Conservation Board, the Alberta Utilities Commission or the Natural Resources Conservation Board under section 53(a) or (b) of the Act;
- (o) a copy of any order in council under the Natural Resources Conservation Board Act prescribing the proposed activity as a reviewable project for the purposes of that Act.

E.7.3. Others

- None specified

E.8. FUNDING PROVISION

E.8.1. Public Access To Project Documents?

- **Yes. AR 112/93 s2;251/2001;254/2007 States:**

(3) Subject to the *Disclosure of Information Regulation*, a person may, during usual business hours, examine any information or document contained in the register, and may obtain one copy of any document contained in the register free of charge.

E.8.2. Technical Experts For Public Interest Groups?

- Not indicated

E.8.3. Public Participation At Meetings?

- Not indicated

F.COORDINATION

F.1. IS THERE AN EQUIVALENT TO A FEDERAL ENVIRONMENTAL ASSESSMENT COORDINATOR WHO

WILL

F.1.1 Ensure Specialist And Expert Information Is Identified

- Not indicated

F.1.2 Coordinate The Involvement Of Specialist And Experts In The EA

- Not indicated

F.1.3 Ensure Central Government Obligations Are Met

- Not indicated

F.1.4 Other

- The Environmental Assessment Director in the Alberta Environment Ministry coordinates the Environmental Assessment process.

G. COHERENCE WITH CEAA

G.1. MAJOR AREAS OF DIVERGENCE

G.1.1 General

- The Alberta EIA process is much more streamlined than the Federal CEAA.
- The Environment Director and the Minister are given greater discretionary powers, and 'delegated' much of the functions of written federal legislation.

G.1.2 Levels Of Assessment

- Levels of assessment are not defined as in the CEAA

G.1.3 Coverage Of Assessment

- Assessment coverage is comparable to CEAA

G.1.4 Public Participation And Consensus-building

- Less emphasis on seeking/facilitating input from various public demographics.

G.2. RECOMMENDATIONS FOR IMPROVING IMPLEMENTABILITY

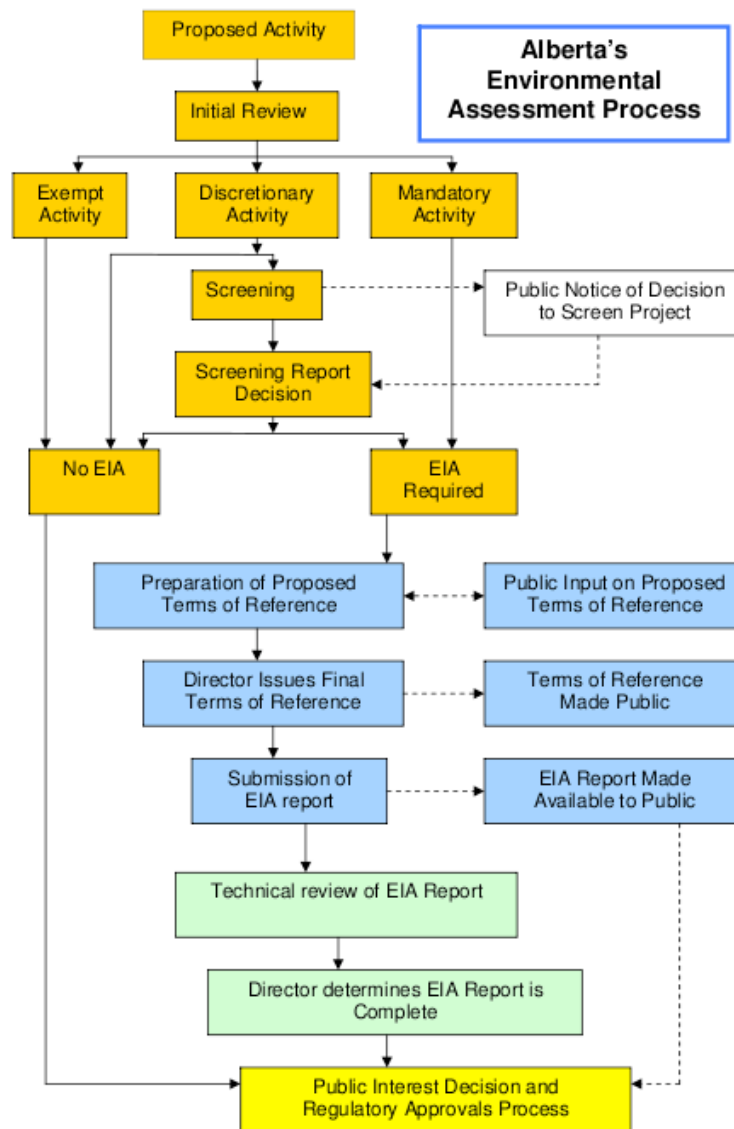
- The Canada-Alberta Agreement for Environmental Assessment Cooperation outlines the Environmental Assessment Process where areas of the provincial and federal legislation overlap. Therefore issues of implementability in regards to integrating with Federal EA legislation has already been dealt with.

