



Province of Alberta

ENVIRONMENTAL PROTECTION AND  
ENHANCEMENT ACT

**REMEDIATION REGULATION**

**Alberta Regulation 154/2009**

With amendments up to and including Alberta Regulation 56/2019

Current as of June 18, 2019

Office Consolidation

© Published by Alberta Queen's Printer

Alberta Queen's Printer  
Suite 700, 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.

(Consolidated up to 56/2019)

**ALBERTA REGULATION 154/2009**  
**Environmental Protection and Enhancement Act**  
**REMEDIATION REGULATION**

*Table of Contents*

|            |   |
|------------|---|
| <b>1</b>   | Definitions   |
| <b>2</b>   | Guidelines  |
| <b>2.1</b> | New information   |
| <b>2.2</b> | Remedial Measures   |
| <b>2.3</b> | Remediation standards for Alberta Tier 1 Soil and<br>Groundwater Remediation Guidelines |
| <b>2.4</b> | Remediation standards for Alberta Tier 2 Soil and<br>Groundwater Remediation Guidelines |
| <b>2.5</b> | Compliance letter for Alberta Tier 2 Soil and<br>Groundwater Remediation                |
| <b>2.6</b> | Issuance of an Alberta Tier 2 compliance letter   |
| <b>3</b>   | Application for remediation certificate   |
| <b>4</b>   | Issuance of remediation certificate   |
| <b>5</b>   | Name on remediation certificate   |
| <b>6</b>   | Notice of decision  |
| <b>7</b>   | Contents of remediation certificate   |
| <b>8</b>   | Environmental protection orders   |
| <b>8.1</b> | Electronic system   |
| <b>9</b>   | Public information  |
| <b>10</b>  | Records   |
| <b>11</b>  | Offences  |
| <b>12</b>  | Expiry  |

**Definitions**

**1** In this Regulation,

- (a) “Act” means the *Environmental Protection and Enhancement Act*;
- (b) “agricultural land” means agricultural land described in the Guidelines;
- (c) “applicant” means a person who submits an application for a remediation certificate under section 3;

- (d) “application” means an application for a remediation certificate;
- (e) “base of remediation” means the elevations, in metres above sea level, of the lowermost depth of the soil, water or groundwater that was remediated;
- (f) “domestic use aquifer” means an aquifer as defined in the Guidelines;
- (g) “Guidelines” means the Guidelines under section 2;
- (g.1) “infrastructure” means any works, buildings, structures, facilities, equipment, apparatus, mechanism, instrument, machinery or telecommunication line belonging to or used in connection with an activity, and includes any land that was used in or in connection with the activity including
  - (i) a storage site,
  - (ii) material handling site,
  - (iii) disposal site,
  - (iv) access road,
  - (v) haul road, or
  - (vi) railway;
- (g.2) “limited remediation certificate” means a remediation certificate issued under section 117 of the Act which shows that the remediated area referred to in the remediation certificate has been remediated in accordance with the Guidelines;
- (h) “natural area” means a natural area described in the Guidelines;
- (h.1) “parcel of land” has the same meaning as in the *Municipal Government Act*;
- (i) “Professional Regulatory Organization” means a Professional Regulatory Organization approved by the Director;
- (i.1) “railway” means the right of way and the developed infrastructure that is being or has been used or held for or in connection with railway purposes, including, but not limited to, the rail bed, main line, branches, extensions, sidings, station grounds, yards, other tracks, bridges,

tunnels, trestles, culverts, ditches, road crossings and other structures;

- (j) “remediated area” means land that is the subject of an application and that has been remediated to meet the requirements of the Guidelines;
- (k) “remediated zone” means the soil or water within the remediated area that is located between the base of remediation and the top of remediation;
- (l) “remediation” means reducing, removing or destroying substances in soil, water or groundwater through the application of physical, chemical or biological processes;
- (l.1) “roadway” means a highway or road as defined in the *Public Highways Development Act*;
- (m) “top of remediation” means the elevations, in metres above sea level, of the uppermost surface of the soil, water or groundwater that was remediated;
- (n) “site” means land used in connection with an activity referred to in the Schedule of Activities in the Act on which a substance is stored, treated, sold or used as a part of a commercial or industrial activity and includes all associated infrastructure;
- (o) “site-based remediation certificate” means a remediation certificate issued under section 117 of the Act which shows that the site has been remediated in accordance with the Guidelines.

