

## **Legal Issues In Review, January 2003 to July 2004**

### **Produced by Gowlings' Environmental National Practice Group<sup>1</sup>**

This review covers new environmental laws and regulations, along with amendments and repeals affecting existing legislation, which were introduced or took effect between January 1, 2003 and July 31, 2004. For jurisdictions with little in the way of legislative amendments, new and amended policy documents are also reviewed. While comprehensive, this review does not purport to be exhaustive. Instead, it is intended to highlight changes thought to be of most interest for each jurisdiction.

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## **Federal**

### **New Legislation & Amendments**

(See [www.laws.justice.gc.ca/env/index.html](http://www.laws.justice.gc.ca/env/index.html) for the full text of federal statutes and regulations.)

### **Environmental Assessment & Planning**

On June 11, 2003, ***An Act to Amend the Canadian Environmental Assessment Act***, S.C. 2003, c. 9, received Royal Assent. The statute was the result of a mandatory 5-year review process under *CEAA*, and most of the amendments took effect on October 30, 2003. *CEAA*'s purposes were expanded to include improved cooperation between federal and provincial governments and aboriginal peoples, and to ensure opportunities for “timely and meaningful” public participation during the environmental assessment process. The amendments also created the position of EA coordinator for screenings and comprehensive studies, and modified *CEAA* to prevent comprehensive studies being followed by full panel review. Other changes included the extension of participant funding to comprehensive studies, mandatory follow-up programs for comprehensive studies, extended use of class screening reports, and the expansion of regulatory authority for projects on federal lands. A second mandatory review process will take place in seven years. The re-definition of federal authority will come into force on June 11, 2006, and will specifically exclude governmental authorities in the Yukon, Nunavut and Northwest Territories along with band councils, the Export Development Corporation, and wholly-owned Crown Corporation subsidiaries.

Changes were also made during 2003 to four key regulations supporting *CEAA*: the *Law List Regulations* (SOR/94-636), the *Inclusion List Regulations* (SOR/94-637), the *Exclusion List Regulations* (SOR/94-639) and the *Comprehensive Study List Regulations* (SOR/94-638) (together referred to as the regulations).

On July 24, 2003, *CEAA*'s regulations were amended to clarify that off-shore oil and gas activities under the supervision of the Canada-Newfoundland Offshore Petroleum Board (CNOPB) and the Canada-Nova Scotia Offshore Petroleum Board (CNSOPB) were subject to *CEAA*. To this end, the *Inclusion List Regulation* was amended to include offshore oil and gas exploration and decommissioning activities on the East Coast, while amendments to the *Inclusion List Regulations* required an EA before authorizations could be issued for exploratory drilling, physical activities related to seismic surveys, oil and gas production, or decommissioning. Amendments were also made to the *Law List Regulations* to clarify that if environmental impact statements were filed with the CNOPB or CNSOPB, *CEAA* would be triggered. Finally, the *Comprehensive Study Regulations* were amended to provide that the installation, decommissioning and

abandonment of oil and gas production facilities offshore were subject to *CEAA*, as was the subsequent installation of a pipeline or satellite platform.

In October 23, 2003, amendments were made to the same four *CEAA* regulations in order to reflect the repeal of the *Atomic Energy Control Board Act*, and the enactment of the *Nuclear Safety and Control Act*, S.C. 1997, c. 9 (*NSC Act*). Key changes included the amendment of the *Inclusion List Regulations* to reference new threshold criteria, in accordance with the radiation protection concepts in the *NSC Act*, to include specific projects such as those related to nuclear-powered vehicles, along with the storage of unsealed nuclear substances. The *Law List Regulations* were also amended to remove certain licensing authorizations (ie. revocation of a licence for a uranium mine was not retained, while amendment of terms of such a licence was retained).

On December 1, 2003, a new environmental assessment regime took effect with the passage and coming into force of the ***Antarctic Environmental Protection Act***, (S.C. 2003, c. 20) . The purpose of the statute is to protect the Antarctic Environment, and meet Canada's obligations under the Antarctic Treaty's Protocol on Environmental Protection, the Convention for the Conservation of Antarctic Seals, and the Convention on the Conservation of Antarctic Marine Living Resources. The statute creates prohibitions to protect the marine environment and species native to the Antarctic, regulate the activities of Canadian expeditions, and makes proposed activities of Canadian vessels and aircraft subject to environmental assessment and prior approval through a permitting process. Applicants for permits are required to put waste management plans and emergency plans in place for their vessel, aircraft or expedition in order to obtain a permit, and the Minister may also require security to remedy any environmental impact caused by the proposed activity. Military activities are exempt. Prohibited activities include, for example: prospecting for and exploiting mineral resources; killing, injuring, capturing or handling native mammals or birds; flying aircraft or helicopters in a manner that disturbs native wildlife; and the discharge of waste or oil products from a vessel.

## **Environmental Protection & Management**

On January 1, 2003, Environment Canada reported that minor amendments had been made to the ***Pulp and Paper Effluent Regulations*** (SOR/92-269) under the federal *Fisheries Act*, R.S.C. 1985, c. F-14. The amendments, which came into force on December 12, 2002, modified the definition of "Authorization Officer" to reflect the fact that Quebec had joined the roster of provinces with administrative agreements in place with Environment Canada. Under the administrative agreements, designated provincial officials serve as the principal point of contact with industry, in place of federal officials, in relation to *Fisheries Act* regulations. Alberta and Saskatchewan have similar administrative agreements in place.

More extensive amendments were made to the ***Pulp and Paper Effluent Regulations*** on May 4, 2004. The regulations were streamlined and re-drafted for clarity, and incorporated the formerly separate requirements set out in the *Port Alberni Pulp and Paper Effluent Regulations*. Some key changes include: a reporting period of three rather than four years for environmental effects monitoring (EEM), sub-lethal testing required only once rather than twice per year for mills discharging <120 days per year, and acceptance of provincially approved test methods for total suspended solid (TSS) or biological oxygen demand (BOD). The regulations also modified monitoring frequencies generally, specified the key elements of required Emergency Response Plans, and made changes to the calculation of TSS. As well, mills with on-site primary treatment are permitted to measure BOD rather than TSS in effluent, the requirement to conduct pre-operational EEM studies has been removed, and provincial Authorization Officers are required to consult with Environment Canada prior to issuing authorizations.

Environment Canada also announced on January 1, 2003 the establishment of more stringent national emissions standards, along with a new regulatory framework for on-road vehicle and engine emissions, through the ***On-Road Vehicle and Engine Emission Regulations*** (SOR/2003-2). The new regulations came into force on January 1, 2004, under the *Canadian Environmental Protection Act, 1999*, S.C. 1999, c. 33 (*CEPA, 1999*). The regulations established a national emissions mark for vehicles and engines, specified classes of on-road vehicles and engines, and set out technical emissions standards for vehicles and engines that are to be phased in between 2004 and 2010. The technical emissions standards are aligned with updated U.S. emission standards, and deal with exhaust, evaporative and crankcase emissions, and related on-board diagnostic systems. Individual vehicles must comply with one of eleven “bins” containing standards for NOx, non-methane organic gases, carbon monoxide, formaldehyde, and particulate matter, while fleets as a whole must meet fleet average NOx standards.

Over the course of 2003, the ***Tetrachloroethylene (Use in Drycleaning and Reporting Requirements) Regulations*** came into force, with the object of reducing emissions of tetrachloroethylene through environmental management and spill prevention measures. As of February 27, 2003, all tetrachloroethylene, waste water and residue used in dry-cleaning facilities had to be stored in closed containers, and the use of tetrachloroethylene in self-service dry cleaning machines was prohibited. By August 1, 2003 the regulation had prohibited the use of tetrachloroethylene in a dry-cleaning operation unless the equipment met certain performance standards. The balance of the regulation came into force on February 1, 2004, prohibiting the use of tetrachloroethylene as a spotting agent for commercial or institutional purposes, and the sale or use of tetrachloroethylene in equipment without specified recovery and spill prevention systems. The regulation also set out waste water and residue management requirements, along with record-keeping and reporting obligations for importers, recyclers, sellers and users of tetrachloroethylene.

On March 20, 2003, the ***Prohibition of Certain Toxic Substances Regulations, 2003*** (SOR/2003-99) came into force. The regulations prohibited the manufacture, use, sale, offering for sale and import of certain toxic substances, with the exception of laboratory and research uses. The regulation applies to eight substances, with specific molecular formulas, including: dodecachloropentacyclo decane (Mirex); polybrominated biphenyls and polychlorinated terphenyls; bis(chloromethyl) ether and chloromethyl methyl ether; (4-chlorophenyl) cyclopropylmethanone, O-[(4-nitrophenyl)methyl] oxime; hexachlorobenzene, and benzidine and benzidine dihydrochloride.

On June 5, 2003, amendments were made to the ***New Substances Notification Regulations*** (SOR/94-260) to streamline the addition of substances to the Domestic Substances List. As a result of the amendments, once a substance has been assessed as non-toxic, notifiers may apply immediately for its addition to the DSL, and need no longer wait for volume thresholds to be exceeded. The amendments also removed the volume trigger for living organisms.

On July 24, 2003 the ***Solvent Degreasing Regulations*** (SOR/2003-283) came into force. The regulations are designed to bring about a 65% reduction in the use of trichloroethylene (TCE) and tetrachloroethylene (PERC) from solvent degreasing operations that used over 1,000 kg of solvents per year. The regulations provide for a system of tradable allowances (consumption units) commencing January 1, 2004, that are based upon historical use between 1994 and 2002. Persons subject to the regulation are permitted to use 100% of their consumption unit allowance from 2004 through 2006, but are required to reduce their use by 65% by 2007. Recycled and reclaimed solvents are not counted toward the total solvent used under the regulations. Persons selling solvents are required to keep records and submit annual reports to the Minister.

On August 13, 2003, new ***Federal Halocarbon Regulations, 2003*** (SOR/2003-289) came into effect. Like the regulations that they replaced, the *Federal Halocarbon Regulations, 2003* are intended to reduce and prevent emissions of ozone-depleting substances and their halocarbon alternatives from federal works, and from equipment used on federal and aboriginal lands. Charging of mobile refrigeration systems was prohibited as of November 13, 2003. The regulations apply to halocarbon refrigeration, air conditioning, fire extinguishing and solvent cleaning systems. In addition, however, the new regulations also implement initiatives under Canada's Ozone Layer Protection Program, add bromochloromethane to the list of controlled substances, and introduce new measures such as a prohibition against charging refrigeration, air conditioning systems, fire extinguishing systems and chillers with CFCs as of January 1, 2005.

On September 25, 2003, minor technical amendments were made to the ***Benzene in Gasoline Regulations*** (SOR/97-493). The amendments focussed on the use of a more precise testing method for benzene, made changes to the units of measurement, updates to definitions and record-keeping provisions, and provided an exemption for gasoline

to be used for export only. Similar technical amendments were made to the ***Sulphur in Gasoline Regulations*** (SOR/99-236), to change units of expression, the test method for measuring sulphur in gasoline and oxygenates in butane, and to modify record-retention requirements to 5 years.

On November 18, 2003, ***Environmental Emergency Regulations*** (SOR/2003-307) came into force. The regulations required facilities that owned or stored any of 174 prescribed substances, above specified quantity and concentration thresholds, to prepare an Emergency Plan within six months. The Emergency Plan is to cover prevention of, preparedness for, response to and recovery from environmental emergencies related to the prescribed substance(s). The regulations require updating and testing of the plan at least once per year, and the maintenance of records related to the plan. Notice to Environment Canada is required in the case of changes in the quantities of materials stored or used, and where quantities or concentrations had fallen below the threshold for 12 consecutive months.

On November 6, 2003, the national emissions mark provisions of the ***Off-Road Small Spark-Ignition Engine Emission Regulations*** (SOR/2003/355) came into force. The balance of the regulations will take effect on January 1, 2005. The purpose of the regulations is to set emission limits for small spark-ignition engines in relation to hydrocarbons, nitrogen oxides and carbon monoxide, and to reduce emissions of related toxic substances such as formaldehyde and benzene. The regulations will apply to engines typically found in lawn and garden machines (i.e. hedge trimmers, brush cutters, lawnmowers, garden tractors, snow blowers) and in certain light duty industrial machines (i.e. welders, pressure washers, certain logging machines) of the 2005 model year or later. The regulations will apply to persons who manufacture, distribute or import small spark engines and machines for sale, and will establish Canadian emission standards aligned with those of the U.S. EPA.

Minor changes were made to the ***Transportation of Dangerous Goods Regulations*** on December 2, 2003 (SOR/2001-286), to update references to the 2003-2004 edition of the International Civil Aviation Organization's (ICAO) *Technical Instructions for the Safe Transport of Dangerous Goods by Air*. The ICAO's Technical Instructions introduced new requirements that include: use of a United Nations (U.N.) number for diagnostic specimens, air eligibility marking requirements, a cryogenic liquid label, use of absorbent material in combination packaging for liquid, and U.N.-compliant design, construction, testing, inspection and marking criteria for gases.

Finally, it should be noted that the ***Domestic Substances List*** of *CEPA, 1999* was amended on the following dates during the review period: January 15, February 20, March 14, April 16, May 26, July 4, August 13, October 2, October 31, and December 16, 2003; January 22, January 30, March 16, June 4, and June 30, 2004. The *List of Toxic Substances*, Schedule I to *CEPA, 1999*, was amended on December 12, 2002, March 20,

May 15, June 12, and July 24, 2003. Schedule 3, the Export Control List, was amended on March 20, 2003. For up-to-date lists under *CEPA, 1999*, consult [www.ec.gc.ca/CEPARegistry/subs\\_list](http://www.ec.gc.ca/CEPARegistry/subs_list).