ANNEX 1: SUMMARY MATRIX

Part	Characteristics of Processes	Status	Page
A.	Background Information		

B.	TYPES OF PROJECTS COVERED		

ANNEX 2: ALBERTA EA PROCESS



From: Alberta Environment Ministry. EA Guide 2008-1. Environmental Assessment Program Page 5.

ANNEX 3: EA LEGISLATION

Part 2

Environmental Assessment Process, Approvals and Registrations

Definitions

39 In this Part,

(a) “environmental assessment process” means the procedure established under Division 1 for reviewing proposed activities;

(b) “environmental impact assessment report” means an environmental impact assessment report required to be prepared under this Part;

(c) “mandatory activity” means an activity designated as a mandatory activity under the regulations;

(d) “proponent” means a person, the Government, a Government agency, the government of another jurisdiction or an agency of that government that undertakes a proposed activity;

(e) “proposed activity” means

(i) an activity that has not been commenced,

(ii) an activity that is being carried on and for which an approval or registration, other than a renewal, is required but has not been obtained,

(iii) a change to an activity where the change is one to which section 67(1) applies and, in the Director’s opinion, is of a substantial nature, and

(iv) in the case of an activity that is the subject of an approval or registration and is carried out in stages, those stages of the activity that are not yet covered by the approval or registration.

1992 cE-13.3 s37;1994 c15 s17;1996 c17 s55

Division 1

Environmental Assessment Process

Purpose of environmental assessment process

40 The purpose of the environmental assessment process is

(a) to support the goals of environmental protection and sustainable development,

(b) to integrate environmental protection and economic decisions at the earliest stages of planning an activity,

(c) to predict the environmental, social, economic and cultural consequences of a proposed activity and to assess plans to mitigate any adverse impacts

resulting from the proposed activity, and

(d) to provide for the involvement of the public, proponents, the Government and Government agencies in the review of proposed activities.

1992 cE-13.3 s38;1994 c15 s18

Any Director may require assessment

41 Where any Director is of the opinion that the potential environmental impacts of a proposed activity warrant further consideration under the environmental assessment process, that Director may refer the proponent or the proposed activity to the Director who is designated for the purposes of sections 43 to 56 so that the proposed activity may be dealt with under section 44.

1992 cE-13.3 s39

Definition

42 In sections 43 to 56, “Director” means the Director who is designated for the purposes of those sections.

1992 cE-13.3 s40

Director’s power to require environmental assessment

43 Where the Director is of the opinion that the potential environmental impacts of a proposed activity warrant further consideration under the environmental assessment process, the Director may by notice in writing to the proponent advise the proponent that the proposed activity must be dealt with under section 44.