AR 154/2009 s1;97/2018

### **Guidelines**

**2(1)** The following Guidelines are adopted pursuant to section 38 of the Act and form part of this Regulation:

- (a) the Alberta Tier 1 Soil and Groundwater Remediation Guidelines published by the Department on June 21, 2007, as amended or replaced from time to time;
- (b) the Alberta Tier 2 Soil and Groundwater Remediation Guidelines published by the Department on June 21, 2007, as amended or replaced from time to time;
- (c) the Environmental Site Assessment Standard published by the Department on February 2, 2016, as amended or replaced from time to time, including a guide or standard

adopted or incorporated by the Environmental Site Assessment Standard;

- (d) the Exposure Control Guide published by the Department on May 3, 2016, as amended or replaced from time to time;
- (e) the Risk Management Plan Guide published by the Department on October 31, 2017, as amended or replaced from time to time.

(2) If a substance is listed in any one of the Guidelines referred to under subsection (1), the applicant must comply with the remediation standards for the substance either in accordance with the appropriate guideline or in accordance with any other standard of remediation that is acceptable to the Director.

(3) If a substance is not listed in any of the Guidelines referred to under subsection (1), the applicant may follow any other standard of remediation that is acceptable to the Director or an inspector.

AR 154/2009 s2;97/2018

#### **New information**

**2.1** In addition to the requirements of the Act and the *Release Reporting Regulation*, where there is new information about the impact of a released substance to a person or land, there is a duty to report the information to an affected person and the Director at the time of discovery.

AR 97/2018 s5

#### **Remedial Measures**

**2.2(1)** When the person responsible becomes aware of or ought to have become aware of the release of a substance into the environment, the person responsible must as soon as possible,

- (a) submit a Phase 2 environmental site assessment to the Director in accordance with the requirements of the Guidelines, or
- (b) complete remediation and submit a report to the Director in accordance with the requirements of the Guidelines,

and complete any other requirements specified by Director.

(2) If the site cannot be remediated to the satisfaction of the Director within a 2-year period after a person responsible becomes aware of or ought to have become aware of the release, a remedial action plan acceptable to the Director must be immediately submitted in accordance with the requirements of the Guidelines.

(3) A remedial action plan submitted in accordance with subsection (2) must specify a period of time for completion of the remediation that is acceptable to the Director.

(4) Where it is the opinion of the Director that the information in relation to a report or plan submitted in accordance with subsection (1) or (2) is

- (a) incomplete,
- (b) contains errors, or
- (c) the timeline for completion as specified in subsection (3) requires amendments,

the Director may require the person responsible to submit a completed or corrected report or plan within a timeline and in a form and manner specified by the Director.

(5) If a remedial action plan is submitted to the Director under subsection (2), the person responsible must take remedial measures within the period of time specified in the remedial action plan.

(6) The Director may modify or waive the requirements of this section if the Director is of the opinion that

- (a) additional actions are required for a person responsible to carry out in order to remediate a site to the satisfaction of the Director,
- (b) the information provided by the person responsible is complete and no additional information is required, or
- (c) the duty to take remedial measures is being met or has been met by the person responsible.

(7) Notwithstanding subsection (1), where the release of a substance has been reported to the Director prior to the coming into force of this section, the person responsible is not required to submit a remedial action plan unless required by the Director.

AR 97/2018 s5

#### **Remediation standards for Alberta Tier 1 Soil and Groundwater Remediation Guidelines**

**2.3(1)** A substance release to soil or groundwater must be remediated to meet the requirements of the Alberta Tier 1 Soil and Groundwater Remediation Guidelines, including all applicable numerical soil and groundwater standards applicable to the land use set out in the Alberta Tier 1 Soil and Groundwater Remediation Guidelines.