## **Resource Management & Wildlife Protection**

On February 27, 2003, minor changes were made to the open season for snow geese in Quebec and Saskatchewan, under the ***Migratory Birds Regulations*** (C.R.C. c. 1035), pursuant to the *Migratory Birds Convention Act, 1994*, S.C. 1994, c. 22. The extended hunting season was made necessary by an overabundance of snow geese, which was exceeding the carrying capacity of the birds' winter habitat and threatening the biological diversity of the arctic ecosystem. On June 12, 2003, similar changes were made to the open seasons in Prince Edward Island, Newfoundland & Labrador, and on March 8, 2004 to the open season in Saskatchewan and Quebec. Adjustments to open seasons and bag limits were also made on May 19, 2004, to protect sensitive sea duck species.

On March 4, 2003, the ***Endeavour Hydrothermal Vents Marine Protected Area Regulations*** (SOR/2003-87) came into force under the *Oceans Act*, S.C. 1996, c. 31. The new regulations formally designated the Endeavour Hydrothermal Vents Marine Protected Area, and prohibited any unauthorized disturbance, damage or destruction of the seabed, venting structures, subsoil or living marine organisms. The Protected Area is located approximately 100 square kilometres off the southwestern coast of Vancouver Island, and was formed by the venting of heated water emerging the spreading sea-floor, where heated water and nutrients sustain an area of extreme biodiversity. The MPA is home to approximately half a million organisms per square metre, in contrast to waters outside the MPA that host approximately 20 organisms per square metre. Authorized scientific research is exempt from the regulations with prior approval from the Minister, as are authorized surface-level fishing activities, law enforcement and specified military activities.

On March 24, 2003, certain sections of the ***Species At Risk Act***, S.C. 2002, c. 29 (SARA) came into force (sections 1, 134 to 136, and 138 to 141). SARA's objectives are to prevent wildlife species from becoming extirpated, endangered, threatened or extinct, and to provide for the recovery of species at risk. The sections in question amended laws dealing with the protection of plant and animals species, by permitting the delegation of authority by the Minister of the Environment under *Migratory Birds Convention Act, 1994*, the *Wild Animal and Plant Protection and Regulation of International and Interprovincial Trade Act*, S.C. 1992, c. 52 and the *Canada Wildlife Act*, R.S.C. 1985, c. W-9. Amendments were also made to the *Canada Wildlife Act* allowing the Minister of the Environment to exercise powers over public lands administered by other federal ministers, in order to prohibit access, prescribe measures for conserving wildlife, and to establish and maintain works for wildlife research, conservation and interpretation.

On June 18, 2003, the Governor in Council ordered that all remaining provisions of SARA would come into force on either June 1, 2003 (sections 32 to 36, 57 to 61, 63, 64, 77 and 85-119) or June 5, 2003 (2 to 31, 37 to 56, 62, 65 to 76, 78 to 84, 120 to 133 and 137). The provisions in force on June 1, 2003 prohibited the killing, harming, harassing, possessing, buying or selling of individuals of a species listed as extirpated, threatened or endangered, and prohibited activity that would damage or destroy the residences or critical habitat of such individuals. They also required federal departments to consider the impact of proposed activities upon critical habitat before issuing authorizations, and set out detailed enforcement measures and penalties.

The provisions of SARA that came into force on June 5, 2003 established independent assessments of wildlife species by Committee on the Status of Endangered Wildlife in Canada (COSEWIC), along with a listing process for the species based on a COSEWIC assessment and a political decision by the Governor in Council. The provisions also provided authority for the planning and implementation of recovery actions, the issuance of emergency orders, support for stewardship programs, and the creation of a public registry. Finally, the amendments amended the definition of “environmental effect” under the *Canadian Environmental Assessment Act*, S.C. 1992, c.37, to explicitly include listed species and their critical habitat or residence as defined under SARA.

On June 5, 2003, an ***Order Extending the Time for the Assessment of the Status of Wildlife Species*** (SOR/2003-215) came into force under SARA. The Order extended the time provided in SARA for the assessment of the status of 26 wildlife species – 11 endangered and 15 threatened – for three years from June 5, 2003. The extension was necessary because COSEWIC is in the process of updating the status reports that the assessments are based on, which are in some cases up to 10 years out of date. The list of species affected can be found in the Schedule to the Order, at [www.canadagazette.gc.ca/partII/2003/index-e.html](http://www.canadagazette.gc.ca/partII/2003/index-e.html) (select June 18, 2003 edition).

On June 12, 2003, the ***Wildlife Area Regulations*** (C.R.C., c. 1609) under the *Canada Wildlife Act*, were amended to update the definition of wildlife area, and to designate a portion of Canadian Forces Base Suffield, near Medicine Hat, Alberta, as a National Wildlife Area. The designation of land at CFB Suffield formally protected 458 km<sup>2</sup> of rare prairie grassland, sand hills, ancient glacial coulees, and the banks of the South Saskatchewan River Valley.

On March 30, 2004, the ***Ontario Fishery Regulations, 1989*** (SOR/89-93) were amended to prohibit fishing for species of fish listed in Schedule I or II of SARA, unless specifically authorized by permit or licence.

On March 30, 2004, the ***Wild Animal and Plant Trade Regulations*** (SOR/96-263) under the *Wild Animal and Plant Protection and Regulation of International and Interprovincial Trade Act*, S.C. 1992, c. 52, were amended to reflect changes made to the *Convention on*

*International Trade in Endangered Species of Wild Fauna and Flora (CITES)*. Appendices, which were agreed to at the twelfth Conference of the Parties, held in November 2002 in Santiago, Chile.

## **Alberta**

### **New Legislation and Amendments**

(See [www.qp.gov.ab.ca/display\\_acts.cfm](http://www.qp.gov.ab.ca/display_acts.cfm) for the full text of Alberta's statutes and regulations.)

### **Drinking Water & Groundwater**

The ***South Saskatchewan Basin Water Allocation Amendment Regulation*** (Alta. Reg. 318/2003) was made by the Lieutenant Governor in Council on November 4, 2003 pursuant to section 173 of the *Water Act*, R.S.A. 2000, c. W-3 and section 12 of the *Water Resources Act*, R.S.A. 80, c. W-5. The amendment repealed sections 6 and 8 of the regulation and provided a definition of "Piikani Waters".

The ***Potable Water Regulation*** (Alta. Reg. 277/2003) was created pursuant to sections 85 and 153 of the *Environmental Protection and Enhancement Act*, R.S.A. 2000, c. E-12. The regulation sets out water quality requirements by waterworks system, including water distribution systems and potable water storage.

The ***Wastewater and Storm Drainage (Ministerial) Amendment Regulation*** (Alta. Reg. 278/2003) was made by the Minister of Environment on August 20, 2003 pursuant to section 85 of the *Environmental Protection and Enhancement Act*. The regulation, which came into force on October 1, 2003, provides a definition of approved sampling and analytical methods in subsection 1(1) (b.1), and sets out the requirements for certified operators, reports and sampling.

The ***Wastewater and Storm Drainage Amendment Regulation*** (Alta. Reg. 273/2003) was made on August 19, 2003 pursuant to sections 86, 122 and 239 of the *Environmental Protection and Enhancement Act*. The regulation adopts the *Code of Practice for Wastewater Systems Consisting Solely of Wastewater Collection Systems* and the *Code of Practice for Wastewater Systems Using a Wastewater Lagoon*, and provides guidelines for the construction of an addition, extension or modification of a storm drainage system.

The ***Water (Ministerial) Amendment Regulation*** (Alta. Reg. 280/2003) was made by the Minister of Environment on August 20, 2003 pursuant to s. 169(2) of the *Water Act*. Amendments include changes to the definitions of "green area" and "outfall structure". The amendments also replace section 3 with a new section that requires placing,

construction, installation, maintenance or removal of a pipeline crossing or telecommunication line to be carried out according to the Code of Practice for Pipeline and Telecommunication Line Crossing a Water Body. The placing, construction, installation, maintenance, replacing or removal of a watercourse crossing is to be carried out pursuant to the Code of Practice for Watercourse Crossings. Finally, the placing, construction, installation, maintenance, replacing or removal of an outfall structure is to be carried out pursuant to the Code of Practice for Outfall Structures on Water Bodies.

The **Oldman River Basin Water Allocation Order** was made by the Minister of Environment on July 28, 2003 pursuant to section 35 of the *Water Act*. The order reserves 11,000 acre-feet of water for irrigation purposes to the Oldman River Area Projects and set the priority number for this water - establishing the order of access in times of scarcity - as the date that this order was released.

## **Energy & Climate Change**

The ***Climate Change and Emissions Management Act, 2003***, unproclaimed, 2003, C-16.7, received Royal Assent on December 4, 2003 and will come into force upon proclamation. The Act provides a basis for emissions reduction in the province of Alberta by establishing emission targets that can be achieved through the use of emissions offsets.

The **CO<sub>2</sub> Projects Royalty Credit Regulation** (Alta. Reg. 120/2003) was made pursuant to sections 5 and 36 of the *Mines and Minerals Act*, R.S.A. 2000, c. M-17, on May 7, 2003. The regulation provides emissions credits for "CO<sub>2</sub> Projects", where an operator injects CO<sub>2</sub> into the ground for enhanced oil recovery or at a coal seam to recover natural gas, where these techniques were not in use before January 1, 2003. The credits can be applied against outstanding royalties owed to the Crown.

## **Environmental Protection & Management**

The ***Release Reporting Amendment Regulation*** (Alta. Reg. 386/2003) was created December 18, 2003 pursuant to section 121 of the *Environmental Protection and Enhancement Act*. The amendments allow for reporting of releases by both oral and electronic means, as outlined in subsection 4.1(1) of the regulation.

On July 9, 2003, the ***Environmental Protection and Enhancement (Miscellaneous) Amendment Regulation*** (Alta. Reg. 225/2003) added paragraph 5.1 to the *Environmental Protection and Enhancement Act*. Paragraph 5.1 provided that security forfeited under the *Disposition and Fees Regulation* (Alta. Reg. 54/2000) was to be transferred to the Environmental Protection and Enhancement Fund, pursuant to subparagraph 30(10)(b) of the *Environmental Protection and Enhancement Act*.

The ***Environmental Protection and Enhancement Amendment Act***, 2003, c.37 amended the *Environmental Protection and Enhancement Act*, by adding section 66.1, giving the Director the discretion to re-designate an activity as an activity requiring an approval. It also adds sections 88.1 and 88.2, requiring compliance with any existing codes of practice and the provision of security or insurance as set out in the regulations, and section 142, a new section that allows an inspector to re-visit a site after a reclamation certificate has been issued and order further work.

The ***Activities Designation Regulation*** (Alta. Reg. 276/2003), which came into force on October 1, 2003, repealed and replaced the existing *Activities Designation Regulation* (Alta. Reg. 211/96). The new regulation designates activities for which an approval, registration or notice is required under the *Environmental Protection and Enhancement Act*. The regulation was further amended on November 1, 2004 by the ***Activities Designation Amendment Regulation*** (142/2004), which made changes to the definitions in section 3, and added section 10.1, which provided for the transition of approvals held prior to November 1, 2004 under Clause (h) Division 3 of Schedule 1.

The ***Pesticide (Ministerial) Amendment Regulation*** (Alta. Reg. 279/2003) was made by the Minister of Environment on August 20, 2003 pursuant to sections 85 and 165 of the *Environmental Protection and Enhancement Act*. The regulation amended provisions regarding vendor registration and the qualifications required for the purchase of pesticides. The amendments also added paragraph 24, requiring that the regulation be reviewed every 5 years.

The ***Pesticide Sales Handlings Use and Application Amendment Regulation*** (Alta. Reg. 271/2003) was made by the Lieutenant Governor in Council on August 19, 2003 pursuant to sections 86 and 166 of the *Environmental Protection and Enhancement Act*. The amendments included the definition and inclusion of "groceries" under the *Pesticide Sales, Handling, Use and Application Regulation* (Alta. Reg. 24/97) and prohibited the retail sale, display or sale of pesticides listed in the attached Schedules. Pesticides were required to be disposed of pursuant to the *Waste Contract Regulation* (Alta. Reg. 192/96), paragraph 32(2).

The ***Ozone-Depleting Substances and Halocarbons Amendment Regulation*** (Alta. Reg. 132/2004) amended the *Ozone Depleting Substances and Halocarbons Regulation* (Alta. Reg. 181/2000) pursuant to section 86 of the *Environmental Protection and Enhancement Act*. The amendment included the addition of definitions for "chiller", "critical use application", "mobile refrigeration system" and "mall refrigeration system". The amendment also substituted a new general prohibition on the release of ozone depleting substances or halocarbons pursuant to section 2.

The ***Substance Release Amendment Regulation*** (Alta. Reg. 270/2003) was amended effective October 1, 2003 to repeal and replace the attached schedule. The schedule lists

applicable codes of practice including: Code of Practice for Asphalt Paving Plants, Code of Practice for Concrete Production Plants, Code of Practice for Compressors, Pumping Stations and Sweet Gas Processing Plants, Code of Practice for Foundries, Code of Practice for Discharge of Hydrostatic Test Water from Hydrostatic Testing of Petroleum Liquid and Natural Gas Pipelines, Code of Practice for Hydrologic Tracing Analysis Studies and Code of Practice for Tanker Truck Washing Facilities.

## **Resource Management & Wildlife Protection**

The ***Natural Resources Conservation Board Amendment Act*** (S.A. 2003 c. 44) received Royal Assent on December 4, 2003 repealing and replacing of section 13, dealing with Membership of the Board. The amendments also add section 22(2) providing the Board with the power to administer any applicable regulatory system.