1992 cE-13.3 s41

Initial review by Director

44(1) Where a proponent or a proposed activity is referred to the Director under section 41, where the Director gives a notice under section 43 or where a proponent on the proponent’s own initiative consults with the Director in respect of the application of this Division to a proposed activity, the Director shall,

(a) if the proposed activity is a mandatory activity, direct the proponent by order in writing to prepare and submit an environmental impact assessment report in accordance with this Division, or

(b) if the proposed activity is not a mandatory activity,

(i) make a decision that the potential environmental impacts of the proposed activity warrant further consideration under the environmental assessment process and require that further assessment of the proposed activity be undertaken, or

(ii) make a decision that further assessment of the proposed activity is not required and, if it is an activity for which an approval or registration is required, advise the proponent that it may apply for the approval or registration.

(2) The Director may require a proponent to submit a disclosure document in the form and containing the information required by the Director to assist the Director in making a

decision under subsection (1)(b).

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

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

(4) The Director shall notify the proponent

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

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

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

1992 cE-13.3 s42;1994 c15 s19;1996 c17 s55

Whether environmental impact assessment report required

45(1) Where the Director decides under section 44(1)(b)(i) that further assessment of a proposed activity is required, the Director shall, in accordance with the regulations,

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

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

(3) Where the Director decides under subsection (1) that preparation of an environmental impact assessment report is not required, the Director

- (a) shall advise the proponent of that fact,
- (b) if the activity is one for which an approval or registration is required, shall advise the proponent that it may apply for the approval or registration, and
- (c) may refer any information on the potential environmental impacts

of the proposed activity to the Director responsible for issuing the approval or registration.

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

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

1992 cE-13.3 s43;1994 c15 s20;1996 c17 s55

Effect of statement of concern

46 The Director shall, in accordance with the regulations, give due consideration to all statements of concern that have been submitted and shall not make a decision under section 45(1)(b) until the applicable period referred to in section 44(6) has expired.

1992 cE-13.3 s44

Minister may order environmental impact assessment report

47 If the Minister is of the opinion that an environmental impact assessment report is necessary because of the nature of a proposed activity, the Minister may by order in writing direct the proponent to prepare and submit the report in accordance with this Division, notwithstanding that

(a) the Director has not ordered an environmental impact assessment report, or

(b) the proposed activity is the subject of an exemption under regulations under section 59(b).

1992 cE-13.3 s45

Terms of reference

48(1) Where a proponent is required to prepare an environmental impact assessment report, the proponent shall prepare proposed terms of reference for the preparation of the report in accordance with requirements specified by the Director and shall submit the proposed terms of reference to the Director.

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

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

(4) The Director shall make the final terms of reference available in accordance with the regulations.

1992 cE-13.3 s46

Contents of environmental impact assessment report

49 An environmental impact assessment report must be prepared in accordance with the final terms of reference issued by the Director under section 48(3) and shall include the following information unless the Director provides otherwise:

- (a) a description of the proposed activity and an analysis of the need for the activity;
- (b) an analysis of the site selection procedure for the proposed activity, including a statement of the reasons why the proposed site was chosen and a consideration of alternative sites;
- (c) an identification of existing baseline environmental conditions and areas of major concern that should be considered;
- (d) a description of potential positive and negative environmental, social, economic and cultural impacts of the proposed activity, including cumulative, regional, temporal and spatial considerations;
- (e) an analysis of the significance of the potential impacts identified under clause (d);
- (f) the plans that have been or will be developed to mitigate the potential negative impacts identified under clause (d);
- (g) an identification of issues related to human health that should be considered;
- (h) a consideration of the alternatives to the proposed activity, including the alternative of not proceeding with the proposed activity;
- (i) the plans that have been or will be developed to monitor environmental impacts that are predicted to occur and the plans that have been or will be developed to monitor proposed mitigation measures;
- (j) the contingency plans that have been or will be developed in order to respond to unpredicted negative impacts;
- (k) the plans that have been or will be developed for waste minimization and recycling;
- (l) the manner in which the proponent intends to implement a program of public consultation in respect of the undertaking of the proposed activity and to present the results of that program;
- (m) the plans that have been or will be developed to minimize the production or the release into the environment of substances that may have an adverse effect;
- (n) the final terms of reference issued by the Director under section 48(3);

(o) any other information that the Director considers necessary to assess the proposed activity.