(2) In specifying the land use, a person must account for current land, water and sediment uses, and potential future land, water and sediment uses based on the following factors:

- (a) current and proposed land use of the site and neighbouring parcels of land is consistent with the land use bylaw, municipal development plan, area structure plan, area redevelopment plan, any other relevant policies developed by a municipality under Part 17 of the *Municipal Government Act* and a growth plan developed by a municipality under Part 17.1 of the *Municipal Government Act*;
- (b) current and proposed land use planning policies of the Crown;
- (c) current land use for any parcel of land that may be affected by the substance release;
- (d) proposed land use for any parcel of land that may be affected by the substance release;
- (e) potential for surface water, groundwater and sediments to cause further adverse effects on the site and any parcel of land that may be affected by the substance release;
- (f) any other factor that a Director considers appropriate in the circumstances.

AR 97/2018 s5

#### **Remediation standards for Alberta Tier 2 Soil and Groundwater Remediation Guidelines**

**2.4** A person may remediate an area of land or site in accordance with the Alberta Tier 2 Soil and Groundwater Guidelines if

- (a) the Alberta Tier 2 Soil and Groundwater Guidelines meets the equivalent protection of environment and human health as outlined in the Alberta Tier 1 Soil and Groundwater Remediation Guidelines to the satisfaction of the Director, and
- (b) the area of land or site is remediated to the satisfaction of the Director.

AR 97/2018 s5

#### **Compliance letter for Alberta Tier 2 Soil and Groundwater Remediation**

**2.5(1)** In this section, “Alberta Tier 2 compliance letter” means a letter issued by the Director to a person indicating that the area of

land or the site meets the Alberta Tier 2 Soil and Groundwater Remediation Guidelines and does not need to be remediated.

(2) The following are requirements for an Alberta Tier 2 compliance letter:

- (a) a Phase 1 environmental site assessment and Phase 2 environmental site assessment has been completed in accordance with the Act and the Guidelines;
- (b) the area of land or the site has been completely delineated in accordance with the Act and the Guidelines;
- (c) provides a risk assessment has been completed on the area of land or the site in accordance with the Alberta Tier 2 Soil and Groundwater Remediation Guidelines and supporting documents which specifies
  - (i) the potential environmental and human health risks on site and off site for all substances,
  - (ii) procedures, including monitoring, to justify assumptions within the risk assessment,
  - (iii) no remediation is or was required to meet the Alberta Tier 2 Soil and Groundwater Remediation Guidelines, and
  - (iv) any additional information required by the Director or inspector to support and justify the risk assessment.

AR 97/2018 s5

#### **Issuance of an Alberta Tier 2 compliance letter**

**2.6** Where the Director or an inspector has received an application for an Alberta Tier 2 compliance letter and is of the opinion that

- (a) an area of land or site which is the subject-matter of the application meets the Alberta Tier 2 Soil and Groundwater Remediation Guidelines,
- (b) all areas of potential environmental concern on site and off site meet the Alberta Tier 2 Soil and Groundwater Remediation Guidelines,
- (c) all contaminants of potential concern on site and off site meet the Alberta Tier 2 Soil and Groundwater Remediation Guidelines,

- (d) no remediation is required for the area of land or the site to meet the Alberta Tier 2 Soil and Groundwater Remediation Guidelines, and
- (e) the application meets any other requirements specified by the Director,

the Director may issue an Alberta Tier 2 compliance letter confirming that the area of land or the site meets the standard set by the Alberta Tier 2 Soil and Remediation Guidelines without remediation.

AR 97/2018 s5

#### **Application for remediation certificate**

**3(1)** An application for a limited remediation certificate or site-based remediation certificate must be submitted to the Director or an inspector in a form and manner approved by the Director or an inspector.

**(1.1)** An application for a site-based remediation certificate may only be submitted if

- (a) the site meets the definition of site in this Regulation,
- (b) the activity did not result in a substance release along or in conjunction with an activity that includes a railway, roadway, pipeline, telecommunication line or transmission line, and
- (c) the applicant provides,
  - (i) a legal land description which defines the aerial boundaries of the site, or
  - (ii) a legal land description or legal land survey for the site that includes the land that was used for the activity and all associated infrastructure.