The ***Miscellaneous Regulations (Expiry) Amendment Regulation*** (Alta. Reg. 63/2003) extends the expiry of the *Coal Conservation Regulation* (Alta. Reg. 270/81) pursuant to section 90 of the *Coal Conservation Act*, R.S.A. 2000, c. C-17, from December 31, 2003 to June 30, 2009. The regulation also extends the expiry date of the *Water (Offences and Penalties) Regulation* (Alta. Reg. 193/98) pursuant to section 7 of the *Water Act* from December 31, 2003 to November 30, 2009.

The ***Miscellaneous Regulations (Expiry) Amendment Regulation*** (Alta. Reg. 354/2003) extends the expiry date for the *Environment Grant Regulation* (Alta. Reg. 182/2000) pursuant to the *Government Organization Act*, R.S.A. 2000, c. G-10, from November 30, 2005 to November 30, 2012. This regulation also extends the expiry date for the *Forest Protection Area Regulation* (Alta. Reg. 149/99), under the *Forest and Prairie Protection Act*, R.S.A. 2000, c. F-19, from January 31, 2004 to January 31, 2010.

The ***Public Lands Act***, R.S.A. 2000, c. P-40, was amended by the *Agricultural Dispositions Statutes Amendment Act*, 2003, R.S.A. 2003, c. 11, which adds provisions defining "conservation" and provides the Minister with the authority to enforce initiatives focused on conservation and resource management.

The ***Oil and Gas Conservation Amendment Regulation*** (Alta. Reg. 390/2003) was made by the Alberta Energy and Utilities board on December 19, 2003, pursuant to paragraph 73 of the *Oil and Gas Conservation Act*, R.S.A. 2000, c. O-6. The amendment repeals paragraph 16.530(1) and replaces it with a formula to calculate the orphan fund for the 2004-2005 fiscal year.

The ***Conservation and Reclamation Amendment Regulation*** (Alta. Reg. 131/2004) amended the *Conservation and Reclamation Regulation* (Alta. Reg. 115/93) and was made by the Lieutenant Governor in Council on June 21, 2004 pursuant to sections 38 and 146 of the *Environmental Protection and Enhancement Act*. The regulation repeals section

1(b.1) and substitutes a new definition of "borrow excavation". The regulation also adopts the Code of Practice for Exploration Operations and the Code of Practice for Pits; compliance with these codes is mandatory.

The ***Oil and Gas Conservation Amendment Regulation*** (Alta. Reg. 151/71) was made by the Alberta Energy and Utilities Board on June 14, 2004 pursuant to sections 58 and 59 of the *Oil and Gas Conservation Act*. The regulation amends the classifications of oil sands projects in section 16.040 and the calculation of administration fees in section 16.080.

The ***Forest Reserves Amendment Act***, R.S.A. 2004, c. 9, received Royal Assent on March 11, 2004 and amended the *Forest Reserves Act*, R.S.A. 2000 C.F-20. The amendments provides the Minister with the power to expropriate land and make regulations. Section 8 was also amended to provide for administrative penalties for non-compliance; this section comes into force on proclamation.

The ***Oil Sands Conservation Amendment Regulation*** (Alta. Reg. 191/2003) was made by the Alberta Energy and Utilities Board on June 10, 2003 pursuant to section 20 of the *Oil Sands Conservation Act*, R.S.A. 2000, c. O-7. The amendment creates a requirement under section 47 of the *Oil Sands Conservation Regulation* (Alta. Reg. 76/88) that an operator report the efficacy of an In-Situ scheme in accordance with ID 2002-03, Performance Presentations for In-Situ Oil Sands Schemes.

The ***Oil and Gas Conservation Amendment Regulation*** (Alta. Reg. 32/2003) was made by the Alberta Energy and Utilities Board on February 19, 2003 pursuant to section 10 of the *Oil and Gas Conservation Act*. The amendments require compliance with the Production Accounting Handbook and provides the requirements for submission of vialled drill cuttings.

The ***Oil and Gas Conservation Amendment Regulation*** (Alta. Reg. 190/2003) was made by the Alberta Energy and Utilities Board on June 10, 2003 pursuant to s. 10 of the *Oil and Gas Conservation Act*. This regulation amends the requirements for an emergency response plan in the event of an oil spill under Part 8 of the *Oil and Gas Conservation Regulations* (Alta. Reg. 151/71).

The ***Oil and Gas Conservation Amendment Regulation*** (Alta. Reg. 215/2003) was made by the Alberta Energy and Utilities Board on June 24, 2003 pursuant to sections 58 and 59 of the *Oil and Gas Conservation Act*. The regulation repeals section 16.081 of the *Oil and Gas Conservation Regulations* (Alta. Reg. 151/71) and replaces it, adjusting the annual adjustment factor for the 2003-04 fiscal year.

The ***Oil and Gas Conservation Amendment Regulation*** (Alta. Reg. 256/2003) was made by the Alberta Energy and Utilities Board on July 22, 2003 pursuant to sections 58 and

59 of the *Oil and Gas Conservation Act*. The regulation amends s. 16.018(b) of the *Oil and Gas Conservation Regulation*, adjusting the 2003-04 adjustment factor.

The ***Oil and Gas Conservation Amendment Regulation*** (Alta. Reg. 222/2003) was made by the Alberta Energy and Utilities board on July 7, 2003 pursuant to section 73 of the *Oil and Gas Conservation Act*. The regulation amends the orphan fund levy calculation for the 2003-04 fiscal year found in section 16.530(1) of the *Oil and Gas Conservation Regulation*.

Changes that were made to the **Upstream Oil and Gas Reclamation Program** following consultation with landowners, industry and affected stakeholders became effective October 31, 2003. The new program addressed surface issues and potential contamination. Contamination status is considered as part of every reclamation certificate application via a Phase 1 or Phase 2 Environmental Site Assessment, and reclamation and remediation information must be provided to landowners and/or occupants. Approximately 15% of certified applications will be audited to ensure standards and guidelines have been met. The industry liability period for surface reclamation issues is increased to 25 years for all certificates issued after October 1, 2003. The program will be reviewed annually to ensure the implementation of continual improvements.

## **Waste Management, Waste Reduction & Recycling**

The ***Tire Designation Regulation*** (Alta. Reg. 95/2004) came into force on June 1, 2004, pursuant to section 175 of the *Environmental Protection and Enhancement Act*. The regulation provides that tires are a designated material under the *Designated Material Recycling Management Regulation*.

The ***Electronics Designation Regulation*** (Alta. Reg. 94/2004) will come into force on October 1, 2004, pursuant to section 175 of the *Environmental Protection and Enhancement Act*. The regulation provides that electronics are a designated material for the purposes of Part 9, Division 1 of the Act and the Designated Material Recycling and Management Regulation. The regulation does not apply to the City of Lloydminster.

The ***Designated Material Recycling and Management Regulation*** (Alta. Reg. 93/2004) came into force on June 1, 2004 and was created pursuant to the *Environmental Protection and Enhancement Act*. The regulation repeals the *Tire Recycling and Management Regulation* (Alta. Reg. 206/96), and its primary purpose is to monitor and create a surcharge for the recycling of designated materials. Currently the only designated material are tires.

The ***Waste Contract Amendment Regulation*** (Alta. Reg. 272/2003) was made by the Lieutenant Governor in Council on August 19, 2003, pursuant to sections 175 and 187 of

the *Environmental Protection and Enhancement Act*. The amendments include an amendment of the definitions as well as an amendment of paragraph 17, which specifies when section 169 of the *Environmental Protection and Enhancement Act* would apply, prohibiting the consignment for shipment of dangerous recyclables.

## **British Columbia**

### **New Legislation & Amendments**

(See [www.legis.gov.bc.ca](http://www.legis.gov.bc.ca) for the full text of B.C.'s statutes and regulations)

The B.C. Government has continued to pursue its goal of changing the way the environment is regulated in the province, with a stated objective of reducing regulatory “red tape” and increasing efficiency. The ***Significant Projects Streamlining Act***, S.B.C. 2003, c. 100 was passed in December, 2003, permitting certain projects to be designated as provincially significant and thus candidates for priority in the approval and completion processes.

The ***Community Charter***, S.B.C. 2003, c. 26, which was proclaimed in force on January 1, 2004, provides specific powers to local governments to pass bylaws for the protection of human health and the environment. Such bylaws must be approved by the provincial ministry.

### **Contaminated Sites & “Brownfields”**

The Ministers’ Advisory Panel on Contaminated sites delivered its final report in May, 6, 2003

([wlapwww.gov.bc.ca/epd/epdpa/contam\\_sites/ministers\\_panel/ministerspanel.html](http://wlapwww.gov.bc.ca/epd/epdpa/contam_sites/ministers_panel/ministerspanel.html))

Shortly after, the government introduced the ***Environmental Management Act***, S.B.C. 2003, c. 53 (Bill 57), repealing and replacing the *Waste Management Act*, R.S.B.C. 1996, c. 482 and the *Environment Management Act*, R.S.B.C. 1996, c. 118 (*EMA*). The new Act, which, for the most part was proclaimed in force on July 8, 2004 while retaining the conceptual basis in the old legislation, places a larger emphasis on a risk-based, tiered approach to the designation and management of contaminated sites. The new Act is also aimed at clarifying issues of finality of the remediation process, cost recovery lawsuits, incentives to encourage positive environmental performance, and the introduction of administrative penalties in addition to the numerous offences carried over from the *Waste Management Act*.

The ***Contaminated Sites Regulations*** were amended effective December 1, 2003 by B.C. Reg. 419/2003, increasing fees and broadening the external review process to allow the Ministry to contract with external reviewers to review confirmation of remediation, risk

assessment, and environmental reports. In October, 2003 the Ministry published two discussion papers, which are still under review: “Contaminated Sites Regulation: Review of the Site Investigation Trigger Process” and “A New Contaminated Sites Regulatory Process: Investigation, Classification and Remediation Process Overview”.

## **Drinking Water & Groundwater**

The ***Drinking Water Protection Act***, S.B.C. 2001, c.9, was passed in 2001 and amended in 2002, but most of the provisions were brought into force May 16, 2003 with the related regulations, B.C. Reg. 200/2003, which replace the *Safe Drinking Water Regulations* (B.C. Reg. 230/92) under the *Health Act*, R.S.B.C. 1996, c. 179. Under the regulations water suppliers must supply potable water, obtain construction and operating permits, meet qualification standards for operators, have emergency response and contingency plans, follow monitoring requirements and report threats to drinking water. Violators are subject to fines.

New ***Ground Water Protection Regulations*** (B.C. Reg. 299/2004) effective as of November 1, 2004, establish standards to ensure that wells are properly drilled, sealed, maintained and closed, and that well drillers and pump installers have adequate qualifications. The requirements of these regulations are to be phased in over 18 months.

## **Energy & Climate Change**

The ***Energy and Mines Statutes Amendment Act***, S.B.C. 2002, c. 26 was proclaimed in force in June 2003, making changes to the application review, permit, enforcement and compliance processes for the mining, oil and gas industries, providing for the establishment of a fee-for-use cost recovery system and restructuring the Oil and Gas Commission.

Effective July 1, 2004, amendments to the motor fuel tax regulations exempt the ethanol and biodiesel portions of fuels blended with gasoline and diesel from the provincial motor fuel tax.

## **Environmental Assessment & Planning**

The ***Environmental Assessment Act, 2002***, S.B.C. 2002, c. 43 was proclaimed in force December 30, 2002. The Act provides for a restructuring of the environmental assessment process to create a more flexible and streamlined process and to improve harmonization with federal environmental assessment under *CEAA*.

The Environmental Assessment Office has published a “Guide to the B.C. Environmental Assessment Process” (March, 2003). ([www.eao.gov.bc.ca/publicat/guide-2003/final-guide1-2003.pdf](http://www.eao.gov.bc.ca/publicat/guide-2003/final-guide1-2003.pdf))

The Canada-British Columbia Agreement on Environmental Assessment Cooperation was signed March 11, 2004, whereby projects that require a review under both federal and provincial environmental assessment legislation will undergo a single, cooperative assessment.

## **Resource Management and Wildlife Protection**

The ***Agricultural Land Commission Act***, S.B.C. 2002, c. 36 came into force November 1, 2002. The Act repealed and replaced the *Agricultural Land Reserve Act*, R.B.C. 1996, c. 10, the *Land Reserve Commission Act*, S.B.C. 1999, c. 14, and the *Soil Conservation Act*, R.S.B.C. 1996, c. 434 and established the Agricultural Land Commission. Regulations expanding non-farm uses and expanding local government decision-making in the Agricultural Land Reserve also came into force November 1, 2002 – the *Agricultural Land Reserve Use, Subdivision and Procedure Regulation* (B.C. Reg. 17/02).

On December 11, 2002 the ***Finfish Aquaculture Waste Control Regulation*** (B.C. Reg. 256/02) became effective, providing for science-based standards for protection of the environment. In support of the regulation the Ministry of Water, Land and Air has developed “Protocols for Marine Environmental Monitoring” (available online at [www.gov.bc.ca/epd/epdpa/industrial\\_waste/agriculture/agri\\_fishf.htm](http://www.gov.bc.ca/epd/epdpa/industrial_waste/agriculture/agri_fishf.htm))

The Riparian Areas Regulation under the ***Fish Protection Act*** (B.C. Reg. 376/2004), effective March 31, 2005, establishes rules for new residential, commercial or industrial development, requiring the establishment of a 15 – 30 metre wide streamside protection and enhancement area on “streams” in urban areas. Local governments will have until January, 2006 to ensure their bylaws provide for streamside protection and enhancement areas.

The ***Conservation Officer Service Authority Regulation*** (B.C. Reg. 318/2004), was made to consolidate the enforcement powers of conservation officers in B.C. into one statute, with the object of harmonizing enforcement activities and to facilitate the creation of a single administrative process to support environmental enforcement.