1992 cE-13.3 s47

Submission of report

50 The proponent shall submit the environmental impact assessment report to the Director for review.

1992 cE-13.3 s48

Provision of further information

51 The Director may, at any time after receipt of an environmental impact assessment report under section 50, require the proponent to submit to the Director any additional information respecting the proposed activity that the Director considers necessary for the review of the proposed activity.

1992 cE-13.3 s49

Publication of environmental impact assessment report

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

1992 cE-13.3 s50

Powers of Director

53 Where in the opinion of the Director an environmental impact assessment report is complete, the Director shall

(a) advise the Energy Resources Conservation Board or the Alberta Utilities Commission, as the case may be, that the report is complete, in a case where the proposed activity is one in respect of which the approval of the Energy Resources Conservation Board or the Alberta Utilities Commission, as the case may be, is required,

(b) advise the Natural Resources Conservation Board that the report is complete, in a case where the proposed activity is a reviewable project within the meaning of the *Natural Resources Conservation Board Act*, or

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

RSA 2000 cE-12 s53;2007 cA-37.2 s82(6)

Powers of Minister

54(1) Subject to section 64(1), where the Director submits an environmental assessment report to the Minister and the proposed activity is one in respect of which

(a) an approval or registration, or an amendment to an approval or registration, or

(b) an approval or licence or an amendment to an approval or

licence under the *Water Act*

is required, the Minister may advise the proponent that the proponent may apply for the appropriate approval, registration, licence or amendment.

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

1992 cE-13.3 s52;1996 cW-3.5 s175;1996 c17 s55

Additional powers of Minister

55 Where the Director submits an environmental impact assessment report to the Minister, the Minister may make any recommendations in respect of the proposed activity that the Minister considers necessary to any person, the Government, a Government agency, a government of another jurisdiction or an agency of that government that may be dealing with the proposed activity.

1992 cE-13.3 s53;1994 c15 s21

Register of environmental assessment information

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

1992 cE-13.3 s54

Inter-jurisdictional agreements re environmental assessment

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

(a) to determine what aspects of the activity are governed by the laws of both jurisdictions;

(b) to provide for the carrying out jointly by both jurisdictions of

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

(ii) the provisions in any enactment of the other jurisdiction that operate for substantially the same purpose as this Division;

(c) to provide for the adoption by one or both jurisdictions, for the purposes of their environmental assessment requirements, of

(i) all or part of the environmental assessment or review process of the other jurisdiction, and

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

1992 cE-13.3 s55

Ministerial regulations

58 The Minister may make regulations

- (a) respecting the establishment and maintenance of a register for the purposes of section 56;
- (b) establishing procedures governing the environmental assessment process;
- (c) varying the application of this Division as necessary in a case where an agreement or arrangement is entered into under section 57;
- (d) establishing mechanisms and procedures
 - (i) for the publishing, providing or making available of anything required to be published, provided or made available under this Division, and
 - (ii) for the providing of any notice required to be provided under this Division;
- (e) respecting the preparation of screening reports for the purposes of section 45;
- (f) respecting the form and content of environmental impact assessment reports;
- (g) respecting the form and content of orders under sections 45(4) and 47;
- (h) respecting proposed and final terms of reference for the purposes of section 48;
- (i) respecting the submission of and handling of statements of concern.