**(1.2)** Notwithstanding subsection (1.1)(b), where the associated infrastructure includes an access road, haul road or railway spur line that was a part of the activity resulting in the substance release and where it can be shown that the entire access road, haul road or railway spur is included in the associated infrastructure, for the purposes of the application, the access road, haul road or railway spur may be included in the site.

**(2)** Subject to subsection (3), an application for a limited remediation certificate or site-based remediation certificate must contain the following information:

- (a) a map showing the legal boundaries of
  - (i) the land where the remediated area is located for a limited remediation certificate, or
  - (ii) the site, including location of all associated infrastructure for a site-based remediation certificate;
- (b) a land survey prepared by a registered Alberta land surveyor showing
  - (i) the boundaries of the remediated area for a limited remediation certificate, or
  - (ii) the boundaries of all areas of potential environmental concern and all remediated areas for a site-based remediation certificate site;
- (c) the maximum depth of the base of remediation for all remediated areas;
- (d) a diagram, including cross-sections, showing the top of remediation and the base of remediation within all remediated areas;
- (e) a description of the substances that are the subject of the application;
- (f) the name, mailing address, telephone number, fax number and e-mail address of the applicant;
- (g) the name, mailing address and telephone number of each registered owner of the land where the remediated area is located;
- (h) a copy of the certificate of title
  - (i) for each parcel of land where the remediated area is located for a limited remediation certificate, or
  - (ii) for each parcel of land where the site is located and any remediated area that extends off the site for a site-based remediation certificate;
- (i) a description and a map showing
  - (i) the legal boundaries and the legal surveyed coordinates of all the remediated areas, and
  - (ii) the extent, depth and concentration of the substance on the land where all the remediated areas are located prior to the remediation of the substance, and

whether the substance was present within or outside the remediated areas;

- (j) the location of all
  - (i) surface water bodies, and
  - (ii) water wellsthat are within the remediated area or within 300 metres from the edge of the remediated area for a limited remediation certificate or are within 300 metres of the site for a site-based remediation certificate;
- (k) the location of
  - (i) all domestic use aquifers, and
  - (ii) any other aquifersthat were considered in the development of the remediation procedures;
- (l) the location of all
  - (i) residences or occupied buildings, and
  - (ii) utility corridors, including pipelines and conduits,that are on the land where the remediated areas are located and on all land immediately adjacent to that land;
- (m) copies of any preliminary site investigation reports and detailed site investigation reports;
- (n) a description of the current land use, any allowable or discretionary land uses and, if known, any proposed future land use for the remediated areas;
- (o) a description of the current land designation and, if known, the proposed future land designation for the remediated area;
- (p) a detailed history of each release of the substance into the environment, if known or ascertainable, including
  - (i) the date the substance was released, or the date the substance was discovered in the environment,
  - (ii) the activity that resulted in each release of the substance,

- (iii) the quantity of the substance released, and
- (iv) copies of any reports made to Alberta Environment and Parks, the Alberta Energy Regulator or any other government body about the release of the substance;
- (q) written details on the remediation procedure and the results of the remediation, including
  - (i) the methods of field investigation and laboratory analysis used to determine which substances required remediation and the extent of the remediation required,
  - (ii) the determination of the applicable Guidelines,
  - (iii) particulars of the characteristics of the land where the remediated areas are located, including topography, drainage, soil and vegetation,
  - (iv) subsurface descriptions, including observed or measured engineering, geological and environmental properties that affected the remediation procedure or the selection of the applicable Guidelines,
  - (v) the methods used for sampling and testing the samples,
  - (vi) the analytical results of any samples taken from the remediated zone and areas outside the remediated zone before and during remediation,
  - (vii) the dates the remediation started and ended,
  - (viii) the types and volumes of materials, including substances, taken from the remediated zone in the course of remediation,
  - (ix) the location and type of waste management facilities to which materials and substances from the remediated zone were taken,
  - (x) the methods used to remediate any substance remaining within the remediated zone after materials were taken from the remediated zone to a waste management facility,
  - (xi) the source and volume of any soil materials brought to the remediated zone to replace soil taken to a waste management facility,

