



Province of Alberta

# **RESPONSIBLE ENERGY DEVELOPMENT ACT**

Statutes of Alberta, 2012  
Chapter R-17.3

Current as of December 17, 2014

## Office Consolidation

© Published by Alberta Queen's Printer

Alberta Queen's Printer  
7<sup>th</sup> Floor, Park Plaza  
10611 - 98 Avenue  
Edmonton, AB T5K 2P7  
Phone: 780-427-4952  
Fax: 780-452-0668

E-mail: [qp@gov.ab.ca](mailto:qp@gov.ab.ca)  
Shop on-line at [www.qp.alberta.ca](http://www.qp.alberta.ca)

## Copyright and Permission Statement

Alberta Queen's Printer holds copyright on behalf of the Government of Alberta in right of Her Majesty the Queen for all Government of Alberta legislation. Alberta Queen's Printer permits any person to reproduce Alberta's statutes and regulations without seeking permission and without charge, provided due diligence is exercised to ensure the accuracy of the materials produced, and Crown copyright is acknowledged in the following format:

© Alberta Queen's Printer, 20\_\_.\*

\*The year of first publication of the legal materials is to be completed.

### Note

All persons making use of this consolidation are reminded that it has no legislative sanction, that amendments have been embodied for convenience of reference only. The official Statutes and Regulations should be consulted for all purposes of interpreting and applying the law.

### Regulations

The following is a list of the regulations made under the *Responsible Energy Development Act* that are filed as Alberta Regulations under the Regulations Act

	<b>Alta. Reg.</b>	<i>Amendments</i>
<b>Responsible Energy Development Act</b>		
Alberta Energy Regulator		
Administration Fees Rules .....	98/2013 .....	2/2014, 52/2014, 194/2014, 77/2015
Alberta Energy Regulator		
Rules of Practice .....	99/2013 .....	203/2013, 45/2014
Enforcement of Private Surface		
Agreement Rules.....	204/2013	
Responsible Energy Development Act		
General.....	90/2013 .....	159/2013, 202/2013
Security Management for Critical		
Upstream Petroleum and Coal		
Infrastructure .....	91/2013	
Specified Enactments (Jurisdiction) .....	201/2013 .....	148/2014, 18/2015
Transition .....	92/2013	

# **RESPONSIBLE ENERGY DEVELOPMENT ACT**

## Chapter R-17.3

### *Table of Contents*

- 1 Interpretation
- 2 Mandate of Regulator

#### **Part 1 Alberta Energy Regulator**

##### **Division 1 Establishment and Governance of Regulator**

- 3 Alberta Energy Regulator
- 4 Not a Crown agent
- 5 Board of directors
- 6 Board powers
- 7 Chief Executive Officer
- 8 Bylaws
- 9 Duty of care
- 10 Non-application of Public Service Act

##### **Division 2 Hearing Commissioners**

- 11 Establishment of roster
- 12 Panels
- 13 Nature of hearing commissioners proceedings

##### **Division 3 General Powers, Duties and Functions of Regulator**

- 14 Powers of Regulator
- 15 Factors to consider on applications, etc.
- 16 Disclosure of information to Minister
- 17 Inquiries and recommendations
- 18 Co-operative proceedings
- 19 Order prohibiting unauthorized activities
- 20 ALSA regional plans
- 21 Crown consultation with aboriginal peoples
- 22 Notice to Minister required before enacting rule

**Division 4  
Jurisdiction of Regulator Under Specified Enactments**

- 23 Definition
- 24 Regulator's jurisdiction under specified enactments
- 25 Proceedings under specified enactments
- 26 Regulations

**Division 5  
Administration**

- 27 Protection from action
- 28 Regulator's funds and expenditures
- 29 Funding

**Part 2  
Applications, Hearings, Regulatory  
Appeals and Other Proceedings****Division 1  
Applications to Regulator**

- 30 Applications to Regulator
- 31 Notice of application
- 32 Statement of concern
- 33 Decision of Regulator

**Division 2  
Hearings on Applications**

- 34 Hearing on application
- 35 Decision of Regulator on hearing

**Division 3  
Regulatory Appeals**

- 36 Definitions
- 37 Application of Division
- 38 Request for regulatory appeal
- 39 Conducting a regulatory appeal
- 40 Hearing on regulatory appeal
- 41 Decision of Regulator on regulatory appeal

**Division 4  
Reconsideration by Regulator**

- 42 Reconsideration of decisions
- 43 Hearing on reconsideration
- 44 Decision of Regulator on reconsideration

**Division 5  
Appeal to Court of Appeal**

- 45 Appeal on a question of jurisdiction or of law

**Division 6  
General Matters**

- 46 Alternative dispute resolution  
47 Rules of evidence  
48 Protection re evidence  
49 Crown counsel permitted to attend  
50 Notice to attend  
51 Records as evidence  
52 Copies of records as evidence  
53 Proof of Regulator decisions  
54 Contents of Regulator decisions  
55 Powers of Regulator on hearing or inquiry  
56 Exclusion of judicial review  
57 Disposition of fees and penalties  
58 Action for recovery  
59 Enforcement of remedies

**Division 7  
Regulations and Rules  
Under this Part**

- 60 Regulations  
61 Rules

**Part 3  
Enforcement of Private  
Surface Agreements**

- 62 Interpretation  
63 Registration of private surface agreement  
64 Order to comply  
65 Part overrides agreement  
66 Rules

**Part 4  
Ministerial Direction to Regulator**

- 67 Direction to Regulator  
68 Rules

**Part 5  
Enforcement****Division 1  
Inspections and Investigations**

- 69 Inspections and investigations

**Division 2  
Administrative Penalties**

- 70 Administrative penalties  
71 Notice of administrative penalty  
72 Daily penalty  
73 Protection from prosecution  
74 Limitation period  
75 Enforcement in Court of Queen's Bench

**Division 3  
General Matters and Regulations  
Under this Part**

- 76 Publication of information  
77 Regulations

**Part 6  
General Regulations**

- 78 Regulations  
79 Deficiency regulations  
80 Regulations regarding security

**Part 7  
Dissolution and Transitional Provisions,  
Consequential and Related Amendments,  
Repeal and Coming into Force**

- 81 Dissolution of the Energy Resources Conservation Board  
82 References to former Boards  
83 Transitional provisions  
84 Transition committee  
85-111 Consequential amendments  
112 Repeal  
113 Coming into force

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

**Interpretation**

- 1(1) In this Act,

- (a) “application” means an application to the Regulator for the issuance of an approval;
- (b) “approval” means, except where the context otherwise requires, a permit, licence, registration, authorization, disposition, certificate, allocation, declaration or other instrument or form of approval, consent or relief under an energy resource enactment or a specified enactment;
- (c) “board” means the board of directors of the Regulator;
- (d) “Chief Executive Officer” means the Chief Executive Officer appointed under section 7;
- (e) “Crown” means the Crown in right of Alberta;
- (f) “decision” of the Regulator includes an approval, order, direction, declaration or notice of administrative penalty made or issued by the Regulator;
- (g) “director” means, except where the context otherwise requires, a member of the board;
- (h) “energy resource” means any natural resource within Alberta that can be used as a source of any form of energy, but does not include hydro energy as defined in the *Hydro and Electric Energy Act*;
- (i) “energy resource activity” means
  - (i) an activity that may only be carried out under an approval issued under an energy resource enactment, or
  - (ii) an activity described in the regulations that is directly linked or incidental to the carrying out of an activity referred to in subclause (i);
- (j) “energy resource enactment” means
  - (i) the *Coal Conservation Act*,
  - (ii) the *Gas Resources Preservation Act*,
  - (iii) the *Oil and Gas Conservation Act*,
  - (iv) the *Oil Sands Conservation Act*,
  - (v) the *Pipeline Act*,
  - (vi) the *Turner Valley Unit Operations Act*,