1992 cE-13.3 s56;1994 c15 s22

Lieutenant Governor in Council regulations

59 The Lieutenant Governor in Council may make regulations

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

1992 cE-13.3 s57

Division 2

Approvals, Registrations
and Certificates

Prohibition

60 No person shall knowingly commence or continue any activity that is designated by the regulations as requiring an approval or registration or that is redesignated under section 66.1 as requiring an approval unless that person holds the required approval or registration.

RSA 2000 cE-12 s60;2003 c37 s5

Prohibition

61 No person shall commence or continue any activity that is designated by the regulations as requiring an approval or registration or that is redesignated under section 66.1 as requiring an approval unless that person holds the required approval or registration.

RSA 2000 cE-12 s61;2003 c37 s6

Exception

62 Nothing in section 60 or 61 prohibits the doing of any work that is specified in the regulations as being work that is permitted to enable a proponent to comply with Division 1.

1992 cE-13.3 s60

Compliance with other requirements

63 Unless the regulations provide otherwise, the Director may not issue an approval or registration unless the Director is of the opinion that Division 1, if applicable, has been complied with.

1992 cE-13.3 s61;1994 c15 s25;1996 c17 s55

No approval or registration on Minister's order

64(1) Where the Minister is of the opinion that a proposed activity should not proceed because it is not in the public interest having regard to the purposes of this Act, the Minister may at any time by notice in writing to the proponent, with a copy to the Director, order that no approval or registration be issued in respect of the proposed activity.

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

1992 cE-13.3 s62;1996 c17 s55

Refusal for unpaid debts

65 The Director may refuse to issue an approval or registration where the applicant is indebted to the Government.

1998 c15 s7

Application for approval or registration

66(1) An application for an approval or registration must be made in the manner provided for in the regulations and must contain and be accompanied with the information required

by the regulations.

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

1992 cE-13.3 s63;1996 c17 s55

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.

2003 c37 s7

Changes requiring approval

67(1) No person shall, with respect to an activity that is the subject of an approval, make any change to

(a) the activity,

(b) the manner in which the activity is carried on, or

(c) any machinery, equipment or process that is related to the carrying on of the activity

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

(2) A person who wishes to make a change under subsection (1) shall apply to the

Director in accordance with the regulations.

(3) This section does not apply to

(a) adjustments, repairs, replacements or maintenance made in the normal course of operations,

(b) changes that do not result in an increase in the release of a substance into the environment,

(c) short-term testing or temporary modifications to machinery, equipment or processes that do not cause an adverse effect,

(d) changes in the type of equipment used in the conservation or reclamation of specified land, or

(e) minor changes to conservation and reclamation plans that do not contravene the purpose or intent of the approval.

RSA 2000 cE-12 s67;2003 c37 s8

Issue of approval or registration

68(1) The Director may issue or refuse to issue an approval or registration.

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

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

(4) In making a decision under this section, the Director

(a) shall, in addition to any criteria that the Director is required by the regulations to consider, consider any applicable written decision of the Energy Resources Conservation Board, the Alberta Utilities Commission, the Board, as defined in the *Agricultural Operation Practices Act*, under Part 2 of that Act or the Natural Resources Conservation Board in respect of the subject-matter of the approval or registration, and

(b) may consider any evidence that was before the Energy Resources Conservation Board, the Alberta Utilities Commission, the Board, as defined in the *Agricultural Operation Practices Act*, under Part 2 of that Act or the Natural Resources Conservation Board in relation to that written decision.

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

RSA 2000 cE-12 s68;2001 c16 s6;2007 cA-37.2 s82(6)

Extension of expiry date of approval

69(1) The Director may extend the expiry date, if any, of an approval or registration for one or more periods of not more than one year each.

(2) The 2nd extension and any subsequent extensions of an approval under subsection

(1)

(a) may be made only where the Director is of the opinion that the

extension is necessary to allow for the effective public review of the renewal of the approval, and

(b) are, for the purposes of the provisions of this Division that require the giving of notice and for the purposes of Part 4, to be treated as if they were amendments of a term or condition of the approval made under the authority of section 70(3)(a).