- (xii) analytical results confirming that the soil materials in subclause (xi) are of suitable quality for use as replacement fill based on the land uses in clause (n),
- (xiii) the methods used to determine that the remediation was successfully completed, and
- (xiv) the analytical results showing that the remediation was successfully completed;
- (f) a risk management plan in accordance with the Guidelines that is designed to effectively monitor, mitigate or prevent any adverse effect of the substance or substances identified in clause (i) outside the remediated zone or outside the site as the case may be;
- (s) a written declaration that the applicant has complied with all terms, conditions, directions, objectives and Guidelines applicable to the remediated zone or site, including
  - (i) approvals, codes of practice, environmental protection orders and enforcement orders,
  - (ii) the written directions of the Director or an inspector, and
  - (iii) the Guidelines;
- (t) any reclamation certificate numbers applicable for all or part of the remediated area;
- (u) any other remediation certificate numbers applicable to all or part of the remediated zone or site;
- (v) the name and signature of the person from a Professional Regulatory Organization who has certified that all of the information submitted in the application is to the best of that person's knowledge true, accurate and complete.

**(2.1)** In addition to the information that must be submitted under subsection (2), an application for a site-based remediation certificate must include the following information:

- (a) a legal land description or legal land survey for the site that includes the land that was used for the activity and all associated infrastructure;
- (b) a current Phase 1 environmental site assessment in accordance with the Guidelines for the entire site showing the conditions for the site at the time of submission of the application under subsection (2);

- (c) a detailed Phase 2 environmental site assessment in accordance with the Guidelines showing
  - (i) an assessment of all contaminants of potential concern and areas of potential concern associated with all substances stored, used or released in connection with an activity, consistent with the Environmental Site Assessment Standard, and
  - (ii) a complete delineation of all contaminants of potential concern and areas of potential concern for all substances released in association with the site which is consistent with the Environmental Site Assessment Standard, including delineation of any area of potential environmental concern that may extend past the legal land description of the site;
- (d) a detailed remediation report that
  - (i) demonstrates all areas of potential concern and contaminants of potential concern are addressed on site,
  - (ii) demonstrates all areas of potential environmental concern and contaminants of potential concern are addressed off site, and
  - (iii) demonstrates that all substances identified in the Phase 2 environmental site assessment are remediated in accordance with the Guidelines and to the satisfaction of the Director.

**(2.2)** Where a person wishes to obtain a site-based remediation certificate for a parcel of land that was not and is not currently a source of any contaminants of concern or areas of concern associated with the substance release, and the person can show to the satisfaction of the Director or an inspector that

- (a) the parcel of land has never been a part of the site associated with the substance release,
- (b) the parcel of land has been remediated to the requirements of the Guidelines, and
- (c) the parcel of land has been remediated in such a way as to prevent recontamination from substances released from outside the boundary of the parcel of land,

the person may apply to the Director or an inspector to waive the requirement to submit a plan referenced in subsection (2)(r) for any

of area of potential concern outside the boundary of the parcel of land.

**(2.3)** Where the Director or an inspector waives the requirement to submit a plan under subsection (2.2), the person may apply for a site-based remediation certificate for the parcel of land without having a risk management plan in place for areas outside the boundary of the parcel.

**(3)** The Director or an inspector may waive any of the requirements in subsection (2).

**(4)** The Director or an inspector may require the applicant to submit information in addition to the information listed under subsection (2).

**(5)** The Director or an inspector is authorized to collect, directly or indirectly, information, including personal information, listed under this section.

AR 154/2009 s3;170/2012;89/2013;97/2018;56/2019

#### **Issuance of remediation certificate**

**4(1)** The Director or an inspector may issue or refuse to issue a limited remediation certificate or a site-based remediation certificate pursuant to section 117 of the Act.

**(2)** The Director or an inspector may issue a limited remediation certificate if the substance within the remediated zone has been remediated in accordance with the Guidelines.