The ***Integrated Pest Management Act***, S.B.C. 2003, c. 58 was passed in October, 2003, and, when proclaimed in force, will replace the *Pesticide Control Act*, R.S.B.C. 1996, c. 360. The new Act will require integrated pest management techniques to be applied to all commercial and industrial use of pesticides, pesticides to be used only after other pest control alternatives have been considered. Pesticide users will be subject to restrictions and drastically increased fines for offences.

The ***Forest and Range Practices Act***, S.B.C. 2002, c. 69, amended by S.B.C. 2003, c. 55 came into force in January, 2004. The Act establishes a new regime for forest management and replaces much of the forest planning and practice requirements in the

Forest Practices Code, which still remains in place to govern, among other things, strategic forest use planning and forest protection. It sets the framework for the government's "results-based" forestry ideal, whereby operators must prepare five year forest stewardship plans designed to achieve targets or strategies and must operate in accordance with those plans. A number of regulations were made throughout 2004 to specify objectives and strategies for the management of forest practices.

***The Water, Land and Air Protection Statutes Amendment Act, 2003***, S.B.C. 2003, c. 90, came into force, for the most part, on November 20, 2003. As well as making a number of housekeeping amendments to environmental statutes in the area of parks and wildlife, it also repealed the *Commercial River Rafting Safety Act*, R.S.B.C. 1996, c. 56, the *Drainage and Dyking Adjustment and Repeal Act, 1965*, S.B.C. 1965, c. 10, the *Park (Regional) Act*, R.S.B.C. 1996, c. 345, the *Weather Modification Act*, R.S.B.C. 1996, c. 486, and the *West Coast National Park Act*, S.B.C. 1969, c. 41.

## **Waste Management, Waste Reduction & Recycling**

The new ***Environmental Protection Act***, S.B.C. 2003, c. 53 introduces the potential for certain activities to operate under a Code of Practice. Key to its implementation is the *Waste Discharge Regulation* (B.C. Reg. 320/2004), implemented July 8, 2004, prescribing the activities that may operate under a Code of Practice, and which must have a permit. The Ministry of Water, Land and Air Protection has published a draft "Waste Discharge Regulation Implementation Guide" dated July 26, 2004, to help clarify the rules ([www.gov.bc.ca/epdiv/env\\_mgt\\_act/implement\\_guide.pdf](http://www.gov.bc.ca/epdiv/env_mgt_act/implement_guide.pdf)).

The specific regime for the handling of dangerous waste is carried on under the new *EMA*, under the amended Hazardous Waste Regulations. "Special wastes" have been renamed "hazardous wastes".

Amendments to the ***Post-Consumer Residual Stewardship Program Regulation*** (B.C. Reg. 111/97) and the repeal of ***Used Lubricating Oil Regulation*** came into force July 22, 2003 (B.C. Reg. 21/2003) and created a new oil recycling program under the management of a non-profit organization named the B.C. Used Oil Management Association, whereby all brand owners of oil and oil filters must either have a collection and recycling program for their used products or be members of an association that does so on their behalf.

## **Manitoba**

### **New Legislation and Amendments**

(See [www.gov.mb.ca/chc/statpub/index.html](http://www.gov.mb.ca/chc/statpub/index.html) for the full text of Manitoba's statutes and regulations.)

## **Drinking Water & Groundwater**

The ***Water and Wastewater Facility Operators Regulation*** (Man. Reg. 77/2003) was registered on April 22, 2003 under the *Environment Act* (C.C.S.M., c. E125). This new regulation provides guidelines for classifying water and wastewater facilities, procedures for the certification of operators, and sets out operating requirements in general. Other than sections 23 to 27, which will apply to facilities as of September 1, 2006, all provisions are currently in effect.

## **Environmental Protection & Management**

A new regulation, the ***Prescribed Spraying Equipment and Controlled Products Regulation*** (Man. Reg. 119/2003) was registered under the *Pesticides and Fertilizers Control Act*, R.S.M. 1987, c. P40, on July 18, 2003. This regulation defines “vehicle-mounted, ultra low-volume fogging units”, and prescribes aerial spraying and ground-based equipment and controlled products. Regulation 119/2003 requires the provision of specific information regarding the sale or lease of spraying equipment, and sets out obligations to report missing inventory. The regulation also stipulates different storage requirements for aircrafts equipped for spraying, and for vehicle-mounted, ultra low-volume fogging units.

The ***Anhydrous Ammonia Handling Act and Transport Regulation*** (Man. Reg. 236/89) was amended by Regulation 56/2003 to repeal the definition of “Transportation of Dangerous Goods Regulation”. In addition, the amendment required that both registered and unregistered vehicles with tanks, that are being towed, be placarded in accordance with the *Dangerous Goods Handling and Transportation Regulation* (Man. Reg. 55/2003).

The ***Classification Criteria for Products, Substances and Organisms Regulation*** (Man. Reg. 282/87) was amended by Regulation 57/2003 to substitute references to Manitoba Regulation 172/85 with the federal *Transportation of Dangerous Goods Regulations*, SOR/85-77, and to amend the definition “ASTM”. The regulation also amends the criteria for classifying compressed gases to comply with ASTM standard D323-99a, *Standard Test Method for Vapour Pressure of Petroleum Products* (Reid Method).

The ***Classification Criteria for Products, Substances and Organisms Regulation*** (Man. Reg. 282/87) was amended by Regulation 114/2003 to define “Act” as the *Dangerous Goods Handling and Transportation Act*. The amendment also set out hazardous waste criteria and exemptions.

The **Manifest Regulation** (Man. Reg. 139/88) was amended by Regulation 58/2003, to add and redefine a number of terms such as carrier, consignee, and manifest discrepancy. The amendments also set out instructions in relation to completing a manifest clearly and precisely, guidelines regarding the completion of manifests for hazardous waste by a single consignor, and procedures to be followed for multiple pick-up loads. Finally the amendments provide the option of complying with the *Dangerous Goods Handling and Transport Regulation* rather than the *Manifest Regulation*, for recyclable materials transported solely within Manitoba.

The **Pesticides Regulation** (Man. Reg. 94/88) was amended by Regulation 47/2004, which was registered on March 23, 2003, and which added two subsections ensuring that use permits are kept in the possession of the user, and that the use of a pesticide is undertaken in accordance with permit terms and conditions. The amendments also repeal exemptions previously granted to weed supervisors and municipal weed inspectors.

The **Special Waste (Shredder Residue) Regulation** (Man. Reg. 113/2003) was registered on July 18, 2003 under the *Dangerous Goods Handling and Transportation Act* (C.C.S.M c.D12). Shredder residue is residue generated by the shredding of a motor vehicle, appliance, or other source of recyclable steel. This new regulation designates shredder residue as special waste for the purposes of the Act, and establishes contaminant threshold levels and methods of disposal for low concentration shredder residue. In addition, the regulation requires the screening and removal of contaminants such as PCBs, mercury, lead, cadmium and petroleum hydrocarbons by the operator of a shredder residue generating facility.

Regulation 1/2003 amended the **Storage and Handling of Petroleum Products and Allied Products Regulation** (Man. Reg. 188/2001), extending the application date of section 25, which prohibits unauthorized operation of storage tanks, from one to three years. As such, storage tank systems already in operation on January 13, 2003 are not subject to the prohibition clause until 2006.

## **Resource Management & Wildlife Protection**

On June 30, 2004, the **Conservation Agreement Forms Regulation** (Man. Reg. 149/98) was amended by Regulation 102/2004 to replace Schedules A and B, which pertain to Conservation Agreements and Notices of Intent to File a Caveat under subsection 7(3) of the *Conservation Agreements Act* (C.C.S.M. c. C173).

Regulation 76/2004 amended the **Ecological Reserves Designation Regulation** (Man. Reg. 166/87) to include Little George Island as an ecological reserve.

## **Waste Management, Waste Reduction & Recycling**

The ***Onsite Wastewater Management Systems Regulation*** (Man. Reg. 83/2003) came into force on April 28, 2003 under the *Environment Act* (C.C.S.M. c. E125), replacing the *Sewage Disposal Systems and Privies Regulations* (Man. Reg. 95/88 R) and the *Sensitive Areas Regulations* (Man. Reg. 126/88 R). The new regulation applies to onsite wastewater management systems with a combined sewage or greywater flow of less than 10,000 L per day, and to privies, with certain exceptions. The regulation establishes standards for septic tanks, holding tanks, aerobic treatment units and disposal fields, and establishes pre-construction registration requirements and installation procedures for treatment systems. In addition to creating prohibitions against the discharge of sewage and wastewater effluent without a permit, the regulation prohibits activities related to wastewater management in sensitive areas. Provisions requiring certification of installers and registration of haulers will come into force in April 2005.

The ***Livestock Manure and Mortalities Management Regulation*** (Man. Reg. 42/98) amended by Regulation 52/2004, took effect on March 30, 2004. The amendments require all producers using non-permitted manure storage facilities to apply by June 10, 2004 to register the storage facilities with Manitoba Conservation. Non-permitted facilities include: earthen storage built before April 29, 1994; molehills, steel or concrete tanks built before March 31, 1998; and non-permitted under-barn manure storage facilities. Manitoba Conservation will inspect each storage facility pursuant to the regulation and may order repairs prior to granting registration. The regulation stipulates that manure may not be stored in an unregistered facility after November 10, 2010.

As well, beginning July 10, 2004 livestock producers with 300 or more animal units (AU) are also required to file annual manure management plans. Manure management plans must be submitted by February 10<sup>th</sup> for spring fertilization programs and July 10<sup>th</sup> for fall programs. Failure to file in accordance with the deadline makes producers subject to a \$100 "late-filing" fee. The regulation also prohibits the application of manure between November 10 to April 10 for the following operations: all operations with 400 AU or more and new or expanding operations with 300 AU or more. Producers in operation before March 30, 2004 need not comply with the restriction until November 10, 2010. Manure may not be stored on fields after November 10<sup>th</sup> of each year, and any field storage areas must be given at least 12 months to recover, with the assistance of crop cover to remove accumulated nutrients. Finally, new confined livestock areas producing 300 AU or more need a permit to build, including new, expanded or modified outdoor, non-grazing areas, including feedlots and hoop shelters.

The ***Environment Act Fees Regulation*** (Man. Reg. 168/96) was amended by Regulation 82/2003.

## **New Brunswick**

### **New Legislation and Amendments**

(See [www.gnb.ca/0062/acts/index-e.asp](http://www.gnb.ca/0062/acts/index-e.asp) for full texts of New Brunswick's statutes and regulations.)

### **Drinking Water & Groundwater**

The **Wellfield Protected Area Designation Order** (N.B. Reg. 47/00), promulgated under the *Clean Water Act*, A.N.B. 1989, c. 6.1, was amended on October 1, 2003 (N.B. Reg. 2003-75) to designate three additional groundwater recharge areas as protected areas. This regulation was further amended on May 9, 2004 (N.B. Reg. 2004-38) to designate six additional groundwater recharge areas as protected areas.

### **Environmental Protection & Management**

New Brunswick's new **Protected Natural Areas Act**, S.N.B. 2003, c. P-19.01, provides for the establishment of protected natural areas and prohibits specified activities within designated areas. The purpose of this new legislation is to protect the biological diversity of fauna and flora within New Brunswick and encourage conservation through proper management of such resources. Certain existing and future interests and agreements related to lands within a protected natural area are protected while forest service officers are delegated various enforcement responsibilities.

The **Establishment of Protected Natural Areas Regulation** (N.B. Reg. 2003-8) has been promulgated under the *Protected Natural Areas Act* since April 1, 2003, identifying the province's Class I and Class II Protected Natural Areas. In addition, the new **General Regulation – Protected Natural Areas Act**, N.B. Reg. 2004-57, itemizes the permitted activities within the Class I and Class II Protected Natural Areas and provides details regarding permit fees, the posting or placement of notices, and the establishment of Local, Scientific and Provincial Advisory Committees. The adoption of this Act and its regulations included the repeal of New Brunswick's *Ecological Reserves Act* (S.N.B. 1975, c. E-1.1) and its accompanying regulations.

The **Clean Environment Act**, R.S.N.B. 1973, c. C-6, was amended (S.N.B. 2003, c. 6) in April 2003 to add various new definitions. The Minister of the Environment and the Minister of Natural Resources were also delegated the ability to designate all or any portion of a wetland as a protected area through the issuance of a Wetland Designation Order. The Minister of the Environment may also designate all or any portion of a coastal area as a protected area through the issuance of a Coastal Designation Order. Requirements that may be imposed through these orders include the prohibition,

control or limitation of any activity or thing, or use of land or water that may impact the environment of a protected area. Wetland Designation Orders and Coastal Designation Orders may also set standards for the purpose of protecting the environment of a protected area and provide methods of enforcement. The Minister that issues such an order may also grant exemptions from its requirements.

The **Clean Water Act**, S.N.B. 2004, c. 22, was amended to add “wetland” as a defined term (S.N.B. 2003, c. 5). Various provisions of the Act were amended to refer to wetlands in addition to watercourses including the definition of “alteration” and the Act’s requirement for Ministerial approval of projects or structures that alter or divert all or part of a watercourse or the water flowing in a watercourse. New Brunswick’s Minister of the Environment and Local Government may also delegate the authority to grant or refuse exemptions from a Designation Order to an appropriate municipal employee, as a result of amendments made to the *Clean Water Act*.

The addition of “wetland” to the *Clean Water Act* also resulted in consequential amendments to the *Watercourse Alteration Regulation* (N.B. Reg. 80/90), now known as the **Watercourse and Wetland Alteration Regulation** (N.B. Reg. 2003-16). This regulation’s details regarding permits, and various exemptions from the *Clean Water Act*’s requirement to obtain a permit for projects or structures that alter or divert all or part of a watercourse or the water flowing in a watercourse, were expanded to apply to prescribed projects or structures that alter a wetland or divert the water flowing in a wetland. The regulation also protects wetlands from the removal of sand, gravel or rock for sale, gain or commercial use.

