



Province of Alberta  
Order in Council

O.C. 187/2018

JUN 01 2018

# ORDER IN COUNCIL

Approved and ordered:

Lieutenant Governor  
or  
Administrator

The Lieutenant Governor in Council makes the Remediation Certificate Amendment Regulation set out in the attached Appendix.

CHAIR

FILED UNDER  
THE REGULATIONS ACT  
as ALBERTA REGULATION 97/2018  
ON June 1 20 18  
  
REGISTRAR OF REGULATIONS

For Information only

Recommended by: Minister of Environment and Parks

Authority: Environmental Protection and Enhancement Act  
(section 120)

## APPENDIX

### Environmental Protection and Enhancement Act REMEDIATION CERTIFICATE AMENDMENT REGULATION

**1** The *Remediation Certificate Regulation* (AR 154/2009) is amended by this Regulation.

**2** The title of the Regulation is amended by striking out “Certificate”.

**3** Section 1 is amended

**(a)** by adding the following after clause (g):

(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;

**(b)** by adding the following after clause (h):

(h.1) “parcel of land” has the same meaning as in the *Municipal Government Act*;

**(c) by adding the following after clause (i):**

- (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;

**(d) by adding the following after clause (l):**

- (l.1) “roadway” means a highway or road as defined in the *Public Highways Development Act*;

**(e) by adding the following after clause (m):**

- (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.

**4 Section 2(1) is amended by adding the following after clause (b):**

- (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.

**5 The following is added after section 2:**

**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.

**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.

### **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.

**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.

**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.

**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.

## **6 Section 3 is amended**

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

**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.



**(b) in subsection (2)**

**(i) by striking out “a remediation certificate” and substituting “a limited remediation certificate or site-based remediation certificate”;**

**(ii) by striking out clause (a) and substituting the following:**

(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;

**(iii) by striking out clause (b) and substituting the following:**

(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;

**(iv) by striking out clause (c) and substituting the following:**

(c) the maximum depth of the base of remediation for all remediated areas;

**(v) by striking out clause (d) and substituting the following:**

(d) a diagram, including cross-sections, showing the top of remediation and the base of remediation within all remediated areas;

**(vi) in clause (e) by striking out “substance that is” and substituting “substances that are”;**

**(vii) by striking out clause (h) and substituting the following:**

(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;

**(viii) by striking out clause (i) and substituting the following:**

(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;

**(ix) by striking out the part of clause (j) following subclause (ii) and substituting the following:**

that 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;

**(x) in clause (l) by striking out “remediated area” and substituting “remediated areas”;**

**(xi) in clause (n) by striking out “remediated area” and substituting “remediated areas”;**

- (xii) in clause (p)(iv) by striking out “Sustainable Resource Development” and substituting “Parks”;**
- (xiii) in clause (q)(iii) by striking out “remediated area is” and substituting “remediated areas are”;**
- (xiv) by striking out clause (r) and substituting the following:**
  - (r) 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;
- (xv) in clause (s) by adding “or site” after “remediated zone”;**
- (xvi) in clause (u) by adding “or site” after “remediated zone”;**

**(c) by adding the following after subsection (2):**

**(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.

## **7 Section 4 is amended**

**(a) in subsection (1) by striking out “a remediation certificate” and substituting “a limited remediation certificate or a site-based remediation certificate”;**

**(b) by striking out subsection (2) and substituting the following:**

**(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.

**(c) in subsection (3)**

**(i) by striking out “remediation certificate” and substituting “limited remediation certificate”;**

**(ii) by striking out “and” at the end of clause (a) and by adding the following after clause (a):**

(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

**(d) by repealing subsection (4) and substituting the following:**

**(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.

**(e) by adding the following after subsection (4):**

**(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.

**8 Section 5 is amended by striking out** “the remediation certificate” **and substituting** “the limited remediation certificate or the site-based remediation certificate”.

**9 Section 8 is amended**

- (a) in subsection (1)(a) by striking out** “the remediation certificate” **and substituting** “the limited remediation certificate or the site-based remediation certificate”;
- (b) in subsection (2) by adding** “limited” **before** “remediation certificate” **wherever it occurs;**
- (c) by adding the following after subsection (2):**

**(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.

**10 The following is added after section 8:**

**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.



**11 Section 12 is amended by striking out “June 30, 2018” and substituting “June 30, 2023”.**

**12 This Regulation comes into force on January 1, 2019 except for section 11, which comes into force on June 29, 2018.**