1992 cE-13.3 s66;1996 c17 s9

Amendment, suspension and cancellation of approval or registration

70(1) On application by an approval or registration holder, the Director may, in accordance with the regulations,

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

(b) cancel an approval or registration,

if the Director considers it appropriate to do so.

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

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

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

(i) if in the Director's opinion an adverse effect that was not reasonably foreseeable at the time the approval was issued has occurred, is occurring or may occur,

(ii) if the term or condition relates to a monitoring or reporting requirement,

(iii) where the purpose of the amendment, addition or deletion is to address matters related to a temporary suspension of the activity by the approval holder, or

(iv) where the approval is transferred, sold, leased, assigned or otherwise disposed of under section 75,

(b) cancel or suspend an approval or registration, or

(c) correct a clerical error in an approval or registration.

(4) Without limitation to subsection (3)(b), the Director may cancel or suspend an approval or registration if the approval or registration holder is indebted to the Crown.

RSA 2000 cE-12 s70;2002 c4 s1

Director's power to modify

71 Where the Director

- (a) issues an approval or registration, or
- (b) amends a term or condition of, adds a term or condition to or

deletes a term or condition from an approval,

the Director may do so as originally contemplated in the application or proposal or with modifications.

1992 cE-13.3 s68;1996 c17 s55

Notice of applications and proposed changes

72(1) Where the Director receives

- (a) an application for an approval under section 66,

(a.1) an application for registration under section 66 or a notice under section 87 or 88 and the Director has given notice under section 66.1 that the application or notice is deemed to be an application for an approval,

(b) an application under section 67(2) in respect of a change to an activity, or

(c) an application under section 70(1)(a) to amend a term or condition of, add a term or condition to or delete a term or condition from an approval, the Director shall, in accordance with the regulations, provide or require the applicant to provide notice of the application.

(2) Where the Director proposes to make an amendment, addition or deletion pursuant to section 70(3)(a), the Director shall provide notice to that effect in accordance with the regulations.

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

- (a) there is an emergency,

(b) the activity to which the application relates or the proposed amendment, addition, deletion or change is a routine matter within the meaning of the regulations, or

(c) adequate notice of the subject-matter of the application or the proposed amendment, addition, deletion or change has already been given,

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

(4) The Director may waive notice in accordance with subsection (3)(c) notwithstanding that some or all of the adequate notice referred to in that subsection was given before September 1, 1993.

RSA 2000 cE-12 s72;2003 c37 s9

Statement of concern

73(1) Where notice is provided under section 72(1) or (2), any person who is directly

affected by the application or the proposed amendment, addition, deletion or change, including the approval holder in a case referred to in section 72(2), may submit to the Director a written statement of concern setting out that person's concerns with respect to the application or the proposed amendment, addition, deletion or change.

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

1992 cE-13.3 s70;1994 c15 s28

Notice of decision taken

74(1) Where the Director

(a) issues an approval,

(b) makes an amendment, addition or deletion pursuant to an application under section 70(1)(a), or

(c) makes an amendment, addition or deletion pursuant to section 70(3)(a),

the Director shall do either of the things referred to in subsection (2).

(2) If subsection (1) applies, the Director shall,

(a) where no notice of the application or proposed changes was provided by reason of the operation of section 72(3), provide or require the provision of notice of the decision in accordance with the regulations, or

(b) where notice of the application or proposed changes was provided under section 72(1) or (2), provide notice or require the provision of notice of the decision in accordance with the regulations to every person who submitted a statement of concern in accordance with section 73.

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

(4) The Director shall, in accordance with the regulations, provide to any person who submitted a statement of concern in accordance with section 73 notice of any decision made by the Director to refuse to issue an approval or to refuse to make an amendment, addition or deletion under this Division.