- (vii) a regulation or rule under an enactment referred to in subclauses (i) to (vi), or
- (viii) any enactment prescribed by the regulations;
- (k) “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);
- (l) “hearing commissioner” means an individual appointed under section 11 to serve as a hearing commissioner;
- (m) “issuance”, in respect of an approval, includes, where the context so requires, an amendment, transfer, renewal or cancellation of an approval;
- (n) “Minister” means the Minister determined under section 16 of the *Government Organization Act* as the Minister responsible for this Act;
- (o) “reconsideration” means a reconsideration of a decision under Division 4 of Part 2;
- (p) “Regulator” means the Alberta Energy Regulator established by section 3;
- (q) “regulatory appeal” means an appeal of an appealable decision under Division 3 of Part 2;
- (r) “rule” means, except in section 47, a rule made
  - (i) by or on behalf of the Regulator under this Act or by the Regulator under an energy resource enactment, or
  - (ii) by the Lieutenant Governor in Council pursuant to section 68;
- (s) “specified enactment” means
  - (i) the *Environmental Protection and Enhancement Act*,
  - (ii) the *Public Lands Act*,

- (iii) the *Water Act*,
- (iv) Part 8 of the *Mines and Minerals Act*,
- (v) a regulation under an enactment referred to in subclauses (i) to (iv), or
- (vi) any enactment prescribed by the regulations.

(2) A reference in this Act to “any other enactment” means a reference to an energy resource enactment or a specified enactment where the context so requires.

### **Mandate of Regulator**

**2(1)** The mandate of the Regulator is

- (a) to provide for the efficient, safe, orderly and environmentally responsible development of energy resources in Alberta through the Regulator’s regulatory activities, and
- (b) in respect of energy resource activities, to regulate
  - (i) the disposition and management of public lands,
  - (ii) the protection of the environment, and
  - (iii) the conservation and management of water, including the wise allocation and use of water,

in accordance with energy resource enactments and, pursuant to this Act and the regulations, in accordance with specified enactments.

(2) The mandate of the Regulator is to be carried out through the exercise of its powers, duties and functions under energy resource enactments and, pursuant to this Act and the regulations, under specified enactments, including, without limitation, the following powers, duties and functions:

- (a) to consider and decide applications and other matters under energy resource enactments in respect of pipelines, wells, processing plants, mines and other facilities and operations for the recovery and processing of energy resources;
- (b) to consider and decide applications and other matters under the *Public Lands Act* for the use of land in respect of energy resource activities, including approving energy resource activities on public land;

- (c) to consider and decide applications and other matters under the *Environmental Protection and Enhancement Act* in respect of energy resource activities;
- (d) to consider and decide applications and other matters under the *Water Act* in respect of energy resource activities;
- (e) to consider and decide applications and other matters under Part 8 of the *Mines and Minerals Act* in respect of the exploration for energy resources;
- (f) to monitor and enforce safe and efficient practices in the exploration for and the recovery, storing, processing and transporting of energy resources;
- (g) to oversee the abandonment and closure of pipelines, wells, processing plants, mines and other facilities and operations in respect of energy resource activities at the end of their life cycle in accordance with energy resource enactments;
- (h) to regulate the remediation and reclamation of pipelines, wells, processing plants, mines and other facilities and operations in respect of energy resource activities in accordance with the *Environmental Protection and Enhancement Act*;
- (i) to monitor energy resource activity site conditions and the effects of energy resource activities on the environment;
- (j) to monitor and enforce compliance with energy resource enactments and specified enactments in respect of energy resource activities.

## **Part 1** **Alberta Energy Regulator**

### **Division 1** **Establishment and Governance** **of Regulator**

#### **Alberta Energy Regulator**

**3(1)** The Alberta Energy Regulator is established as a corporation.

**(2)** The Regulator has the capacity and, subject to this Act and any other enactment, the rights, powers and privileges of a natural person.

**(3)** The Regulator's fiscal year is April 1 to the following March 31.

**Not a Crown agent**

**4** The Regulator is not an agent of the Crown.

**Board of directors**

**5(1)** There shall be a board of directors of the Regulator consisting of a chair and at least 2 other members appointed by the Lieutenant Governor in Council.

**(2)** The Lieutenant Governor in Council shall determine the remuneration of the directors, which is to be paid by the Regulator.

**Board powers**

**6(1)** The board is responsible for the general management of the business and affairs of the Regulator.

**(2)** The board may authorize in writing any director, any committee of the board, the Chief Executive Officer or any other officer or employee of the Regulator, or a person or a member of a class of persons described in the regulations, to carry out any power, duty or function of the Regulator under this Act or any other enactment on behalf of and in the name of the Regulator, with the authority to sub-authorize as the board considers appropriate.

**(3)** Notwithstanding subsection (2), the board may not authorize a person to carry out any power, duty or function of the Regulator that is prescribed by the regulations for the purposes of this subsection.

**Chief Executive Officer**

**7(1)** Subject to the approval of the Minister, the board shall

- (a) appoint an officer, to be called the Chief Executive Officer, who is responsible for the day-to-day operation of the business and affairs of the Regulator, and
- (b) determine the remuneration to be paid to the Chief Executive Officer.

**(2)** No director may be appointed as the Chief Executive Officer.

**Bylaws**

**8(1)** Subject to this Act and the regulations and rules, the board may make bylaws governing

- (a) the management of the business and affairs of the Regulator, and

- (b) the calling and conduct of board meetings and the conduct of the business of the board generally.

(2) The *Regulations Act* does not apply to bylaws made under this section.

#### **Duty of care**

**9(1)** Every director, hearing commissioner and officer of the Regulator, in carrying out powers, duties and functions, shall

- (a) act honestly and in good faith,
- (b) avoid conflicts of interest, and
- (c) exercise the care, diligence and skill that a reasonably prudent person would exercise under comparable circumstances.

(2) The Regulator shall establish and maintain policies and procedures addressing the identification, disclosure and resolution of matters involving conflicts of interest of directors, hearing commissioners, officers and employees of the Regulator.

#### **Non-application of Public Service Act**

**10** The *Public Service Act* does not apply to

- (a) the Regulator, or
- (b) the directors, hearing commissioners, officers or employees of the Regulator.

## **Division 2 Hearing Commissioners**

#### **Establishment of roster**

**11(1)** The Lieutenant Governor in Council shall establish a roster of hearing commissioners consisting of a chief hearing commissioner and such other individuals as are appointed by the Lieutenant Governor in Council.

(2) The Lieutenant Governor in Council shall determine the remuneration of the hearing commissioners, which is to be paid by the Regulator.

(3) Neither a director nor the Chief Executive Officer may be appointed to the roster.