## **Resource Management & Wildlife Protection**

The **Leasing Regulation – Crown Lands and Forests Act** (N.B. Reg. 32/89) was amended (N.B. Reg. 2003-14) to add provisions regarding the lease of Crown Lands where that land is being used as a maple sugary. These regulations provide Crown Land leasing values according to the class of land use.

On August 27, 2003, the **General Regulation** (N.B. Reg. 204/84) under the *Forest Fires Act*, S.N.B. 1991, c. F-20, was amended (N.B. Reg. 2003-46) to include definitions and provisions providing for the establishment of categories of fires and related prohibitions, restrictions and requirements.

The **General Regulation** (N.B. Reg. 92/93), promulgated under the *Quarriable Substances Act*, S.N.B. 1991, c. Q-1.1, was amended (N.B. Reg. 2004-72) by adding provisions to provide details regarding peat exploration licences and peat pricing. The provisions of the *Quarriable Substances Act* addressing peat exploration licences and peat leases also underwent consequential amendments (S.N.B 2004, c. 14).

New Brunswick's ***Fish and Wildlife Act***, A.N.B. 2002, c. 53, has been amended (S.N.B. 2002, c. 53) to grant the Minister of Natural Resources and Energy the authority to cancel licences and permits issued under the Act to those convicted of specified offences that were committed within a protected natural area. Convicted individuals are also barred from obtaining a new licence under the *Fish and Wildlife Act* for specified periods of time.

## **Newfoundland & Labrador**

### **New Legislation & Amendments**

(See [www.gov.nf.ca/hoa/](http://www.gov.nf.ca/hoa/) for the full text of Newfoundland & Labrador's statutes and regulations)

The regulations promulgated under Newfoundland & Labrador's new ***Environmental Protection Act***, S.N.L. 2002, c. E-14.2, have been adopted to replace previous versions and ensure that the new Act is properly referenced. Regulations under the Act now include the *Air Pollution and Control Regulations, 2004* (N.L.R. 39/04), the *Environmental Assessment Regulations, 2003* (N.L.R. 54/03), the *Gasoline Volatility Control Regulations, 2003* (N.L.R. 62/03), the *Ozone Depleting Substances Regulations, 2003* (N.L.R. 55/03), the *Pesticide Control Regulations, 2003* (N.L.R. 57/03), the *Storage and Handling of Gasoline and Associated Products Regulation, 2003* (N.L.R. 58/03 as amended by N.L.R. 40/04), the *Storage of PCB Wastes Regulations, 2003* (N.L.R. 61/03), and the *Waste Management Regulations, 2003* (N.L.R. 59/03).

### **Drinking Water & Groundwater**

New ***Well Drilling Regulations, 2003*** (N.L.R. 63/03) were adopted under to the ***Water Resources Act***, S.N.L. 2002, c. W-4.01, to replace the previous version (C.N.L.R. 974/96). The regulation establishes the requirements for a licence for drilling water wells, which includes specialized training and experience. The proper locations for wells in various contexts is also addressed in the regulation, including wells susceptible to surface water intrusion and appropriate distances from potential sources of contamination. Piping standards are adopted and various well components are identified. Designated water control areas may be used for wells although wells containing any salty, sulphurous or other water that might impair the quality of the area's potable groundwater must be appropriately sealed. The performance of water yield tests is required prior to the construction of a well and the regulation identifies adequate yield test methods for both domestic and non-domestic wells. In addition, the regulation establishes that the use of a well for waste disposal is prohibited without government approval.

### **Energy & Climate Change**

New ***Water Power Rental Regulations, 2003*** (N.L.R. 64/03) were adopted under the *Water Resources Act*. The regulation establishes the annual rental rate for water use licences, which are issued under the *Water Resources Act* to allow the diversion or use of water for waterpower generation. These new regulations repeal and replace the previous *Water Power Rental Regulations* (N.L.R. 4/01).

## **Environmental Protection and Management**

Newfoundland & Labrador's ***Air Pollution Control Regulations***, promulgated under the *Environmental Protection Act*, were repealed and replaced in both 2003 (N.L.R. 56/03) and 2004 (N.L.R. 39/04). The currently applicable regulation, the *Air Pollution Control Regulations, 2004*, establishes Ambient Air Quality Standards at Reference Conditions, which indicate acceptable concentration levels for various contaminants based on various time measurements. In-stack standards are also established for incineration and pyrolysis operations. New stacks that are built after July 1, 2004 with annual releases of more than 20 tonnes of particulate matter or sulphur dioxide must be built to specified heights. In addition, the installation of new or modified emission sources must employ the best available control technology unless otherwise approved by the Minister of Environment.

This new regulation also imposes a province-wide cap on sulphur dioxide emissions (60,000 tonnes per calendar year). This cap comes into effect on January 1, 2005 and will be implemented in conjunction with an annual reporting requirement for facilities producing more than 20 tonnes of sulphur dioxide per year. Emitters of air contaminants may be subject to the regulation's administrative penalties. The opacity of visual emissions must be monitored and must conform to the regulation's limitations. The regulation also identifies various materials that are prohibited from being burned in a fire. Emissions from residential activities are also limited including wood combustion and vehicle operation. Standards are adopted for non-portable above-ground storage tanks and gasoline distribution networks, and permissible levels of nitrogen oxide are established for certain new and modified fossil fuel fired boilers and heaters. In addition, the Minister may require the installation of equipment to record emission levels.

The ***Environmental Protection Act's Heating Oil Storage Tank System Regulations, 2003*** (N.L.R. 60/03) were amended (N.L.R. 103/03) to provide for the installation of a heating or storage tank system for personal use by an untrained person (or his or her untrained agent), provided that the system is inspected.

The ***Storage and Handling of Gasoline and Associated Products Regulation, 2003*** (N.L.R. 58/03) was amended (N.L.R. 40/04) to clarify the prohibition against the construction, installation, alteration or operation of an unregistered storage tank system. The operation or filling of an unregistered storage tank system is also

prohibited although this prohibition will be phased-in for storage tank systems in operation at the time of the amendment. The registration requirement will be applicable to all operating storage tank systems on November 30, 2004.

### **Resource Management & Wildlife Protection**

Promulgated under the **Wild Life Act**, R.S.N.L. 1990, c. W-8, Newfoundland and Labrador's **Wild Life Regulations** (C.N.L.R. 1156/96) were amended (N.L.R. 32/04) to include coyotes in the definition of game. The regulation was also amended to give the Minister the authority to declare an open season for hunting coyote and issue necessary hunting licences. The *Coyote Hunting Order Newfoundland and Labrador 2004* (N.L.R. 33/04) establishes a coyote hunting season and describes measures to address non-licensed hunting of coyote.

### **Waste Management, Waste Reduction & Recycling**

The *Environmental Control and Sewage Regulations* (C.N.L.R. 1078/96) promulgated under the *Water Resources Act* were repealed and replaced by the new **Environmental Control and Sewage Regulations, 2003** (N.L.R. 65/03). This regulation establishes minimum standards and conditions applicable to persons discharging sewage and other materials into a body of water, public sewer or sewer leading to a public sewer. Maximum acceptable content for specific constituents of such discharges are established. The regulation also notes that analysis procedures used to determine compliance must be acceptable to the Department of Environment while both composite and grab sampling techniques are recognized. The Minister of the Environment may also require the monitoring of discharge content.

## **Nova Scotia**

(See [www.gov.ns.ca/legi/legc/index.htm](http://www.gov.ns.ca/legi/legc/index.htm) for the full text of Nova Scotia's statutes and regulations)

### **Environmental Assessment & Planning**

The **Environmental Assessment Regulations** (N.S. Reg. 26/95) were amended (N.S. Reg. 44/03) to add electric generating facilities with production ratings of 2 megawatts or more derived from wind energy to the regulation's list of designated energy undertakings. Such facilities are now subject to Class I environmental assessments including components identified in the regulation. This regulation was adopted pursuant to the *Environment Act*.

### **Environmental Protection & Management**

Nova Scotia's Department of Environment and Labour is continuing its efforts to implement changes to the **Environment Act**, S.N.S. 1995-95, c. 1. Various proposed changes were circulated for public comment in the summer of 2004. This review began in 2000 as was mandated by the Act, which required a comprehensive review within five years. The proposed amendments are presented and explained (although they have yet to be finalized and implemented) in a summary document (see <http://www.gov.ns.ca/enla/ecs/EnvActAmendments.pdf>).

Nova Scotia's Forbes Lake, Bennery Lake and French Bill Brook watersheds have been designated as protected water areas. Regulations adopted pursuant to the *Environment Act* including **Forbes Lake Watershed Protected Water Area Regulations** (N.S. Reg. 107/03), the **Bennery Lake Watershed Protected Water Area Regulations** (N.S. Reg. 211/03), and the **French Mill Brook Watershed Protected Water Area Designation and Regulations** (N.S. 149/04) restrict activities and land uses in these protected water areas.

Pursuant to the *Agricultural Marshland Conservation Act*, S.N.S. 2000, c. 22, the **Masstown Marsh Body Land Use Regulations** (N.S. Reg. 161/03) and the **Victoria Diamond Jubilee Marsh Body Land Use Regulations** (N.S. Reg. 162/03) were adopted to prohibit activities with respect to lands within, on, or affecting certain sections of these marshlands in any way that is not conducive to and in conformity with sound agricultural purposes and practices.

The Nova Scotia government may now recover the costs of recapturing escaped wildlife from the owner(s) of escaped wildlife, due to an amendment to the **General Wildlife Regulations** (N.S. Reg. 1181/87 amended by N.S. Reg. 165/04). This regulation has been adopted pursuant to Nova Scotia's *Wildlife Act*, R.S.N.S. 1989, c. 504.

## **Resource Management & Wildlife Protection**

Two threatened and two endangered species were added the **Species-at-Risk List Regulations** (N.S. Reg. 186/03) promulgated under the *Endangered Species Act*, S.N.S. 1998, c. 11. The endangered species added include Moose and Boreal Felt Lichen while the newly listed threatened species include the Tiberclad Spikerush and Eastern Ribbonsnake.

The procedures regarding the forestry harvesting operations established through the **Wildlife Habitat and Watercourses Protection Regulations** (N.S. Reg. 166/03), promulgated under the *Forests Act*, R.S.N.S. 1989, c. 179, are no longer applicable to operations involving the removal of Christmas trees or operations whose primary purpose is to convert land to a non-forestry use. This change was accomplished through an amendment to the regulation's definition of "harvest" (N.S. Reg. 166/2002).

The *Registration and Statistical Returns Regulations* (N.S. Reg. 7/98), promulgated under the *Forests Act*, were repealed and replaced by the new ***Registration and Statistical Returns Regulations*** (N.S. Reg. 3/04). The new regulation deals with the registration of registered buyers and users of forest products and the filing of statistical returns related to certain transactions involving forest products.

The ***Forest Sustainability Regulations*** (N.S. Reg. 148/2001), also promulgated under the *Forests Act*, were amended to add direction regarding the calculation of wood chip acquisitions from registered buyers. The term wood chips is also an added definition (N.S. Reg. 2/2004).

## **Northwest Territories**

### **New Legislation & Amendments**

(See [www.gov.nt.ca/RWED/eps/leg.htm](http://www.gov.nt.ca/RWED/eps/leg.htm) for the full text of NWT's statutes and regulations.)

### **Waste Management, Waste Reduction & Recycling**

The Northwest Territories' ***Waste Reduction and Recovery Act***, S.N.W.T. 2003, c. 29, came into force on May 7, 2004. The Act allows the NWT government to establish programs to recover, recycle and reuse waste material, and provides the government with the necessary authority to ban the sale of items that could be harmful to the environment. The Act also establishes an Environmental Fund, to be used to maintain and improve waste recovery programs.

On January 1, 2004, the ***Used Oil and Fuel Management Regulations*** (Reg. 064-2003) under the *Environmental Protection Act*, R.S.N.W.T., 1988, c. E-7, came into force. The regulations were designed to reduce the amount of oil and waste fuel improperly disposed by placing restrictions on how and where disposal may take place, and setting out registration and sampling requirements. The regulation also defined the responsibilities and authority of the Chief Environmental Protection Officer.

During the review period, the Environmental Protection Service (EPS) of the Department of Resources, Wildlife and Economic Development expanded its series of ***Waste Management Guidelines***, with documents covering the management of asbestos, lead and lead paint, and contaminated site remediation. These guidelines are to be read in conjunction with the *Environmental Protection Act*, R.S.N.W.T. 1988, c. E-7 and appropriate regulations. The guidelines offer practical implementation details, such as labelling and necessary contacts, in a plain language format. (See the ***Guidelines*** section at [www.gov.nt.ca/RWED/eps/leg.htm](http://www.gov.nt.ca/RWED/eps/leg.htm) ).

Looking ahead, a beverage container recovery program regulation is planned that will be similar to programs in place in Alberta and British Columbia. The proceeds from the program will be applied to the Environmental Fund.

## **Nunavut**

### **Energy & Climate Change**

In July, 2003, the Ministry of Resources, Wildlife and Economic Development released a new energy strategy for the territory. The document discussed the economic costs of high energy prices, the opportunities available through the development of the territory's resources, and the challenge of protecting the environment during this process. The document contained action items intended both to address current environmental issues and to plan for future developments.

### **Resource Management & Wildlife Protection**

In December, 2003, the Government of Nunavut passed the Nunavut **Wildlife Act**, S.Nu. 2003, c. 26, after more than three years of public consultation. The new act will replace legislation adopted from the Northwest Territories in 1999. The *Wildlife Act* is unique in that it combines scientific expertise with traditional Inuit values and principles. The legislation is expected to come into force in the fall of 2005.