**(3)** If the substance that is the subject of the remediation is also present on land outside the remediated area, the Director or an inspector may issue a limited remediation certificate under subsection (1) in respect of the substance that is the subject of the remediation

(a) if the substance within the remediated zone has been remediated in accordance with the Guidelines,

(a.1) if a risk management plan for land outside the remediated area which meets the requirements of section 3(2)(r), has previously been submitted and accepted by the Director or an inspector, and

(b) if the Director or inspector is of the opinion that there is an adequate plan to monitor, mitigate or prevent any adverse effect that may be caused by the substance.

**(4)** A limited remediation certificate or site-based remediation certificate may not be issued under subsection (3) or (6) if the land

that is the subject of the remediation is located within a natural area or on agricultural land.

(5) The Director or an inspector may only issue a site-based remediation certificate if all areas of potential environmental concern have been remediated for all contaminants of potential concern in accordance with the Guidelines, including all areas that extend beyond the boundaries of the site.

(6) Notwithstanding subsection (5), if the substance that is the subject of the remediation is present on land outside the site, the Director or an inspector may issue a site-based remediation certificate under subsection (1) in respect of the substance that is the subject matter of the remediation if

- (a) the site has been completely remediated in accordance with the Guidelines,
- (b) the Director or an inspector is of the opinion that there is an adequate risk management plan in accordance with the Guidelines to monitor, mitigate or prevent any adverse effect that may be caused by the substance, and
- (c) there is a risk management plan for land outside the site which meets the requirements of section 3(2)(r), has previously been submitted and accepted by the Director or an inspector.

(7) Where the Director or an inspector has waived the requirement for a risk management plan under section 2.2, the Director or an inspector may waive the application requirements under subsection (6) in respect of an application for a site-based remediation certificate for a parcel of land, if the Director or an inspector is satisfied that the parcel of land for which the site-based remediation certificate has been applied for

- (a) has been remediated in accordance with the Guidelines,
- (b) is not the source of any contaminants of potential concern or areas of potential concern as defined in the Environmental Site Assessment Standard,
- (c) has never been a part of the parcel of land that was associated with the site that was the source of any substance release that resulted in any of the contaminants of concern or areas of potential environmental concern as defined in the Environmental Site Assessment Standard, that activity or associated infrastructure for the activity, and

- (d) has been remediated to prevent recontamination from outside the boundary of the property.

**(8)** If the Director or an inspector has waived the application requirements under subsection (7), an application for a site-based remediation certificate may be submitted without a risk management plan in place for contamination off site.

AR 154/2009 s4;97/2018

#### **Name on remediation certificate**

**5** The name on the limited remediation certificate or the site-based remediation certificate must be the applicant's name.

AR 154/2009 s5;97/2018

#### **Notice of decision**

**6(1)** If the Director or an inspector issues a remediation certificate under section 117 of the Act, the Director or inspector must provide a copy of the remediation certificate to

- (a) the applicant, and
- (b) the registered owner of the land for which the remediation certificate has been issued.

**(2)** If the Director or inspector amends a remediation certificate under section 117(5) of the Act, the Director or inspector must provide a copy of the amended remediation certificate to

- (a) the person to whom the remediation certificate was issued under subsection (1)(a), and
- (b) the current registered owner of the land for which the remediation certificate has been issued.

**(3)** The Director or the inspector must provide a notice of refusal to the applicant and the registered owner of the land if the Director or inspector

- (a) refuses to accept an application under section 117(3.1) of the Act, or
- (b) refuses to issue a remediation certificate under section 117(3.2) or (4) of the Act.

**(4)** If the Director or inspector cancels a remediation certificate under section 117(5) of the Act, the Director or inspector must provide a notice of the cancellation to

- (a) the person to whom the remediation certificate was issued under subsection (1)(a), and

- (b) the current registered owner of the land for which the remediation certificate was issued.

#### **Contents of remediation certificate**

**7(1)** A remediation certificate must include the following information:

- (a) a map, with references to legal boundaries, showing the legal surveyed coordinates of the remediated area;
- (b) a diagram, including cross-sections, showing the remediated zone;
- (c) the substance that is the subject of the remediation certificate;
- (d) the remediation values and associated land use in the Guidelines under which the substance was remediated;
- (e) the date the remediation was completed;
- (f) the date the remediation certificate was issued.