**Panels**

**12(1)** Where the Regulator is to conduct

- (a) a hearing in respect of an application under Division 2 of Part 2,
- (b) a hearing in respect of a regulatory appeal under Division 3 of Part 2, or
- (c) a hearing in respect of a reconsideration under Division 4 of Part 2,

the hearing must be conducted on behalf of and in the name of the Regulator by a panel of one or more hearing commissioners selected by the chief hearing commissioner from the roster established under section 11.

**(2)** Where the Regulator is to conduct an inquiry under this Act or any other enactment, the Chief Executive Officer may arrange for the inquiry to be conducted on behalf of and in the name of the Regulator by a panel of one or more hearing commissioners selected by the chief hearing commissioner from the roster established under section 11.

**(3)** A decision of a panel of hearing commissioners on a hearing or inquiry is a decision of the Regulator.

**Nature of hearing commissioners proceedings**

**13(1)** The proceedings of the hearing commissioners are part of the day-to-day operations of the Regulator.

**(2)** Without limiting the generality of subsection (1), the hearing commissioners

- (a) may participate in the development of the Regulator's practices, procedures and rules, and
- (b) are entitled to receive professional, technical, administrative and operational support from the Regulator to assist the hearing commissioners in the conduct of hearings and inquiries.

**Division 3  
General Powers, Duties and  
Functions of Regulator**

**Powers of Regulator**

**14(1)** The Regulator, in the carrying out of duties and functions imposed on it by this Act or any other enactment, may do all things

that are necessary for or incidental to the carrying out of any of those duties or functions.

(2) The Regulator, with the approval of the Lieutenant Governor in Council, may take any action and may make any orders and directions that the Regulator considers necessary to carry out the mandate of the Regulator and the purposes of this Act or any other enactment that are not otherwise specifically authorized by this Act or any other enactment.

**Factors to consider on applications, etc.**

15 Where the Regulator is to consider an application or to conduct a regulatory appeal, reconsideration or inquiry, it shall, in addition to any other factor it may or must consider in considering the application or conducting the regulatory appeal, reconsideration or inquiry, consider any factor prescribed by the regulations, including the interests of landowners.

**Disclosure of information to Minister**

16(1) The Regulator shall, on the written request of the Minister, provide to the Minister within the time specified in the request any report, record or other information, including personal information, that is specified in the request.

(2) Where any report, record or other information disclosed by the Regulator to the Minister under subsection (1)

- (a) is subject to any kind of confidence, or
- (b) is supplied, explicitly or implicitly, in confidence,

the disclosure of that report, record or other information does not waive or negate any confidence attached to that report, record or other information, and the confidence continues for all purposes.

(3) This section applies notwithstanding section 50 of the *Mines and Minerals Act* and any rule made by the Regulator.

**Inquiries and recommendations**

17 The Regulator may, on its own initiative, and shall, in accordance with any request of the Lieutenant Governor in Council,

- (a) conduct inquiries and prepare studies and reports in respect of any matter relating to energy resources or the injection of substances into underground formations, and

- (b) recommend to the Lieutenant Governor in Council any measures it considers necessary or advisable related to a matter referred to in clause (a).

#### **Co-operative proceedings**

**18(1)** The Regulator may, on its own initiative, and shall, in accordance with any request of the Lieutenant Governor in Council, consider an application or conduct a regulatory appeal, reconsideration or inquiry or participate in other proceedings in respect of matters relating to the purposes of this Act or any other enactment jointly or in conjunction with any agency, board, commission or other body constituted in Alberta, or with a government department.

**(2)** The Regulator, with the approval of the Lieutenant Governor in Council, may enter into any agreements it considers desirable with the Government of Canada or an agency of it with respect to a matter relating to the purposes of this Act or any other enactment or with any government of a jurisdiction outside Alberta or an agency of that government in respect of the effects of such a matter in that jurisdiction.

**(3)** Pursuant to an agreement under subsection (2), the Regulator may hold proceedings jointly or in conjunction with the government or agency with which it entered into the agreement.

**(4)** A proceeding referred to in subsection (3) may be held outside Alberta.

#### **Order prohibiting unauthorized activities**

**19(1)** A person shall not commence, undertake or continue an activity for which an approval, order or direction is required without obtaining the approval, order or direction.

**(2)** Where a person commences, undertakes or continues an activity for which an approval, order or direction is required but has not been obtained, the Regulator, in addition to any other action or proceeding it may be authorized to take, may apply to the Court of Queen's Bench for an order prohibiting that person or that person's employees or agents from continuing the activity until that person has obtained the required approval, order or direction.

**(3)** If the Regulator makes or issues an approval, order, direction or declaration and a person does not comply with a term or condition of the approval, order, direction or declaration, the Regulator, in addition to any other action or proceeding it may be authorized to take, may apply to the Court of Queen's Bench for an

order requiring that person or that person's employees or agents to comply with the term or condition of the approval, order, direction or declaration.

#### **ALSA regional plans**

**20(1)** In carrying out its powers, duties and functions under this Act or any other enactment, the Regulator shall act in accordance with any applicable ALSA regional plan.

**(2)** The Regulator may, in issuing an approval or making or issuing an order or direction that it is authorized to make under this Act or any other enactment, direct a person who is the subject of the approval, order or direction to comply with a provision of an ALSA regional plan.

**(3)** The Regulator may enforce a direction under subsection (2) by any means provided for by this Act or any other enactment for the enforcement of approvals, orders or directions.

#### **Crown consultation with aboriginal peoples**

**21** The Regulator has no jurisdiction with respect to assessing the adequacy of Crown consultation associated with the rights of aboriginal peoples as recognized and affirmed under Part II of the *Constitution Act, 1982*.

#### **Notice to Minister required before enacting rule**

**22** Unless the Minister directs otherwise, the Regulator shall give the Minister at least 120 days' written notice before making a rule under this Act or any other enactment.

### **Division 4 Jurisdiction of Regulator Under Specified Enactments**

#### **Definition**

**23** In this Division, "official" means an officer, inspector, investigator, director, manager, deputy minister or assistant deputy minister, or a person described in the regulations, who is vested with a power, duty or function that is set out in a specified enactment, but does not include a peace officer, a police officer or an officer of a court.

#### **Regulator's jurisdiction under specified enactments**

**24** Subject to sections 21 and 25 and except to the extent that the regulations provide otherwise,

- (a) all powers, duties and functions of officials set out in a specified enactment are to be carried out by the Regulator instead of the officials to the extent that those powers, duties and functions are to be carried out in respect of energy resource activities,
- (b) all powers, duties and functions of a department, the Government or the Crown set out in a specified enactment are to be carried out by the Regulator instead of the department, Government or Crown to the extent that those powers, duties and functions are to be carried out in respect of energy resource activities,
- (c) the administration of provisions of a specified enactment relating to the carrying out of a power, duty or function in respect of energy resource activities is to be carried out by the Regulator,
- (d) the Regulator shall act in accordance with the specified enactment in the carrying out of the powers, duties and functions referred to in clauses (a), (b) and (c), and
- (e) a reference in a specified enactment to an official, a department, the Government or the Crown in relation to the carrying out of a power, duty or function in respect of energy resource activities is a reference to the Regulator.

#### **Proceedings under specified enactments**

**25** Except to the extent that the regulations provide otherwise, an application, decision or other matter under a specified enactment in respect of an energy resource activity must be considered, heard, reviewed or appealed, as the case may be, in accordance with this Act and the regulations and rules instead of in accordance with the specified enactment.