## **Ontario**

### **New Legislation & Amendments**

(see [www.e-laws.gov.on.ca](http://www.e-laws.gov.on.ca) for the full text of Ontario's statutes and regulations)

Ontario's new **Limitations Act, 2002** (S.O. 2002, c. 24) came into force on January 1, 2004, making radical changes to the law concerning limitation periods for the commencement of civil actions in Ontario courts. A basic limitation period of two years beginning on the day that the claim is discovered replaces the previous Act's general limitation period as well as many of the limitation periods that were established by other statutes. For example, the *Environmental Protection Act*, R.S.O. 1990, c. E.19 previously included a limitation period of two years beginning at the time of knowledge of the loss or damage for statutory spills claims. This statutory limitation period has been repealed and replaced by the new limitation period. The new *Limitations Act, 2002* also imposes an ultimate limitation period of 15 years thus barring any claim from being commenced more than 15 years after the day that the unlawful act

or omission took place. However, undiscovered environmental claims have no limitation period.

The ten year anniversary of Ontario's ***Environmental Bill of Rights, 1993*** (S.O. 1993, c. 28) has led the Environmental Commissioner of Ontario to conduct a review of the environmental rights regime, intended to monitor government activity and encourage public participation. This review was on-going at the time of writing.

## **Contaminated Sites & “Brownfields”**

The ***Records of Site Condition Regulation*** (O.Reg. 153/04) came into force on October 1, 2004 together with relevant sections of the *Environmental Protection Act* providing for the voluntary filing of a record of site condition (RSC). These statutory instruments contribute to Ontario's regime to address contaminated lands as established through the *Brownfields Statute Law Amendment Act, 2001* (S.O. 2001, c. 17), which received Royal Assent on November 2, 2001. This legislation has already amended the *Environmental Protection Act*, the *Ontario Water Resources Act*, R.S.O. 1990, c. O.40, and various other statutes, to provide parties such as owners, lenders, municipalities and secured creditors with greater certainty in their dealings with contaminated lands. The *Records of Site Condition Regulations* represent a cornerstone of Ontario's brownfields legislative amendments as they provide the ability to earn an exemption from Directors' Orders upon the filing of a Record of Site Condition that meets regulatory remediation and other criteria and its acceptance by the province's Ministry of the Environment.

## **Drinking Water & Groundwater**

Drinking water issues have been prevalent in the province since the *Escherichia coli* bacteria outbreak which killed seven people and made more than 2,300 ill in the spring of 2000 in Walkerton, Ontario. Provisions of the ***Safe Drinking Water Act, 2002*** (S.O. 2002, c.32) continue to come into force, with the development and promulgation of related regulations. The Act received Royal Assent in December 2002 and provides the legislative authority to implement many of the recommendations made in the *Report of the Walkerton Inquiry*. This Act replaces portions of the *Ontario Water Resources Act* and the *Environmental Protection Act* which were previously the key statutes relating to the regulation of drinking water in Ontario. The *Safe Drinking Water Act, 2002* has become the statutory authority for the approvals process related to certain municipal and non-municipal water works referred to as “drinking-water systems.”

The *Safe Drinking Water Act, 2002* imposes greater responsibility on those who own and operate drinking-water systems, including a duty to report adverse test results, and a prohibition against allowing anything to enter a drinking-water system that could result in a drinking-water health hazard, a contravention of a prescribed standard or interference with the normal operation of the system. In addition, provisions that were

not in force at the time of writing will provide for the codification of a statutory standard of care, the requirement that drinking-water systems are run by accredited operating authorities who are required to submit operational plans for municipal drinking-water systems, and the establishment of accreditation bodies with authority to audit accredited operating authorities. Drinking-water testing must be performed by authorized facilities.

Various regulations have been promulgated under the Act to provide the details of the regime including **Certification of Drinking-Water System Operators and Water Quality Analysts** (O.Reg. 128/04), **Drinking-Water Systems** (O.Reg. 170/03), **Drinking-Water Testing Services** (O.Reg. 248/03), **Ontario Drinking-Water Quality Standards** (O.Reg. 169/03).

The **Nutrient Management Act, 2002** (S.O. 2002, c. 4) came into force on July 1, 2003. This Act is also part of Ontario's Clean Water Strategy and provides the authority for province-wide standards for the management of nutrient-containing materials related to agriculture including livestock manure, commercial fertilizer, and industrial pulp and paper sludge. The Act establishes responsibilities for farmers, municipalities and others in the business of managing materials containing nutrients. The **General Regulations** (O.Reg. 267/03) came into force on September 30, 2003 and require new and expanding large livestock farms to prepare nutrient management strategies and plans.

Ontario's **Wells Regulation** (R.R.O. 1990, Reg. 903) under the *Ontario Water Resources Act* was amended on August 1, 2003 (O.Reg. 128/03) to introduce new rules including mandatory training and continuing education for those constructing wells. The amended regulation also establishes tougher standards for well construction and decommissioning, mandatory placement of well tags on all new wells, and clear requirements for construction and decommissioning test holes and dewatering wells.

A moratorium has been placed on new and expanding permits to take water pursuant to the *Ontario Water Resources Act* through the adoption of **The Taking and Use of Water Regulation** (O.Reg. 434/04). The moratorium applies to new and expanding water - taking activities located in certain areas of the Province, for various purposes such as the production of bottled water and other uses that remove water from the watershed. The moratorium will remain in effect until December 31, 2004 but has been amended since it was adopted to exempt ready-mix concrete manufacturing at a portable concrete plant (O.Reg. 166/04).

The **Sustainable Water and Sewage Systems Act, 2002**, S.O. 2002, c. 29, another component of Ontario's Clean Water Strategy, has received Royal Assent but had not yet come into force at the time of writing. This Act provides the framework for the implementation of full-cost accounting, asset management and full-cost recovery for

designated providers of water or wastewater services. Pursuant to this Act, a report identifying all costs associated with existing and future water and wastewater services must be submitted to the MOE for approval. Providers will also be required to submit a financing plan identifying all revenue sources and establishing how costs will be recovered. The Minister may approve these reports or, in turn, undertake the production of the financing plan on behalf of the provider. Once approved, the cost recovery plan must be implemented.

## **Energy & Climate Change**

Ontario's ***Emissions Trading Regulation*** (O. Reg. 397/01) under the *Environmental Protection Act* provides for the establishment of a trading regime for nitrogen oxides (NO<sub>x</sub>) and sulphur oxides (SO<sub>x</sub>) which was drastically expanded on January 1, 2004. The initial regime allocated aggregate allowances for NO<sub>x</sub> and SO<sub>x</sub> to only one company, Ontario Power Generation. As of January 1, 2004, these allowances have been reallocated to other emitters.

Amendments in support of Ontario's Drive Clean program were made to the ***Motor Vehicles Regulations*** (O. Reg. 361/98 as amended by O. Reg. 445/03). In addition, Ontario's Drive Clean program for large trucks and buses adopted tougher emission standards effective April 1, 2004. The new heavy-duty vehicle emissions test standards impose stricter opacity standards to reduce the emission of fine particles or particulate matter. Some heavy-duty vehicles are required to pass regular emissions tests in order to have their registrations renewed. Registration requirements are based on the type of vehicle and location of registration.

The Ministry of Natural Resources (MNR) posted its decision on Ontario's EBR Registry regarding the development of a policy and procedure for the disposition of wind power development on Crown land. The purpose of the policy is to provide the opportunity to test, monitor and, where viable, develop Crown land wind resources, provided that project proposals contribute to the environmental, social and economic well-being of the province ([www.ene.gov.on.ca/envregistry/020073ep.htm](http://www.ene.gov.on.ca/envregistry/020073ep.htm)). The MNR also drafted and posted the *New Site Release and Development Review Policy* to address waterpower development in Ontario. The policy describes the processes involved in releasing greenfield Crown opportunities for potential waterpower development, the approval process for both private and Crown lands, the use of a generic Waterpower Lease Agreement to secure tenure, and rental rates and taxes ([www.ene.gov.on.ca/envregistry/022737ep.htm](http://www.ene.gov.on.ca/envregistry/022737ep.htm)).

## **Environmental Assessment & Planning**

The new ***Municipal Act, 2001*** (S.O. 2001, c. 25) came into force on January 1, 2003 giving municipalities broad powers within various spheres of jurisdiction including highways

and other transportation systems, waste management, public utilities, culture, parks, recreation and heritage, drainage and flood control, structures, parking, animals and economic development services. The Act granted municipalities “natural person powers” which includes the capacity, rights, powers and privileges of a natural person. Various spheres that are the responsibility of municipalities may potentially result in environmental impacts including waste management, public utilities, culture, parks, recreation and heritage, drainage and flood control, health safety and nuisance, the natural environment and licensing.

The ***Greenbelt Protection Act, 2004***, S.O. 2004, c. 9, was adopted to establish a designated greenbelt study area consisting of the Golden Horseshoe area. The Act imposes a one-year moratorium on urban development of rural and agricultural lands in the greenbelt study area. The moratorium is expected to be lifted on December 16, 2004.

### **Environmental Protection & Management**

The ***General Regulation*** (R.R.O. 1990, Reg. 914) under the *Pesticides Act*, R.S.O. 1990, c. P.11, was amended (O.Reg. 229/03) to allow an exterminator to supervise up to seven technicians or trainees working at one more sites in certain circumstances.

The ***Conservation Bodies Regulation*** (O.Reg. 293/03) was adopted pursuant to the *Conservation Land Act*, R.S.O. 1990, c. 28, to add donees, qualified organizations and registered charities to the Act’s list of “conservation bodies.” The *Conservation Land Act* allows landowners to grant easements to, enter into covenants with, or provide access to a conservation body, for the conservation, maintenance, restoration or enhancement of the land or its wildlife.

The ***Content of Conservation Authority Regulations Under Subsection 28(1) of the Act: Development, Interference with Wetlands and Alterations to Shorelines and Watercourses Regulation*** (O.Reg. 97/04) was adopted under the *Conservation Authorities Act*, R.S.O. 1990, c. C.27, in order to establish a consistent content for regulations made by a Conservation Authority for the prohibition of development in listed areas and certain activities in relation to waterbodies. Conservation Authorities will have the authority to waive these prohibitions on a case-by-case basis.

### **Resource Management & Wildlife Protection**

A variety of species have been added (O. Reg. 57/03 & 58/03) to Ontario’s lists of threatened fauna and flora included in the ***Endangered Species Regulation*** (R.R.O. 1990, Reg. 328) promulgated under the *Endangered Species Act*, R.S.O. 1990, c. E.15, which prohibits all persons from actually or attempting to (a) willfully, kill, injure, interfere

with or take any threatened species of fauna or flora, or (b) destroy or interfere with the habitat of any threatened species of fauna or flora.

## **Waste Management, Waste Reduction & Recycling**

An amendment (O.Reg. 326/03) to the **General – Waste Management Regulation** (R.R.O. 1990, Reg. 347) under the *Environmental Protection Act* identifies the required approvals for the use of a waste disposal site for the disposal of waste from a portable toilet. The added provisions of the *General – Waste Management Regulation* also provide the conditions that must be met for such waste to be disposed of at an organic soil conditioning site.

Pursuant to the **Waste Diversion Act, 2002**, S.O. 2002, c. 6, Ontario has developed the Blue Box Program Plan, which requires all Stewards to share 50 percent of the cost of Ontario's municipal blue box waste diversion programs. Stewards are companies that produce or use packaging materials and/or printed papers that are commonly disposed of as residential blue box waste. Stewards are required to register with Stewardship Ontario and pay fees based on the quantities of blue box waste sold or distributed to consumers in Ontario.

Additional regulations under the *Waste Diversion Act, 2002* have prescribed designated wastes for future waste diversion initiatives. For example, Ontario's **Used Tire Regulation** (O.Reg. 84/04) defines and prescribes used tires as a designated waste and while the **Used Oil Material Regulation** (O.Reg. 85/03) defines and prescribes used oil material as a designated waste. Waste diversion programs have not yet been developed for used tires or used oil material.

The **Adams Mine Lake Act, 2004**, S.O. 2004, c. 6, was adopted to prohibit the disposal of waste at the Adams Mine, an abandoned open-pit mine that was previously being considered as a waste disposal site. The Act revokes the environmental approvals issued to date and renders agreements previously made by the Crown and letters patent issued by the Crown in the area of the Adams Mine of no force or effect. The Act also amends the *Environmental Protection Act* to absolutely prohibit the disposal of waste in a lake through the operation of a waste disposal site.

The **Licensing of Sewage Works Operators Regulation** (O.Reg. 129/04) was adopted pursuant to the *Ontario Water Resources Act* in order to classify wastewater collection and treatment facilities and provide for the licensing of operators. This new regulation also establishes the standards to be met by wastewater facilities, including the designation of a properly qualified operator, the maintenance of records and employee training requirements.

## **Prince Edward Island**

### **New Legislation & Amendments**

(See [www.gov.pe.ca/law/](http://www.gov.pe.ca/law/) for the full text of Prince Edward Island's statutes and regulations.)

### **Drinking Water & Groundwater**

The **Water Quality Certificate Regulations** (E.C. 583/95), promulgated under the *Environmental Protection Act*, R.S.P.E.I. 1988, c. E-9, were amended by (E.C. 2004/260) to increase the fee associated with an application for a water quality certificate from \$100 to \$140. Water quality certificates may be issued where water samples contain constituents at levels below maximum acceptable concentrations and meet aesthetic objectives. This fee increase has been attributed to the increased costs of bacteria and inorganic chemistry analysis.