(5) In addition to providing notice of a decision under subsection (2)(b) or (4), the Director may provide notice of the decision to any other person the Director considers appropriate.

(6) The Director shall immediately on cancelling or suspending an approval under section 70(3)(b) or (4)

(a) give notice in writing of the cancellation or suspension to the approval holder, and

(b) provide notice of the cancellation or suspension in the manner provided for in the regulations.

RSA 2000 cE-12 s74;2002 c4 s1

Transfer of approval or registration

75(1) No person shall transfer, sell, lease, assign or otherwise dispose of an approval or registration except in accordance with the regulations.

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

1992 cE-13.3 s72;1996 c17 s55

New information

76 An approval or registration holder shall forthwith submit to the Director any new and relevant information respecting any actual or potential adverse effect that results from the activity to which the approval or registration relates and comes to the approval or registration holder's attention after the issuance of the approval or registration.

1992 cE-13.3 s73;1996 c17 s55

Certificate of variance

77(1) An approval or registration holder and any other person who is engaged in any activity that is governed by the regulations may apply to the Minister for a certificate of variance to vary a term or condition of the approval or a requirement of the regulations.

(2) An application for a certificate of variance shall be accompanied with information that shows the nature and extent of all consultations that the applicant has had with persons who will be directly affected by the proposed variance.

1992 cE-13.3 s74;1996 c17 s11

Issuance of certificate of variance

78(1) The Minister may issue a certificate of variance if the Minister is of the opinion that

(a) the activity to which the certificate relates is operating or is likely to operate in contravention of a term or condition of the approval or a requirement of the regulations as a result of factors beyond the control of the applicant,

(b) the proposed variance is not likely to cause a significant adverse effect, and

(c) refusal to grant a certificate of variance would result in serious economic hardship to the applicant without an offsetting benefit to others.

(2) The Minister may

(a) impose any terms and conditions that the Minister considers appropriate with respect to any certificate of variance,

(b) specify requirements as to the manner in which the activity to

which the certificate of variance relates is to be carried on or operated, and

(c) amend a term or condition of, add a term or condition to or delete a term or condition from a certificate of variance.

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

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

(a) the terms and conditions set out in the certificate, and

(b) the terms and conditions of the approval or the requirements of the regulations that are not varied by the certificate apply to the activity to which the certificate relates.

1992 cE-13.3 s75

Certificate of qualification required

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

1992 cE-13.3 s76

Issuance of certificate of qualification

80(1) A certificate of qualification may be issued by

(a) the Director, or

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

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

1996 c17 s12

Application for certificate of qualification

81(1) An application for a certificate of qualification must be made to the Director or the authorized representative of a designated organization in accordance with the regulations.

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

1992 cE-13.3 s77;1996 c17 s13

Issuance of certificate of qualification

82(1) The Director or the authorized representative of a designated organization may issue or refuse to issue a certificate of qualification in accordance with the regulations.

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

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

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

1992 cE-13.3 s78;1996 c17 s14

Amendment and cancellation

83(1) The Director may, in accordance with the regulations,

(a) amend a term or condition of, add a term or condition to or delete a term or condition from a certificate of qualification if the Director considers it appropriate to do so,

(b) cancel or suspend a certificate of qualification if the Director considers it appropriate to do so,

(c) correct a clerical error in a certificate of qualification, or

(d) cancel a certificate of qualification on application of the holder of the certificate of qualification.

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

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

1992 cE-13.3 s79;1996 c17 s15

Compliance with code of practice

83.1 No person shall commence or continue any activity that is

(a) designated by the regulations as requiring a registration, and

(b) governed by a code of practice

except in accordance with that code of practice.

2003 c37 s10

Security

84(1) If required by the regulations, an applicant for or a holder of an approval, a registration, a remediation certificate, a certificate of qualification or a certificate of variance shall provide financial or other security and carry insurance in respect of the activity or thing to which the approval, registration, remediation certificate, certificate of qualification or certificate of variance relates.