#### **Regulations**

**26** The Lieutenant Governor in Council may make regulations

- (a) describing a person for the purposes of section 23;
- (b) respecting the carrying out by the Regulator of the powers, duties and functions of officials or a department, the Government or the Crown under a specified enactment in respect of energy resource activities, including, without limitation, regulations providing, for the purposes of giving effect to or limiting the carrying out of a power, duty or function, that a provision of a specified enactment does not

- apply to the Regulator, or applies to the Regulator with the modifications set out in the regulations;
- (c) authorizing the Regulator, instead of a minister, to carry out a power, duty or function of that minister under a specified enactment in respect of energy resource activities;
  - (d) authorizing the joint or common carrying out of powers, duties and functions under a specified enactment in respect of energy resource activities by the Regulator and an official or a minister;
  - (e) respecting any matters that are necessary for or ancillary or incidental to the carrying out of a power, duty or function by the Regulator under a specified enactment;
  - (f) respecting the application of section 25;
  - (g) governing any transitional matter concerning the application of this Division in respect of matters dealt with under this Division;
  - (h) respecting any other matter or thing that the Lieutenant Governor in Council considers necessary to carry out the purposes of this Division.

## **Division 5 Administration**

### **Protection from action**

**27** No action or proceeding may be brought against the Regulator, a director, a hearing commissioner, an officer or an employee of the Regulator, or a person engaged by the Regulator, in respect of any act or thing done or omitted to be done in good faith under this Act or any other enactment.

### **Regulator's funds and expenditures**

**28(1)** All expenditures incurred by the Regulator must be charged against money provided in accordance with this section.

**(2)** In each fiscal year, funds equivalent to the estimated net expenditures to be incurred in the year by the Regulator, if not provided from money voted by the Legislature for that purpose, shall be provided under section 29.

### **Funding**

**29(1)** In this section,

- (a) “administration fee” means an amount imposed as an administration fee under this section;
  - (b) “coal project” means a mine or operation that is the subject of a licence under the *Coal Conservation Act*;
  - (c) “oil sands project” means a scheme or operation that is the subject of an approval under the *Oil Sands Conservation Act*;
  - (d) “operator” means, in relation to any facility, oil sands project, coal project or well,
    - (i) the person who is the actual operator of the facility, oil sands project, coal project or well, or
    - (ii) the person who holds an approval issued by the Regulator or to whom or in respect of whom an order is granted by the Regulator in respect of the facility, oil sands project, coal project or well;
  - (e) “prescribed date” means, in relation to any year, the date or dates prescribed by the rules under subsection (3) as the prescribed date or dates for that year for the purposes of this section;
  - (f) “well” has the meaning given to it in the *Oil and Gas Conservation Act*.
- (2) The Regulator may, in respect of any fiscal year, impose and collect an administration fee with respect to any facility, oil sands project, coal project or well on a basis that will produce a sum sufficient to defray a portion or all of the estimated net expenditures of the Regulator in that fiscal year.
- (3) The Regulator may make rules
- (a) prescribing the rates of the administration fees applicable to facilities, oil sands projects, coal projects or wells or any classes of facilities, oil sands projects, coal projects or wells;
  - (b) prescribing a date or dates in the fiscal year during which a rule is made under clause (a) as the prescribed date or dates for that year for the purposes of this section;
  - (c) respecting the imposition and payment of administration fees;

- (d) prescribing, in any manner the Regulator considers appropriate, classes of facilities, oil sands projects, coal projects or wells;
- (e) respecting the exemption of any facility, oil sands project, coal project or well or any class of facility, oil sands project, coal project or well from the imposition of an administration fee;
- (f) respecting the imposition and payment of penalties for the late payment of administration fees;
- (g) respecting appeals with respect to the determination or imposition of administration fees and penalties.

(4) An administration fee imposed in a fiscal year with respect to a facility, oil sands project, coal project or well is payable to the Regulator by the operator of the facility, oil sands project, coal project or well on the prescribed date or dates.

(5) The Regulator may impose a penalty or shut in a facility, oil sands project, coal project or well of an operator if the operator fails to pay an administration fee by the prescribed date.

## **Part 2 Applications, Hearings, Regulatory Appeals and Other Proceedings**

### **Division 1 Applications to Regulator**

#### **Applications to Regulator**

**30(1)** An application

- (a) under an energy resource enactment, or
- (b) subject to Division 4 of Part 1, under a specified enactment in respect of an energy resource activity

must be made to the Regulator.

(2) An application under an energy resource enactment or a specified enactment in respect of an energy resource activity may be combined with any other application under an energy resource enactment or a specified enactment in respect of an energy resource activity and considered by the Regulator jointly or separately, as the Regulator considers appropriate.

(3) If the Regulator is of the opinion that an application under a specified enactment

- (a) is not in respect of an energy resource activity, or
- (b) is in respect of an energy resource activity but is made under a provision in respect of which the Regulator has no jurisdiction under Division 4 of Part 1 to carry out the powers, duties or functions,

the Regulator shall refer the application to the appropriate official under the specified enactment.

#### **Notice of application**

**31** The Regulator shall on receiving an application ensure that public notice of the application is provided in accordance with the rules.

#### **Statement of concern**

**32** A person who believes that the person may be directly and adversely affected by an application may file a statement of concern with the Regulator in accordance with the rules.

#### **Decision of Regulator**

**33(1)** Where a statement of concern is filed in respect of an application, the Regulator shall decide, in accordance with the rules and subject to section 34, whether to conduct a hearing on the application.

(2) If the Regulator makes a decision on an application without conducting a hearing, the Regulator shall publish or otherwise make publicly available the Regulator's decision in accordance with the rules.

## **Division 2 Hearings on Applications**

#### **Hearing on application**

**34(1)** Subject to subsection (2), the Regulator may make a decision on an application with or without conducting a hearing.

(2) The Regulator shall conduct a hearing on an application

- (a) where the Regulator is required to conduct a hearing pursuant to an energy resource enactment,
- (b) when required to do so under the rules, or

(c) under the circumstances prescribed by the regulations.

(3) If the Regulator conducts a hearing on an application, a person who may be directly and adversely affected by the application is entitled to be heard at the hearing.

(4) A hearing on an application must be conducted in accordance with the rules.

#### **Decision of Regulator on hearing**

**35(1)** The Regulator shall, after the completion of a hearing on an application, make a written decision, with reasons, on the application within the time prescribed by the rules.

(2) The Regulator shall, in accordance with the rules, give notice of a decision made under subsection (1) to

(a) the person who made the application, and

(b) any person who participated in the hearing.

(3) On complying with subsection (2), the Regulator shall publish or otherwise make the Regulator's decision, with reasons, publicly available in accordance with the rules.

### **Division 3 Regulatory Appeals**

#### **Definitions**

**36** In this Division,

(a) "appealable decision" means

(i) a decision of the Regulator in respect of which a person would otherwise be entitled to submit a notice of appeal under section 91(1) of the *Environmental Protection and Enhancement Act*, if that decision was made without a hearing,

(ii) a decision of the Regulator in respect of which a person would otherwise be entitled to submit a notice of appeal under section 115 of the *Water Act*, if that decision was made without a hearing,

(iii) a decision of the Regulator in respect of which a person would otherwise be entitled to submit a notice of appeal under section 121 of the *Public Lands Act*, if that decision was made without a hearing,

- (iv) a decision of the Regulator that was made under an energy resource enactment, if that decision was made without a hearing, or
  - (v) any other decision or class of decisions described in the regulations;
- (b) “eligible person” means
- (i) a person referred to in clause (a)(i), (ii) or (iii),
  - (ii) a person who is directly and adversely affected by a decision referred to in clause (a)(iv), or
  - (iii) any other person or class of persons described in the regulations.