### **Environmental Protection and Management**

Various provisions addressing the permits required for the operation of industrial sources, incinerators, and fuel-burning equipment were added to the *Environmental Protection Act's Air Quality Regulations* (E.C. 377/92 as amended by E.C. 2004/161 and E.C. 2004/161). The regulations' fee structure has been revised, along with provisions related to the duration and renewal of permits. The regulation now allows each permit to be applicable for 12 months, including those in place on the day that the amendments came into force, which was April 3, 2004.

Schedule D has been added to the *Air Quality Regulations* in order to provide a clear fee structure for an application for or renewal of a permit. Fees are determined by the type of activity as well as the amount of emissions resulting from operation. For example, fuel-burning equipment using heavy fuel oil and releasing over 1,000 tonnes of sulphur dioxide or particulate matter per year must pay higher fees than the same type of operation that emits less than 10 tonnes of sulphur dioxide or particulate matter per year. Schedule D also establishes that fee rates for incinerators are based on the quantity of material incinerated per year while industrial sources, such as asphalt plants and used oil burners, pay fees based on the number of litres of fuel burned per year.

Details of the fees related to excavation permits were also clarified through an amendment to the *Environmental Protection Act's Excavation Pits Regulations* (E.C. 753/90 as amended by E.C. 2004/162). These permits are also limited in duration to 12 months. In addition, a fee of \$100 fee will be imposed on an application for a new permit or renewal of an existing permit.

A permanent identification label must be affixed to small capacity storage tanks installed after May 24, 2003 according to a recent amendment to the *Environmental Protection Act's Petroleum Storage Tanks Regulations* (E.C. 322/01 as amended by E.C. 245/03). The failure to do so is an offence according to the amended *Ticket Regulations* (E.C. 3220/1 as amended by E.C. 2003/269) under the *Summary Proceedings Act*, R.S.P.E.I, 1988, Cap. S-9.

The *Pesticides Control Act Regulations* (E.C. 543/84), promulgated under the *Pest Control Act*, R.S.P.E.I. 1988, Cap. P-4, were amended (E.C. 26/03) to add various pesticides to the Schedule 1 list of pesticides requiring a permit. Prohibited pesticides are also identified by the regulation through the establishment of Schedule 2. Further amendments (E.C. 344/03) were adopted to address the requirements imposed on pesticide use license holders including continuing education. The Director also has the authority to issue conditional, time-limited pesticide use certificates in specified circumstances.

## **Waste Management, Waste Reduction & Recycling**

The *Sewage Disposal Systems Regulations* (E.C. 403/03) were enacted to replace the *Sewage Disposal Regulations* (E.C. 298/97) previously in effect under the *Environmental Protection Act*. Shortly after its adoption, the new *Sewage Disposal Systems Regulation* was amended (E.C. 427/03) to clarify the requirements and obligations of a licensed contractor with respect to the installation, construction, reconstruction or modification of a sewage disposal system. The fees payable in relation to applications for licenses and permits were amended, and licensed contractors now have 60 rather than 30 days to provide a certificate of compliance. Additional specifications for the construction of septic tanks, sewer lines, sewage pumping stations, siphon chambers, disposal fields and sewage holding tanks were added. The regulation also prohibits the placement of septage or sludge in a holding site without approval as well as the disposal of unstabilized sludge at any place other than a waste treatment system. Appendix E was added to describe the methods for calculating the capacity of grease interceptor tanks. These amendments reflect various contents of the previous *Sewage Disposal Regulations*.

Most recently, the *Sewage Disposal Systems Regulation* was amended (E.C. 2004/116) to exempt environment officers appointed under the *Environmental Protection Act* from the regulation's requirement to have a site assessor's license for the performance of a site suitability assessment.

The *Waste Resource Management Regulations* (E.C. 691/00), promulgated under the *Environmental Protection Act*, were amended (E.C. 163/04) to clarify and add various definitions including: carrier, generator, receiver and special waste. The amendment also adds special waste to the scope of the regulation's prohibition against disposal. In addition, carriers, receivers, generators or persons operating waste-generating facilities

are required to register, and to obtain an identification number which must be used on waste manifest forms. This registration also requires the payment of a \$100 fee and imposes requirements including proper documentation and record retention.

## Québec

(See [publicationsduquebec.gouv.qc.ca/en/loisreglements/html/tele\\_mots\\_cles.dbml](http://publicationsduquebec.gouv.qc.ca/en/loisreglements/html/tele_mots_cles.dbml) for the full text of Quebec's statutes and regulations.)

### Contaminated Sites & “Brownfields”

Bill 72, S.Q., 2002, c. 11, entitled *An Act to amend the Environment Quality Act and other legislative provisions with regard to land protection and rehabilitation*, came into force on March 1, 2003. The main purpose of the Act is to replace the present provisions of the Quebec *Environment Quality Act* pertaining to the decontamination and restoration of the environment, which had initially been enacted in June 1990, and to establish new rules to promote the protection of lands and their rehabilitation.

The amendments are meant to clarify the conditions under which the Minister of the Environment can issue clean-up or site characterization orders, which will no longer be aimed solely at the polluter but also at owners, tenants, custodians or occupants of contaminated land. The amendments also provide for the registration of contamination notices on title where, in the circumstances described in the amendments, land has been determined to be contaminated or partially decontaminated, and the registration of decontamination notices once land has been decontaminated and meets acceptable standards for its intended use.

Other amendments include the obligation for establishments in industrial and commercial sectors designated by regulation, when permanently ceasing their activities, to submit a site assessment report as well as a rehabilitation plan to the Minister of the Environment for approval, where the site assessment has revealed the presence of contaminants exceeding regulatory limit values. Similar obligations will apply to persons undertaking voluntary land rehabilitation, or changing the use of land. Furthermore, the amendments provide for increased responsibility on the part of municipalities which will be required to identify and prepare a list of contaminated properties within their territory in order to enable the public to consult, at any time, a register of contaminated land in the area. Changes in land use will also result in assessment and clean-up obligations. Unfortunately, the Act provides little or no protection or immunity for those persons who have carried out brownfield redevelopment.

The ***Land Protection and Rehabilitation Regulation***, (O.C. 216-2003, R.R.Q, c. Q-2, r.18.1.01) came into force on March 28, 2003. The objective of the regulation is to ensure greater protection of lands and their rehabilitation in the event of contamination. This regulation is in line with the *Politique de protection des sols et de rehabilitation des terrains contaminés* (Soil Protection and Rehabilitation of Contaminated Sites Policy), initially published in 1998 by the Ministry of the Environment. This regulation is aimed particularly at supporting several provisions related to land protection and rehabilitation of the new Division IV.2.1 of the EQA (sections 31.42 to 31.69) adopted through Bill 72. The regulation determines the applicable limit values in relation to certain contaminants set according to the use of lands, municipal zoning, and the categories of the industrial or commercial activities referred to. It also establishes the conditions and the time limits within which groundwater quality monitoring downstream of the site will be required.

On December 18, 2003, Bill 13 entitled ***Act to amend the Mining Act***, S.Q. 2003, c.15, came into force. The object of this Act is to establish new rules to facilitate the management of mining titles and the implementation of the map designation system. The Act includes new measures to permit map designation of mining titles in territories up to now reserved for staking purposes. As regards the restoration of mine sites, the Act enables the Minister of Natural Resources, Wildlife and Parks to require the payment of the total financial guarantee ensuring the performance of the work if the financial situation of the operator is deteriorating or the duration of the operator's activities is reduced. In addition, in the case of inactive sites, the bill imposes on the person responsible for the tailings the obligation to prepare a rehabilitation and restoration plan for affected lands.

## **Drinking Water & Groundwater**

The activities of the Fonds national de l'eau began on April 1, 2003. The Fonds national de l'eau was created by the ***Act to establish the Fonds national de l'eau*** (Bill 134), S.Q. 2002, c. 65, which came into force on December 18, 2002. The Fonds national de l'eau shall be dedicated to the financing of measures taken by the Minister of the Environment to ensure water governance and particularly, the financing of measures conducive to the protection and development of water resources. It shall also ensure a sufficient quality and quantity of water in a perspective of sustainable development.

## **Environmental Protection & Management**

The ***Regulation to amend the Regulation respecting the quality of the atmosphere***(O.C. 174-2003, R.S.Q., c. Q-2, r. 20) came into force in 2003. These amendments have extended to paint, ink and adhesive manufacturing operations the provisions that already applied to organic solvent manufacturing operations. The regulation also prescribes minimum standards for equipment and processes, as regards the design and

use of vats and mixing mills used to mix ingredients employed in the manufacture of these products.

Bill 102, entitled ***An Act to amend the Environment Quality Act and the Act respecting the Société québécoise de récupération et de recyclage***, S.Q. 2002, c. 59) came into effect on December 18, 2002. The Act amended the *Environment Quality Act* (the EQA) by inserting a new section entitled “*Compensation for municipal services*”. The main purpose of the Act was to amend the EQA in order to provide a legislative basis to allow municipalities to be compensated for the services they provide regarding the recovery and reclamation of residual materials (the expression used for the past few years in Québec to designate waste). The compensation scheme is based on agreements that will be entered into between the designated associations of municipalities and the various associations of enterprises under the Act. Pursuant to the amendments to the EQA and to its enabling statute, Recyc-Québec has been authorized to assist the Minister of the Environment of Québec (the Minister) in the exercise of ministerial powers relating to the residual materials management plans developed by municipalities pursuant to the provisions of the EQA. Although the Act established the basis of the general regime of compensation for municipalities for the costs they assume for recovery and reclamation of residual materials services, appropriate regulations remain to be adopted pursuant to the regulatory powers under section 53.31.2 of the EQA, to designate the materials or classes of materials in respect of which the compensation regime established under the EQA is to apply.

A draft ***Regulation respecting compensation for municipal services provided to recover and reclaim residual materials***, (2004) 12 G.O. II, 1132, in line with Bill 102 discussed above and with the Québec Government’s “Politique de gestion des matières résiduelles 1998-2008”, was published on March 24, 2004. The purpose of the Regulation is to define the parameters of the general compensation regime created by the draft Regulation that targets three classes of materials: containers and packaging, written media and printed matter. The Containers and Packaging class includes all types of flexible or rigid material and namely paper, carton, plastic, glass or metal either used alone or in combination with other materials for the purpose of protecting or wrapping a product or a set of products. Are excluded from this class of materials, containers and packaging designed exclusively for the forwarding of products to wholesalers, distributors or retailers. The Written Media class targets paper and other cellulosic fibres used for newspapers, magazines, periodicals and any other similar written matter that are (a) sold or available free of charge, (b) published at least once per trimester at fixed time intervals or (c) whose main content delivers news, opinions or comments on current affairs or on a particular subject or theme. The Printed Matter class covers paper and other cellulosic fibres, whether or not used as a medium for text or images. Books and materials included in the containers and packaging class of materials or the written media class of materials are excluded from the Draft Regulation’s application. The maximum percentage of the net municipal costs to be compensated will be 50% for

each of the three classes of materials. The person required to pay compensation is generally the owner or the licensee of the brand or the name identified by the container or packaging under which the product it contains is marketed.

The **Regulation respecting the recovery and reclamation of used oils, oil or fluid containers and used filters** (O.C. 166-2004, R.S.Q., c. Q-2), pursuant to the *Environment Quality Act* and in line with the Québec Government's "Politique de gestion des matières résiduelles 1998-2008", comes into force on October 1, 2004. The purpose of this regulation is to reduce the quantity of residual oil materials to be eliminated by encouraging the recovery and reclamation of discarded used oils, oil or fluid containers and used filters.

The regulation applies to mineral, synthetic or vegetable oils that are used for lubrication, heat insulation or transferred in motorized vehicles or equipment or in the operation of hydraulic or transmission systems. The regulation also applies to containers, including aerosol containers, that hold 50 litres or less and are used for marketing mineral or synthetic oils that are consumed or wasted while being used. As its title suggests, the regulation further applies to filters and, namely, filters for internal combustion engines, hydraulic systems and transmissions. It also covers antifreeze filters and filters for heating systems using light heating oil or for oil storage tanks.

Upon the regulation coming into force, every business that markets oil under a trademark will be required, through a recovery system that meets the minimum specifications described in Schedule III to the regulation, to recover or to see to the recovery of the used oils deposited at the collection points provided for in the system and that are of the same type as the oils it markets. The business is also required to recover or to see to the recovery of any container or packaging used in the transport of the oils back to the collection points. A similar obligation is foreseen for the recovery of oil or fluid containers deposited at collection points as well as the oils or fluids in those containers. As long as the products are of the same type as the products the business markets, the same obligation will apply to filters. Furthermore, the business or supplier must take appropriate measures to inform consumers of the existence and operation of the recovery system required under the regulation, particularly in regard to the accessibility of collection points, as well as the environmental advantages resulting from the recovery and reclamation of discarded used oils, oil or fluid containers and used filters. The regulation provides that those measures may include, in addition to information campaigns, providing consumers with information booklets.

On March 5, 2003, sections 11 to 13, paragraph 2 of section 63 and sections 105 to 107 of the **Pesticides Act**, R.S.Q., c. P-9.3 came into force. Also, most sections of the **Pesticides Management Code** (R.R.Q., c. P-9.3, r. 0.01) came into force on April 3, 2003, pursuant to the *Pesticides Act*. The purpose of these provisions is essentially to minimize damage to the environment due to the storage, sale and use of pesticides and to reduce the risk of

contamination of various surroundings and of exposure of adults and children to pesticides. To that effect, installation standards for the safe storage, loading and unloading of pesticides have been established as well as buffer zones alongside watercourses, bodies of water and wells. Standards for the use of pesticides and prohibitions for the use of certain pesticides in public and municipal green spaces and in certain areas used by children are also set. Finally, direct access to domestic pesticides in stores is restricted and the sale of pesticide-fertilizer mixes and certain pesticides for domestic use to the general public is prohibited.