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

1992 cE-13.3 s80;1996 c17 s16

Ministerial regulations

85(1) The Minister may make regulations

(a) designating activities or classes of activities in respect of which an approval or registration is required, respecting the circumstances under which an approval or registration is required and the persons or classes of persons who are required to obtain an approval or registration and specifying the kind of approval or registration that is required;

(b) exempting any activities or classes of activities related to storing and processing designated material from all or any of the provisions of this Part or of the regulations, for a period of time or permanently, with or without conditions;

(c) designating activities or things or classes of activities or things in respect of which a certificate of qualification is required, respecting the circumstances under which a certificate of qualification is required and the persons or classes of persons who are required to obtain a certificate of qualification and specifying the kind of certificate of qualification that is required;

(d) respecting the procedure for the submission of applications for approvals, registrations and certificates of qualification and amendments to approvals, registrations and certificates of qualification, the form and content of the applications, the conditions required to be met by applicants and the kinds of plans and specifications that must accompany applications;

(e) providing for the acceptance of certificates and qualifications from other jurisdictions as certificates of qualification for the purposes of this Act;

(f) establishing the administrative and referral procedures by which applications for approvals, registrations and certificates of qualification and amendments to approvals, registrations and certificates of qualification may be dealt with;

(g) specifying requirements as to the manner in which an activity that is the subject of an approval or registration is to be tested or operated before normal operations commence;

(h) specifying work that is permitted for the purposes of section 62;

(i) respecting the transfer, sale, lease, assignment or other disposition of approvals and registrations;

(j) requiring operators of equipment that may have an impact on the environment to meet specified eligibility requirements as to training or experience or both;

(k) respecting the taking of samples of any thing and regulating the frequency, methods and procedures in respect of the sampling;

(l) respecting the submission of reports and returns in respect of activities;

(m) respecting the records to be kept in respect of an activity, the form of them and the person by whom, the place at which and the length of time for which they are to be kept;

(n) requiring the submission of records to the Director and providing for the inspection of records by the Director;

(o) defining “oil production site” for the purposes of this Act.

(2) A regulation may be made under subsection (1)(j), (k), (l), (m) or (n) whether or not it relates to an activity in respect of which an approval or registration is required.

(3) Where an activity or class of activities has been designated under subsection (1)(a) as requiring an approval and the designation is later amended so that a registration is required, the Minister may make regulations

(a) deeming the approval to be a registration;

(b) respecting the date on which the code of practice or portion of the code of practice governing that activity or class of activities is to take effect;

(c) to continue any terms and conditions of the approval until the date referred to in clause (b);

(d) providing that the expiry date of the approval no longer applies;

(e) providing for any other matter that the Minister considers necessary to facilitate the transition from an approval to a registration and a code of practice.

RSA 2000 cE-12 s85;2003 c37 s11

Lieutenant Governor in Council regulations

86(1) The Lieutenant Governor in Council may make regulations

(a) respecting the terms and conditions on which approvals and certificates of qualification may be granted and to which they are subject;

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

(c) respecting the form and amount of financial or other security to be given and insurance to be carried by an applicant for or a holder of an approval, a registration, a remediation certificate, a certificate of qualification or a certificate of variance;

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

(e) governing and prohibiting any activity or the use of any thing for the purposes of the protection of the environment, including regulations governing the design, construction, maintenance or use of the activity or thing;

(f) governing and prohibiting the manufacture, sale or use of any equipment, device or service designed or provided for any purpose related to the protection of the environment;

(g) respecting the manner in which notice is to be provided under sections 72(1) and (2) and 74(3) and (6);

(h) establishing or providing for the means of establishing what is a routine matter for the purposes of section 72(3)(b);

(i) generally, providing for any other matters necessary for the purposes of this Part.

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

1992 cE-13.3 s82;1994 c15 s31;1996 c17 s17