#### **Application of Division**

**37** This Division, as it applies to decisions made under specified enactments, applies unless the regulations under Division 4 of Part 1 provide otherwise.

#### **Request for regulatory appeal**

**38(1)** An eligible person may request a regulatory appeal of an appealable decision by filing a request for regulatory appeal with the Regulator in accordance with the rules.

**(2)** The filing of a request for regulatory appeal does not operate to stay the appealable decision.

#### **Conducting a regulatory appeal**

**39(1)** A regulatory appeal must be conducted in accordance with the rules.

**(2)** The Regulator may, on the request of a party to a regulatory appeal, stay the appealable decision or part of it on any terms or conditions that the Regulator determines.

**(3)** Prior to conducting a regulatory appeal, the Regulator may determine which matters included in the request for regulatory appeal will be included in the regulatory appeal.

**(4)** The Regulator may dismiss all or part of a request for regulatory appeal

- (a) if the Regulator considers the request to be frivolous, vexatious or without merit,

- (b) if the request is in respect of a decision on an application and the eligible person did not file a statement of concern in respect of the application in accordance with the rules, or
- (c) if for any other reason the Regulator considers that the request for regulatory appeal is not properly before it.

#### **Hearing on regulatory appeal**

**40(1)** Subject to the regulations, the Regulator may conduct a regulatory appeal with or without conducting a hearing.

**(2)** If the Regulator conducts a hearing in respect of a regulatory appeal, any person who is an eligible person in respect of the appealable decision is entitled to be heard at the hearing.

#### **Decision of Regulator on regulatory appeal**

**41(1)** The Regulator shall, after the completion of a regulatory appeal, make a written decision, with reasons, on the regulatory appeal within the time prescribed by the rules.

**(2)** In its decision on a regulatory appeal, the Regulator may confirm, vary, suspend or revoke the appealable decision.

**(3)** The Regulator shall, in accordance with the rules, give notice of any decision made under this section to

- (a) the person who filed the request for regulatory appeal, and
- (b) if a hearing is conducted in respect of the regulatory appeal, any person who participated in the hearing.

**(4)** On complying with subsection (3), the Regulator shall publish or otherwise make the Regulator's decision, with reasons, publicly available in accordance with the rules.

### **Division 4 Reconsideration by Regulator**

#### **Reconsideration of decisions**

**42** The Regulator may, in its sole discretion, reconsider a decision made by it and may confirm, vary, suspend or revoke the decision.

#### **Hearing on reconsideration**

**43** Subject to the regulations, the Regulator may conduct a reconsideration with or without conducting a hearing.

**Decision of Regulator on reconsideration**

- 44(1)** The Regulator shall, after the completion of a reconsideration, make a written decision, with reasons, on the reconsideration within the time prescribed by the rules.
- (2)** The Regulator shall publish or otherwise make the Regulator's decision, with reasons, publicly available in accordance with the rules.

**Division 5  
Appeal to Court of Appeal****Appeal on a question of jurisdiction or of law**

- 45(1)** A decision of the Regulator is appealable to the Court of Appeal, with the permission of the Court of Appeal, on a question of jurisdiction or on a question of law.
- (2)** An application for permission to appeal must
- (a)** be filed and served within the time prescribed by the regulations or within a further period of time granted by the judge of the Court of Appeal where, in the opinion of the judge, the circumstances warrant it, and
  - (b)** be returnable within the time prescribed by the regulations.
- (3)** Notice of an application for permission to appeal must be given to the parties affected by the appeal and to the Regulator.
- (4)** The Court of Appeal may, on application or on its own motion, if satisfied that a transcript or other materials are necessary for the purpose of determining the application for permission to appeal, direct that the Regulator provide the transcript or other materials within the time provided by the Court of Appeal.
- (5)** A decision of the Regulator takes effect at the time prescribed by the decision, and its operation is not suspended by any appeal to the Court of Appeal or by any further appeal, but the Regulator may suspend the operation of the decision or part of it, when appealed from, on any terms or conditions that the Regulator determines until the decision of the Court of Appeal is rendered, the time for appeal to the Supreme Court of Canada has expired or any appeal is abandoned.
- (6)** On permission to appeal being granted by a judge of the Court of Appeal, the appeal shall proceed in accordance with the practice and procedure of the Court of Appeal.
- (7)** On the hearing of the appeal,

- (a) no evidence may be admitted other than the evidence that was submitted to the Regulator on the making of the decision that is being appealed,
- (b) the Court of Appeal may draw all inferences that are not inconsistent with the facts expressly found by the Regulator that are necessary for determining the question of jurisdiction or of law, as the case may be, and
- (c) the Court of Appeal shall proceed to confirm, vacate or give directions to vary the decision that is being appealed, and where the Court of Appeal vacates or gives directions to vary the decision, the Court of Appeal shall refer the matter back to the Regulator for further consideration and redetermination.

**(8)** The Regulator is entitled to be represented by counsel and heard on the hearing of an appeal.

**(9)** Neither the Regulator nor a director, hearing commissioner, officer or employee of the Regulator is in any case liable to costs by reason of or in respect of an appeal or application.

**(10)** If a decision is vacated or a variation is directed, the matter must be considered and redetermined by the Regulator, and the Regulator shall vary or rescind its decision in accordance with the judgment of the Court of Appeal or the Supreme Court of Canada, as the case may be.

2012 cR-17.3 s45;2014 c13 s40

## **Division 6 General Matters**

### **Alternative dispute resolution**

**46(1)** The Regulator may use alternative dispute resolution when it considers it appropriate to do so for the purpose of resolving any issue or matter in dispute before the Regulator.

**(2)** The terms of any agreement signed as a result of the use of alternative dispute resolution may be incorporated in and form part of a decision of the Regulator.

### **Rules of evidence**

**47** The Regulator in conducting its hearings is not bound by the rules of law concerning evidence applicable to judicial proceedings.

**Protection re evidence**

**48(1)** No person shall be excused from testifying or from producing any book, document or other record, including an electronic record, in a hearing or inquiry before the Regulator when ordered to do so by the Regulator, on the ground that the testimony, book, document or other record might tend to incriminate the person or subject the person to penalty or forfeiture.

**(2)** A witness who testifies or produces a book, document or other record at a hearing or inquiry referred to in subsection (1) has the right not to have any incriminating evidence so given used to incriminate that witness in any other proceedings, except in a prosecution for or proceedings in respect of perjury or the giving of contradictory evidence.

**Crown counsel permitted to attend**

**49(1)** The Crown is entitled to appear, and may be represented by counsel, at a hearing or inquiry before the Regulator for one or more of the following purposes:

- (a) to present evidence;
- (b) to cross-examine witnesses;
- (c) to submit argument.

**(2)** Notwithstanding anything to the contrary, the Crown may file a written statement in a hearing or inquiry before the Regulator without presenting a witness to speak to the statement, and unless the statement is presented by a witness, the statement is not subject to cross-examination.