The ***Regulation to amend the Regulation respecting permits and certificates for the sale and use of pesticides*** (O.C. 332-2003, R.R.Q., c P-9.3, r. 0.1) came into force on April 3, 2003. The purpose of the regulation is essentially to harmonize the classes of pesticides with those of the federal *Pest Control Products Act*, R.S.C. 85, c. P-9, and to update the classification criteria to maintain access to products presenting the least risk for users and the environment. To that end, the regulation prescribes amendments to the classification of Class 4 and Class 5 pesticides and adjustments to the classes of permits and certificates. It also prescribes a new subclass of certificate for farmers and forest managers who use Class 3 pesticides.

## **Resource Management & Wildlife Protection**

***An Act to amend the Act respecting the Ministère des Ressources naturelles and other legislative provisions*** (Bill 17), S.Q. 2003, c. 8, came into force on November 27, 2003. The object of this bill is to amend the *Act respecting the Ministère des Ressources naturelles* and several other Acts in order to replace the designations of the Minister and the government department appearing therein with the Minister of Natural Resources, Wildlife and Parks and Ministère des Ressources naturelles, de la Faune et des Parcs.

***An Act to repeal the Act respecting the Société de la faune et des parcs du Québec and to amend other legislative provisions*** (Bill 48), S.Q. 2004, c. 11, was assented on June 16, 2004. It will come into effect on a date to be set by the Government. The purpose of this bill is to transfer to the Minister of Natural Resources, Wildlife and Parks the responsibilities conferred on the Société de la faune et des parcs du Québec by its constituting Act, which is repealed by this bill.

Bill 44 entitled ***Act to Amend the Act respecting the Ministère de l'Environnement, the Environment Quality Act and other legislative provisions*** was presented by the Minister of the Environment on April 8, 2004. This Bill amends the *Act respecting the Ministère de l'Environnement* to clarify the power of the Minister to release information. In addition, this Bill amends the *Environment Quality Act*, R.S.Q., c. Q-2, (the EQA), by conferring to the Minister of the Environment the power to make regulations determining the information that a person or a municipality is required to provide in order to ensure ongoing supervision of the quality of the environment and compliance

with an international commitment or implementation of a Canadian intergovernmental agreement. Furthermore, the Bill amends section 31 of the EQA to enable the Government to set fees covering the costs of measures implemented to control and monitor the activities of the holders of an authorization, approval, certificate, permit, attestation or permission. These fees may vary with the nature and the characteristics of a holder's activities, as well as with the number and seriousness of offences of which the holder has been found guilty under a provision of the EQA or a regulation made under the EQA. The Act is presently under review before a parliamentary commission.

An Order of the Minister of the Environment and the Minister responsible for Wildlife and Parks was published in the *Gazette Officielle du Québec* of March 26, 2003. This Order established the list of threatened or vulnerable vertebrate wildlife species, which replaced the list made under the *Act respecting threatened or vulnerable species*.

The ***Regulation to amend the Regulation respecting standards of forest management for forests in the domain of the State*** (O.C. 439-2003, R.S.Q., c. F-4.1) came into force on April 1, 2003. The main purpose of this regulation is to introduce new rules applicable to block cutting with regeneration and soil protection. The objective of the regulation is that a least 60% of all cuttings with regeneration and soil protection shall be planned and carried out according to the standards applicable to block cutting. The regulation also establishes new standards regarding the area that felling and hauling trails may occupy in a forest management sector.

Bill 39, entitled ***Act to amend the Forest Act***, S.Q. 2004, c. 6, came into force on April 22, 2004. This Act gives to the designated employees of the Ministère des Ressources naturelles, de la Faune et des Parcs, the power to intercept, in a forest environment, a vehicle used for the conveyance of timber, and demand that the driver stop the vehicle, in order to verify the application of the scaling standards for timber harvested in the domain of the State. The Act also amends the Act in order to cover circumstances under which a holder of a wood processing plant operating permit or a person who obtains accreditation for one-time harvests must pay a contribution to the forestry fund. In addition, the Act states that, the Minister may delegate to a member of the department's personnel the power to impose, in a forest management plan, standards of forest management that differ from those prescribed by regulation, at the request of a Native community or on the Minister's own initiative following consultation with a Native community.

On December 18, 2003, ***An Act to amend the Forest Act and other legislative provisions and to enact certain special provisions applicable to forest management activities prior to 1 April 2006***, S.Q. 2003, c. 16, took effect. The main object of this Act is to postpone for one year the coming into force of forest management plans based on the new delimitation of management units. The Act further maintains, until 31 March 2006, provisional measures applicable to timber supply and forest management agreements.

The Act contains provisions that enable the Minister of Natural Resources, Wildlife and Parks to enter into agreements with municipalities or certain organizations to delegate the management of programs designed to maintain or improve the protection, development or transformation of forest resources, and stipulates that municipalities and Native band councils holding a forest management contract are exempt from paying contributions into the forestry fund. The Act states that holders of forest management contracts, with the authorization of the Minister may harvest in the course of the year preceding the end of the period covered by the general forest management plan, the part of the volume of wood they did not harvest in preceding years. It also exempts contract holders from the obligation to belong to forest protection agencies, if they carry on their activities outside the zones covered by the organization plans of those agencies. In addition to making changes in penal matters and providing for cases where the Minister or the Government may impose financial penalties, the Act sets special forestry rules applicable to forest management activities undertaken before April 1, 2006. The Act also proposes changes in the verification and control of forest management activities.

## **Saskatchewan**

### **New Legislation & Amendments**

(See [www.qp.gov.sk.ca/](http://www.qp.gov.sk.ca/) for the full text of Saskatchewan's statutes and regulations.)

### **Environmental Protection and Management**

During the review period, an omnibus **Bill C-32** (S.S. 2003, c.29) amended the *Environmental Management and Protection Act, 2002*, S.S. 2002, c. E-10.21, *The Clean Air Act*, S.S. 1986-87-88, c. C-12, *Dangerous Goods Transportation Act*, S.S. 1984-85-8 c. D-1.2, *Natural Resource Act*, S.S. 1993 c. N-3.1, the *Oil and Gas Conservation Act* R.S.S. 1978 c. O-2, and the *Environmental Management and Protection Act, 2002*, S.S. 2002, c. E-10.21. The amendments added the Criminal Code definition of "terrorist activity" to the definition sections of each statute. The amendments also provided the Minister with powers to respond to potential or actual terrorist activity related to: the storage, handling, offering for transport or transportation of hazardous substances and dangerous goods; the operation of waterworks, sewage works or industrial effluent; industrial incinerators and fuel burning equipment; and wells, and upstream facilities used in the production of oil and gas. Furthermore, the Minister was granted a general power to take any action considered necessary to protect the health and safety of the public against an adverse effect, or to prevent serious damage to the environment that could be caused by the adverse effect.

The ***Ethanol Fuel (General) Regulations*** (R.R.S., c. E-11.1, Reg 1) were amended twice in 2004. The first amendment (Sask. Reg. 11/2004) repealed two provisions. The first provision set the date by which only ethanol-blended fuel must be sold, and the second prescribed a set of phased-in, ethanol-blending rules for gasoline distributors. These two provisions were subsequently replaced by the second amendment (Sask. Reg. 41/2004), which specified that effective May 1st, 2005 fuel will have a minimum average ethanol content of 2 per cent, rising to 7.5 per cent on November 1st, 2005. The second amendment also limited the application of the Act to unleaded automotive gasoline.

The ***Ethanol Fuel (Grant) Regulations*** R.R.S., c.G-5.1, Reg. 107 were amended by Sask. Reg. 42/2004 to redefine the terms eligible distributor, eligible ethanol-blended fuel, ethanol, and purchaser, add a definition for disposition, and to repeal the definition for eligible fuel. The regulations provide distributors with a 15 cent per litre grant for ethanol purchased from Saskatchewan ethanol producers, and for blended in automotive fuels distributed within the province. The amendments affected the list of information that must be provided when applying to the Minister for designation as an eligible distributor, as well as the language governing the requirement for a written agreement for the issuance of a grant. Under the new regulations, eligible distributors that are also ethanol producers are exempt from the written agreement requirement, if the eligible distributor satisfies the Minister that all or substantially all of the ethanol-blended fuel that it makes available for retail sale is blended with the ethanol that it has produced. Provisions were also added provide that no grant is payable with respect to eligible ethanol-blended fuel that is not intended for distribution within Saskatchewan. Finally, the amendment established a review committee to be appointed by the Minister for the purpose of determining whether these regulations remain relevant and necessary.

## **Resource Management & Wildlife Protection**

The ***Crown Resource Land Regulations*** (R.R.S. c. P-31, Reg 17) under *The Provincial Lands Act*, R.S.S. 1978, c. P-31, and *The Forest Resources Management Act*, S.S. 1996, c. F-19.1, came into force May 19, 2004 and effectively repealed and replaced *The Resource Land Regulations, 1989*. The legislation provides rules governing Crown resource land dispositions, specifically the issuance of leases, permits and easements. Crown resource land is defined as all lands administered by the department other than park land within the meaning of *The Parks Act*, S.S. 1986 c. P-1.1, but does not include Crown mineral lands within the meaning of *The Crown Minerals Act*, S.S. 1984-85-86, c. C-50.2. Disposition categories include petroleum and natural gas, sand and gravel, mineral development surface leases, peat exploration or extraction dispositions, and haying and grazing dispositions.

The **Parks Act** was amended by *An Act to Amend the Parks Act 2003*, c. 35, to change the term for which the Minister may issue permits for the use and occupation of park land, from 1 year to 5 years. The amendment further substitutes the legal descriptions of various parks throughout the province.

## **Yukon**

### **New Legislation & Amendments**

(See [www.environmentyukon.gov.yk.ca](http://www.environmentyukon.gov.yk.ca) for the full text of Yukon's statutes and regulations.)

On April 1, 2003, the federal government transferred responsibility for the **Northern Affairs Program** to the Yukon. This change resulted in a significant change to the regulatory environment in the territory, with departments, resources and responsibilities transferring to Yukon administrative bodies from the federal government.

### **Drinking Water & Groundwater**

The Yukon's **Waters Act**, S.Y. 2003, c. 19 came into force on April 1, 2003, transferring management responsibility from the federal government to the territory. The Waters Resource Branch of the Department of the Environment is now responsible for administering this act along with the newly created Yukon Water Board. The *Waters Act* deals with water management issues including the diversion and use of water, along with administrative responsibilities related to licensing, investigative powers and punishment for offences.

The new **Waters Regulation**, O.I.C. 2003/058 also came into force on April 1, 2003, regulating water management and related undertakings in designated areas of the territory. The regulation set out circumstances in which licences were required, how to apply for licences, associated costs, assignment of licences and applications for expropriation.

### **Environmental Assessment & Planning**

During the review period, the Yukon introduced "mirror" legislation to the *Canadian Environmental Assessment Act*. The Yukon **Environmental Assessment Act**, S.Y. 2003, c. 2 was assented to on March 20, 2003 and came into effect on April 1, 2003. The Act made small changes to the federal legislation to ensure the legislation is consistent with Yukon jurisdiction and institutions, and assigned responsibility for the management of most federal lands in the territory to the Yukon government.

A series of regulations under the *Environmental Assessment Act (EAA)* also came into force on April 1, 2003, mirroring regulations under *CEAA*. These regulations defined the parameters of environmental assessments under the *EAA*.

The ***Law List Regulation***, O.I.C. 2003/066 listed acts and regulations that contained provisions subject to environmental assessments. Similarly, the ***Inclusion List Regulation***, O.I.C. 2003/068 described the physical activities and classes of physical activities that were subject to the *EAA*, including oil and gas exploration, remediation of contaminated sites, and timber harvesting. The Territory also enacted the ***Exclusion List Regulation***, O.I.C. 2003/067 which defined projects and classes of projects for which an environmental assessment was not required.

The ***Coordination of Environmental Assessment Procedures and Requirements Regulation***, O.I.C. 2003/069 provided timelines and processes to be followed by a territorial authority that received a project description from the federal government, a province or other defined parties. The regulation addressed other coordination issues including protocol to follow where there were two responsible authorities.

The ***Comprehensive Study List Regulation***, O.I.C. 2003/070 defined projects and classes of projects requiring comprehensive studies under the *EAA*. Such projects included electrical generating stations and transmission lines, large water projects, oil and gas projects, mining activity, large industrial facilities including pulp and paper mills, transportation terminals or facilities, and waste management facilities.

## **Resource Management & Wildlife Protection**

A variety of regulations under the ***Wildlife Act***, R.S.Y. 2002, c. 229 were amended in June 2003. The majority of the amendments were technical or editorial in nature, and necessary to support the Act. Affected regulations included: the *Regulation to Amend the Wildlife Regulations* O.I.C. 2003/34, the *Regulation to Amend the Trapping Regulations* O.I.C. 2003/35, the *Regulation to Amend the Wildlife Regulation* O.I.C. 2003/196, the *Regulation to Amend Trapping Regulations* O.I.C. 2003/197, the *Regulation to Amend the Game Farm Regulations* O.I.C. 2003/198, the *Regulation to Amend the Wildlife Regulation* O.I.C. 2004/73, and the *Regulation to Amend the Wildlife Regulations* O.I.C. 2004/150).

## **Waste Management, Waste Reduction & Recycling**

The ***Designated Material Regulation***, O.I.C. 2003/184 under the *Environmental Assessment Act* came into force on July 19, 2003. The regulation required that a fee of \$5.00 be levied on the purchase of new tires, to offset the cost of transporting used tires to Edmonton for disposal. The regulation requires the fee to be paid to the retailer, who remits the money to the appropriate government body. The surcharge applies only to new tires with a rim size of 24.5 inches or less.

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