**(2)** The remediation certificate may, in accordance with section 117(4) of the Act, include any terms or conditions that the Director or inspector considers appropriate.

#### **Environmental protection orders**

**8(1)** Subject to this section, no environmental protection order may be made under section 113 of the Act with respect to the substance and the remediated zone that are the subject of the remediation certificate after

- (a) the date the limited remediation certificate or the site-based remediation certificate was issued, or
- (b) the date that the last term or condition in the remediation certificate has been completed to the satisfaction of the Director,

whichever is later.

**(2)** Notwithstanding subsection (1), an environmental protection order may be issued to a person at any time where the Director or an inspector is of the opinion that one or more of the substances specified in the limited remediation certificate

- (a) are present in the remediated zone specified in the limited remediation certificate, and

- (b) exceed the remediation objectives in the Guidelines that were applicable at the time the limited remediation certificate was issued.

**(2.1)** Notwithstanding subsection (1), an environmental protection order may be issued to a person at any time in respect of land for which a site-based remediation certificate has been issued where the Director or an inspector is of the opinion that one or more substances with respect to the land for which a site-based remediation certificate has been issued

- (a) are present anywhere in or under the site and exceed the Guidelines established at the time of the issuance of the site-based remediation certificate,
- (b) are present anywhere in or under any area off the site that exceed the Guidelines established at the time of the issuance of the site-based remediation certificate,
- (c) are present anywhere in or under any area on or off the site that was not assessed in the original Phase 2 environmental site assessment submitted in the application for the site-based remediation certificate under section 3, or
- (d) the risk management plan or any portion of a risk management plan that was accepted and was not completed as required.

**(3)** An environmental protection order may be issued at any time to a person who

- (a) causes a change in the condition of the remediated area or the remediated zone specified in the remediation certificate in such a manner that, in the opinion of the Director or an inspector, the substance present within the remediated zone may cause, is causing or has caused an adverse effect, or
- (b) changes the use of the remediated area specified in the remediation certificate in such a manner that, in the opinion of the Director or an inspector, the substance present within the remediated zone may cause, is causing or has caused an adverse effect.

AR 154/2009 s8;97/2018

#### **Electronic system**

**8.1(1)** In this section, “electronic system” means the system established by the Department for the submission of applications

for a remediation certificate under section 117 of the Act and supporting documents to the Department by electronic means.

(2) The Director may establish an electronic system for the purposes of receiving and processing an application for a remediation certificate issued under section 117 of the Act.

(3) When applying for a remediation certificate issued under section 117 of the Act, a person must apply

- (a) through the electronic system provided by the Department, and
- (b) in the form and manner specified by the Director.

(4) No person shall interfere with the operation of the electronic system.

(5) No person shall cause or permit access to the electronic system unless the person is submitting an application, supporting documents or reviewing an application and supporting documents.

(6) No person shall cause or permit access to the electronic system except to information to which the person is entitled access.

AR 97/2018 s10

#### **Public information**

**9** Once an application for a remediation certificate has been submitted to the Director or an inspector, the following information is deemed to be public information for the purposes of section 35 of the Act and the *Disclosure of Information Regulation* (AR 273/2004):

- (a) information contained in or referred to in an application;
- (b) a remediation certificate or an amended remediation certificate;
- (c) any notices of refusal or cancellation provided under section 6(3) and (4).

#### **Records**

**10** An applicant must retain all of the information described in section 3 for a period of 10 years following the issuance of a remediation certificate.

**Offences**

**11(1)** Any person who provides false, misleading or inaccurate information in an application under this Regulation is guilty of an offence and 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.

**(2)** No person shall be convicted of an offence referred to in subsection (1) if that person establishes on a balance of probabilities that the person took all reasonable steps to prevent its commission.

**Expiry**

**12** For the purpose of ensuring that this Regulation is reviewed for ongoing relevancy and necessity, with the option that it may be repassed in its present or an amended form following a review, this Regulation expires on June 30, 2023.

AR 154/2009 s12;102/2016;97/2018





Printed on Recycled Paper 