**(3)** The Crown shall serve any statement filed under subsection (2) on the other parties to the hearing or inquiry.

**Notice to attend**

**50(1)** In the case of failure or refusal by a person to comply with a notice to attend issued by the Regulator or to produce a book, document or other record, including an electronic record, when ordered to do so by the Regulator, the Court of Queen's Bench, on the application of the Regulator, may issue a bench warrant requiring the attendance of the witness or order the production by the witness of the book, document or record.

**(2)** In the case of refusal by a witness to give evidence or answer as to any matter regarding which the witness is questioned before the Regulator or to produce a book, document or record when ordered to do so by the Regulator, the Court of Queen's Bench, on

the application of the Regulator, may commit the witness for contempt.

(3) This section does not apply to the Crown or any agent or employee of the Crown.

#### **Records as evidence**

**51** The minutes, accounts and records of the Regulator are admissible in evidence by the production of them by an officer or employee of the Regulator who is authorized by the Regulator to produce them.

#### **Copies of records as evidence**

**52** A copy of any book, document or other record belonging to or deposited with the Regulator and attested under the signature of an officer or employee authorized for the purpose by the Regulator shall be admitted in evidence in all proceedings in which the original book, document or other record would be evidence.

#### **Proof of Regulator decisions**

**53** A copy of a decision or other document purporting to be made or issued by authority of the Regulator, when certified as a true copy by the Regulator's solicitor, shall be admitted in evidence to prove the decision or other document and its contents without any proof of the authority of the person by whom the decision or document purports to be signed and without any proof of the signature or of the appointment of or authority of the solicitor.

#### **Contents of Regulator decisions**

**54** A decision of the Regulator need not show on its face that any proceeding or notice was had or taken, or that any circumstances existed necessary to give the jurisdiction to make the decision.

#### **Powers of Regulator on hearing or inquiry**

**55** For the purpose of a hearing or inquiry pursuant to this Act or any other enactment, the Regulator has all the powers of a commissioner appointed under the *Public Inquiries Act*.

**Exclusion of judicial review**

**56** Subject to sections 38, 42 and 45, every decision of the Regulator or a person carrying out the powers, duties and functions of the Regulator is final and shall not be questioned or reviewed in any court by application for judicial review or otherwise, and no order shall be made or process entered or proceedings taken in any court, by way of injunction, certiorari, mandamus, declaratory judgment, prohibition, quo warranto, application to quash or set aside or otherwise, to question, review, prohibit or restrain the Regulator or any of the Regulator's proceedings.

**Disposition of fees and penalties**

**57** Subject to the regulations, any sum of money collected by the Regulator,

- (a) pursuant to this Act or any other enactment, or
- (b) on account of fees and penalties,

and any fine imposed pursuant to this Act or any other enactment are the property of the Regulator.

**Action for recovery**

**58** The Regulator may recover any money payable to it pursuant to this Act or any other enactment by an action in debt.

**Enforcement of remedies**

**59** If the Regulator has more than one remedy for the enforcement of an order or direction or for the payment of money payable to it, the Regulator may resort to any or all of those remedies from time to time as it thinks proper, either concurrently or successively, until the order or direction has been complied with or the money payable, together with all costs and expenses, has been paid and satisfied.

## **Division 7**

### **Regulations and Rules Under this Part**

**Regulations**

**60** The Lieutenant Governor in Council may make regulations

- (a) prescribing circumstances under which a hearing is required in respect of an application;
- (b) describing persons or classes of persons as eligible persons for the purposes of section 36(a)(iii);

- (c) describing decisions or classes of decisions as appealable decisions for the purposes of section 36(b)(v);
- (d) prescribing circumstances under which a hearing is required in respect of a regulatory appeal;
- (e) prescribing circumstances under which a hearing is required in respect of a reconsideration;
- (f) prescribing time periods for the purposes of section 45(2)(a) and (b);
- (g) respecting the disposition of fees and penalties collected by the Regulator and any fines imposed pursuant to this Act or any other enactment.

### Rules

**61** The Regulator may make rules

- (a) respecting the contents of notices of application;
- (b) respecting the manner of providing notices of application;
- (c) respecting the form and contents of statements of concern;
- (d) respecting the manner in which statements of concern may be filed with the Regulator;
- (e) governing the conduct of a hearing on an application;
- (f) prescribing the time within which the Regulator shall make a written decision on an application after the completion of a hearing;
- (g) respecting the manner of giving notice of a decision on the completion of a hearing on an application;
- (h) respecting the form and contents of requests for regulatory appeal;
- (i) respecting the manner in which requests for regulatory appeal may be filed with the Regulator;
- (j) respecting the nature and scope of a regulatory appeal;
- (k) governing the conduct of a regulatory appeal;
- (l) prescribing the time within which the Regulator shall make a written decision on a regulatory appeal;

- (m) respecting the manner of giving notice of a decision on the completion of a regulatory appeal;
- (n) respecting the nature and scope of a reconsideration;
- (o) governing the conduct of a reconsideration;
- (p) prescribing the time within which the Regulator shall make a written decision on a reconsideration;
- (q) respecting the disclosure, confidentiality, the sharing and the procedures to be followed in the consideration of information, documents and evidence in respect of applications, hearings, regulatory appeals and reconsiderations;
- (r) governing costs in respect of a hearing on an application, regulatory appeal or reconsideration, including, without limitation, rules respecting
  - (i) the awarding of costs,
  - (ii) the making of advances of costs,
  - (iii) the liability of persons to pay costs,
  - (iv) the review of costs awarded, and
  - (v) the enforcement of costs awarded;
- (s) respecting the Regulator's use of alternative dispute resolution;
- (t) respecting publishing or otherwise making publicly available decisions of the Regulator in respect of applications, regulatory appeals and reconsideration;
- (u) authorizing the Regulator to charge fees for services or materials provided by the Regulator in respect of a hearing on an application, regulatory appeal or reconsideration and prescribing the amounts of those fees or the manner in which the amounts are to be determined;
- (v) respecting notices with regard to matters before or to come before the Regulator;
- (w) generally in respect of the Regulator's practices and procedures.

### Part 3

## Enforcement of Private Surface Agreements

#### Interpretation

**62(1)** In this Part,

- (a) “holder” means
  - (i) the person who enters into a private surface agreement with an owner or occupant, or
  - (ii) any successor or assignee of a person referred to in subclause (i);
- (b) “land” has the same meaning as in the *Land Titles Act*, but does not include mines and minerals;
- (c) “occupant” has the same meaning as in the *Surface Rights Act*;
- (d) “owner” has the same meaning as in the *Land Titles Act*;
- (e) “private surface agreement” means a private surface agreement as defined in the rules;
- (f) “registered private surface agreement” means a private surface agreement registered with the Regulator.

**(2)** This Part applies only to private surface agreements made after the coming into force of this Part.

#### Registration of private surface agreement

**63** The owner or occupant of land in respect of which there is a private surface agreement may register the private surface agreement with the Regulator.

#### Order to comply

**64(1)** If, on the request of the owner or occupant of land in respect of which there is a registered private surface agreement, the Regulator determines that the holder of the registered private surface agreement is not complying with a term or condition of the registered private surface agreement, the Regulator may issue an order directing the holder to comply.

**(2)** Nothing in subsection (1) limits or affects the right of an owner or occupant to pursue any other remedy that the owner or occupant has in respect of the registered private surface agreement.

**Part overrides agreement**

**65(1)** This Part overrides any terms and conditions of a registered private surface agreement that conflict with this Part.

(2) No term or condition of a registered private surface agreement, including, without limitation, a term or condition requiring the parties to keep the agreement confidential, that conflicts with this Part is enforceable or gives rise to any cause of action by any party against any other party to the registered private surface agreement.

**Rules**

**66** The Regulator may make rules

- (a) defining “private surface agreement”;
- (b) respecting the registration of private surface agreements with the Regulator;
- (c) respecting any other matter or thing that the Regulator considers necessary to carry out the purposes of this Part.

## **Part 4**

### **Ministerial Direction to Regulator**

**Direction to Regulator**

**67(1)** When the Minister considers it to be appropriate to do so, the Minister may by order give directions to the Regulator for the purposes of

- (a) providing priorities and guidelines for the Regulator to follow in the carrying out of its powers, duties and functions, and
- (b) ensuring the work of the Regulator is consistent with the programs, policies and work of the Government in respect of energy resource development, public land management, environmental management and water management.

(2) The Regulator shall, within the time period set out in the order, comply with directions given under this section.

**Rules**

**68(1)** The Lieutenant Governor in Council may make rules in respect of any matter for which the Regulator may make rules under this Act or any other enactment.

(2) A rule made under this section prevails over any rule that is made or amended by the Regulator with which it conflicts or is inconsistent to the extent of the conflict or inconsistency.

## **Part 5 Enforcement**

### **Division 1 Inspections and Investigations**

#### **Inspections and investigations**

**69(1)** Subject to this section, the Regulator has all the powers and functions relating to inspections, investigations and other compliance and enforcement matters under energy resource enactments and, subject to Division 4 of Part 1, under specified enactments.

(2) Except to the extent that the regulations made under subsection (3) provide otherwise, for the purposes of enforcing an energy resource enactment, a specified enactment or a decision of the Regulator, the Regulator may exercise any inspection, investigation or other compliance or enforcement power or function under any energy resource enactment or specified enactment.

(3) The Lieutenant Governor in Council may make regulations respecting the Regulator's exercise of inspection, investigation and other compliance and enforcement powers and functions under energy resource enactments and specified enactments.

### **Division 2 Administrative Penalties**

#### **Administrative penalties**

**70** The Regulator may in accordance with the regulations require a person to pay an administrative penalty in an amount determined by the Regulator if the person

- (a) contravenes a provision of an ALSA regional plan, this Act or an energy resource enactment that is prescribed in the regulations for the purposes of this section, or
- (b) does not comply with a term or condition of an approval, order, direction or declaration.

**Notice of administrative penalty**

**71(1)** If the Regulator requires a person to pay an administrative penalty under section 70, the Regulator shall issue and serve a notice of administrative penalty demanding payment of the penalty.

**(2)** A notice of administrative penalty must state the grounds on which the penalty was imposed.

**(3)** An administrative penalty to which a notice under subsection (1) relates must be paid within 30 days of the date of service of the notice.

**(4)** A notice of administrative penalty under this section may require one or more of the following:

- (a) payment of the penalty in the amount determined by the Regulator under section 70;
- (b) any person who in the Regulator's opinion is in receipt of proceeds derived directly or indirectly from any contravention of an ALSA regional plan, this Act or an energy resource enactment or from the non-compliance with a term or condition of an approval, order, direction or declaration to provide an accounting of the proceeds believed by the Regulator to have been received by that person;
- (c) payment by a person referred to in clause (b) of any proceeds referred to in that clause, or an amount equivalent to the value of the proceeds if the person has converted the proceeds.

**Daily penalty**

**72** A person is liable for an administrative penalty for each day or part of a day on which the contravention or non-compliance occurs or continues, and where the regulations prescribe the maximum amount of an administrative penalty, the maximum is the maximum for each day or part of a day on which the contravention or non-compliance occurs or continues.

**Protection from prosecution**

**73** A person who pays an administrative penalty in respect of a contravention or non-compliance shall not be charged under an energy resource enactment for an offence in respect of the same contravention or non-compliance that is described in the notice of administrative penalty.

**Limitation period**

**74** A notice of administrative penalty may not be issued more than 2 years after

- (a) the date on which the contravention or non-compliance to which the notice relates occurred, or
- (b) the date on which evidence of the contravention or non-compliance first came to the notice of the Regulator,

whichever is later.

**Enforcement in Court of Queen's Bench**

**75(1)** Subject to any regulatory review, reconsideration or appeal to the Court of Appeal in respect of an administrative penalty, the Regulator may file a copy of the notice of administrative penalty with the clerk of the Court of Queen's Bench and, on filing, the notice may be enforced as a judgment of the Court.

**(2)** On application by the Regulator, the Court may make any order necessary to compel the person served with a notice under section 71 to carry out the terms of the notice.

### **Division 3 General Matters and Regulations Under this Part**

**Publication of information**

**76** Subject to the regulations, the Regulator shall publish particulars of enforcement action taken under this Act or any other enactment.

**Regulations**

**77** The Lieutenant Governor in Council may make regulations

- (a) for the purposes of section 70, prescribing provisions of an ALSA regional plan, this Act or an energy resource enactment in respect of the contravention of which an administrative penalty may be imposed;
- (b) prescribing the amounts, or respecting the manner of determining the amounts, of administrative penalties that may be imposed under section 70;
- (c) prescribing the form and contents of notices of administrative penalties for the purposes of section 71;
- (d) respecting service of notices of administrative penalties;

- (e) respecting any other matter necessary for the administration of the system of administrative penalties;
- (f) prescribing for the purposes of section 76 the form and manner of publication of information respecting any enforcement action taken under this Act or any other enactment.

## **Part 6 General Regulations**

### **Regulations**

**78** The Lieutenant Governor in Council may make regulations

- (a) describing an activity for the purposes of section 1(1)(i)(ii);
- (b) prescribing enactments for the purposes of section 1(1)(j)(viii) and (s)(vi);
- (c) establishing standards of performance and an accountability framework for hearing commissioners;
- (d) describing a person or class of persons for the purposes of section 6(2);
- (e) prescribing powers, duties or functions of the Regulator for the purposes of section 6(3);
- (f) prescribing factors that the Regulator must consider in considering an application or conducting a regulatory appeal, reconsideration or inquiry;
- (g) respecting the coming into force of orders and directions made or issued by the Regulator;
- (h) respecting the collection, use and disclosure of information, including personal information, by the Regulator;
- (i) respecting compliance with and enforcement of ALSA regional plans;
- (j) defining for the purposes of this Act any term or expression that is used in this Act but not defined in this Act;
- (k) respecting any other matter or thing that the Lieutenant Governor in Council considers necessary to carry out the purposes of this Act.

**Deficiency regulations**

**79(1)** The Lieutenant Governor in Council may make regulations in respect of matters coming under this Act that the Minister considers are not provided for or are insufficiently provided for in this Act.

**(2)** A regulation made under subsection (1) is repealed on the earliest of

- (a) the coming into force of an amendment that adds the subject-matter of the regulation to this Act or any other enactment,
- (b) the coming into force of a regulation that repeals the regulation made under subsection (1), and
- (c) 5 years after the regulation comes into force.

**(3)** The repeal of a regulation under subsection (2)(b) or (c) does not affect anything done, incurred or acquired under the authority of that regulation before the repeal of that regulation.

**(4)** A regulation shall not be made under subsection (1) after the expiration of 5 years from the day that this section comes into force, but any regulation made under subsection (1) that is in force on the expiration of the 5-year period remains in force until it is repealed under subsection (2).

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

**Regulations regarding security**

**80(1)** In this section, “terrorist activity” means terrorist activity within the meaning of the *Criminal Code* (Canada).

**(2)** For the purposes of addressing security in respect of terrorist activity or the threat of terrorist activity, the Lieutenant Governor in Council may make regulations

- (a) respecting the shutting down of a facility, oil sands project, coal project, well or pipeline;
- (b) respecting security measures to be taken in respect of a facility, oil sands project, coal project, well or pipeline;
- (c) respecting access to information filed with the Regulator in respect of a facility, oil sands project, coal project, well or pipeline.

(3) A regulation made under subsection (2)(c) prevails despite the *Freedom of Information and Protection of Privacy Act*.

## **Part 7 Dissolution and Transitional Provisions, Consequential and Related Amendments, Repeal and Coming into Force**

### **Dissolution of the Energy Resources Conservation Board**

**81** The Energy Resources Conservation Board is dissolved.

### **References to former Boards**

**82** Wherever a reference is made to the Petroleum and Natural Gas Conservation Board, the Oil and Gas Conservation Board or the Energy Resources Conservation Board in any enactment, approval, order, direction or declaration, or in any contract, agreement or other instrument in force in Alberta, the reference is deemed to be a reference to the Regulator.

### **Transitional provisions**

**83(1)** In this section,

- (a) “former Act” means the *Energy Resources Conservation Act*, RSA 2000 cE-10;
- (b) “former Board” means the Energy Resources Conservation Board.

(2) On the coming into force of this section, any approval issued or any order, direction or declaration made or issued by the former Board before the coming into force of this section continues to have effect according to its terms until it expires or is amended or terminated by the Regulator under this Act or any other enactment.

(3) On the coming into force of this section, the following applies:

- (a) the property, assets, rights and benefits of the former Board become the property, assets, rights and benefits of the Regulator;
- (b) the Regulator is liable for the obligations and liabilities of the former Board;
- (c) an existing cause of action, claim or liability to prosecution of, by or against the former Board is unaffected by the

coming into force of this section and may be continued by or against the Regulator;

(d) a civil, criminal or administrative action or proceeding pending by or against the former Board may be continued by or against the Regulator;

(e) a ruling, order or judgment in favour of or against the former Board may be enforced by or against the Regulator.

**(4)** Every person who, immediately before the coming into force of this section, was employed by the former Board becomes, on the coming into force of this section, an employee of the Regulator at the same remuneration and subject to the same terms and conditions of employment as applied to that person immediately before the coming into force of this section.

**(5)** There is no break or interruption in the employment of a person whose employment is affected by subsection (4).

**(6)** The employment of a person to whom this section applies may be terminated or the terms and conditions of employment varied on or after the day this section comes into force in the same manner and to the same extent as before that day.

**(7)** Subsection (4) does not apply to a member of the former Board.

**(8)** The Lieutenant Governor in Council may make regulations

- (a) respecting the transition to this Act of anything under the former Act or any other enactment, including
  - (i) transitional matters relating to applications, hearings, inquiries, investigations and other proceedings that have not been completed before the coming into force of this section, and
  - (ii) the interpretation of any transitional provision in this Act;
- (b) to remedy any confusion, difficulty, inconsistency or impossibility resulting from the transition to this Act from the former Act or any other enactment.

**(9)** A regulation made under subsection (8) may be made retroactive to the extent set out in the regulation.

**(10)** If there is a conflict between a regulation made under subsection (8) and a provision in this Part, the regulation prevails.

(11) A regulation made under subsection (8) is repealed on the earliest of

- (a) the coming into force of an amendment that adds the subject-matter of the regulation to this Act or any other enactment,
- (b) the coming into force of a regulation that repeals the regulation made under subsection (8), and
- (c) 5 years after the regulation comes into force.

(12) The repeal of a regulation under subsection (11)(b) or (c) does not affect anything done, incurred or acquired under the authority of the regulation before the repeal of the regulation.

(13) A regulation shall not be made under subsection (8) after the expiration of 5 years from the day that this section comes into force, but any regulation made under subsection (8) that is in force on the expiration of that 5-year period remains in force until it is repealed under subsection (11).

(14) A regulation shall not be made under subsection (8) altering the provisions of subsection (11) or extending the 5-year period provided for in subsection (13).

#### **Transition committee**

**84(1)** The Lieutenant Governor in Council may

- (a) appoint a transition committee consisting of a chair and such other members as the Lieutenant Governor in Council considers necessary, and
- (b) authorize or provide for the payment of remuneration and expenses to the members of the transition committee.

**(2)** The transition committee is responsible for

- (a) directing and overseeing the orderly transition from the *Energy Resources Conservation Act* to the *Responsible Energy Development Act*, including the transfer of duties, functions, personnel and property from the Energy Resources Conservation Board to the Regulator,
- (b) ensuring the full operation of the Regulator on the coming into force of this Act, and
- (c) carrying out any other duty or function as required by the Minister of Energy.

(3) The Lieutenant Governor in Council may, on the recommendation of the Minister of Energy after consultation with the transition committee,

- (a) appoint an executive officer of the transition committee to assist the transition committee with respect to transition matters, and
- (b) authorize or provide for the payment of remuneration and expenses to the executive officer.

(4) Notwithstanding section 5, on the coming into force of that section, each member of the transition committee becomes a member of the board of directors of the Regulator in accordance with the terms and conditions set out in the order appointing the member to the transition committee under subsection (1)(a).

(5) Notwithstanding section 7, on the coming into force of that section, the executive officer of the transition committee becomes the Chief Executive Officer of the Regulator in accordance with the terms and conditions set out in the order appointing the executive officer under subsection (3)(a).

(6) Before the Regulator is established under section 3, the Minister of Energy may, after consultation with the transition committee, make any rules on behalf of and in the name of the Regulator that this Act provides for the Regulator to make.

**85 to 111** *(These sections make consequential amendments to other Acts. The amendments have been incorporated into those Acts.)*

#### Repeal

**112** The *Energy Resources Conservation Act, RSA 2000 cE-10*, is repealed.

#### Coming into force

**113** This Act, except section 84, comes into force on Proclamation.

*(NOTE: Proclaimed in force June 17, 2013, except Part 3 and ss1(1)(s)(i) to (v), 2(1)(b) and (2)(b), (c), (d), (e), (h) and (i), 31, 36(a)(i) to (iii) and (b)(i), 84, 88(2), 97(9) and (12)(b), 101(12)(a), 102 and 110. Part 3 and ss1(1)(ii) and (iv), and (v) with respect to a regulation made under an enactment referred to in subclause (ii) or (iv); 2(1)(b)(i) and (2)(b) and (e); 31, 36(a)(iii) and (b)(i) with respect to a person referred to in clause (a)(iii); 97(9) and 102 proclaimed in force November 30, 2013. Sections 1(1)(s)(i), (iii), (v) “(i) or (iii)”, 2(1)(b)(ii), (iii), (2)(c), (d), (h), (i), 36(a)(i), (ii), (b)(i) “(a)(i) or (ii)”, 88(2), 97(12)(b), 101(12)(a) and 110 proclaimed in force March 29, 2014.)*





Printed on Recycled Paper 