



Province of Alberta

ENVIRONMENTAL PROTECTION AND  
ENHANCEMENT ACT

**REMEDICATION CERTIFICATE  
REGULATION**

**Alberta Regulation 154/2009**

With amendments up to and including Alberta Regulation 102/2016

Office Consolidation

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### **Note**

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

(Consolidated up to 102/2016)

**ALBERTA REGULATION 154/2009**

**Environmental Protection and Enhancement Act  
REMEDIATION CERTIFICATE REGULATION**

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**Definitions**

**1** In this Regulation,

- (a) “Act” means the *Environmental Protection and Enhancement Act*;
- (b) “agricultural land” means agricultural land described in the Guidelines;
- (c) “applicant” means a person who submits an application for a remediation certificate under section 3;
- (d) “application” means an application for a remediation certificate;
- (e) “base of remediation” means the elevations, in metres above sea level, of the lowermost depth of the soil, water or groundwater that was remediated;
- (f) “domestic use aquifer” means an aquifer as defined in the Guidelines;
- (g) “Guidelines” means the Guidelines under section 2;

- (h) “natural area” means a natural area described in the Guidelines;
- (i) “Professional Regulatory Organization” means a Professional Regulatory Organization approved by the Director;
- (j) “remediated area” means land that is the subject of an application and that has been remediated to meet the requirements of the Guidelines;
- (k) “remediated zone” means the soil or water within the remediated area that is located between the base of remediation and the top of remediation;
- (l) “remediation” means reducing, removing or destroying substances in soil, water or groundwater through the application of physical, chemical or biological processes;
- (m) “top of remediation” means the elevations, in metres above sea level, of the uppermost surface of the soil, water or groundwater that was remediated.

#### **Guidelines**

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

- (a) the Alberta Tier 1 Soil and Groundwater Remediation Guidelines published by the Department on June 21, 2007, as amended or replaced from time to time;
- (b) the Alberta Tier 2 Soil and Groundwater Remediation Guidelines published by the Department on June 21, 2007, as amended or replaced from time to time.

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

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

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

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

- (2) Subject to subsection (3), an application for a remediation certificate must contain the following information:
- (a) a map showing the legal boundaries of the land where the remediated area is located;
  - (b) a land survey prepared by a registered Alberta land surveyor showing the boundaries of the remediated area;
  - (c) the maximum depth of the base of remediation;
  - (d) a diagram, including cross-sections, showing the top of remediation and the base of remediation within the remediated area;
  - (e) a description of the substance that is the subject of the application;
  - (f) the name, mailing address, telephone number, fax number and e-mail address of the applicant;
  - (g) the name, mailing address and telephone number of each registered owner of the land where the remediated area is located;
  - (h) a copy of the certificate of title for each parcel of land where the remediated area is located;
  - (i) a description and a map showing
    - (i) the legal boundaries and the legal surveyed coordinates of the remediated area, and
    - (ii) the extent, depth and concentration of the substance on the land where the remediated area is located prior to the remediation of the substance, and whether the substance was present within or outside the remediated area;
  - (j) the location of all
    - (i) surface water bodies, and
    - (ii) water wellsthat are within the remediated area or within 300 metres from the edge of the remediated area;
  - (k) the location of
    - (i) all domestic use aquifers, and

- (ii) any other aquifers  
that were considered in the development of the remediation procedures;
- (l) the location of all
  - (i) residences or occupied buildings, and
  - (ii) utility corridors, including pipelines and conduits,  
that are on the land where the remediated area is located and on all land immediately adjacent to that land;
- (m) copies of any preliminary site investigation reports and detailed site investigation reports;
- (n) a description of the current land use, any allowable or discretionary land uses and, if known, any proposed future land use for the remediated area;
- (o) a description of the current land designation and, if known, the proposed future land designation for the remediated area;
- (p) a detailed history of each release of the substance into the environment, if known or ascertainable, including
  - (i) the date the substance was released, or the date the substance was discovered in the environment,
  - (ii) the activity that resulted in each release of the substance,
  - (iii) the quantity of the substance released, and
  - (iv) copies of any reports made to Alberta Environment and Sustainable Resource Development, the Alberta Energy Regulator or any other government body about the release of the substance;
- (q) written details on the remediation procedure and the results of the remediation, including
  - (i) the methods of field investigation and laboratory analysis used to determine which substances required remediation and the extent of the remediation required,
  - (ii) the determination of the applicable Guidelines,

- (iii) particulars of the characteristics of the land where the remediated area is located, including topography, drainage, soil and vegetation,
  - (iv) subsurface descriptions, including observed or measured engineering, geological and environmental properties that affected the remediation procedure or the selection of the applicable Guidelines,
  - (v) the methods used for sampling and testing the samples,
  - (vi) the analytical results of any samples taken from the remediated zone and areas outside the remediated zone before and during remediation,
  - (vii) the dates the remediation started and ended,
  - (viii) the types and volumes of materials, including substances, taken from the remediated zone in the course of remediation,
  - (ix) the location and type of waste management facilities to which materials and substances from the remediated zone were taken,
  - (x) the methods used to remediate any substance remaining within the remediated zone after materials were taken from the remediated zone to a waste management facility,
  - (xi) the source and volume of any soil materials brought to the remediated zone to replace soil taken to a waste management facility,
  - (xii) analytical results confirming that the soil materials in subclause (xi) are of suitable quality for use as replacement fill based on the land uses in clause (n),
  - (xiii) the methods used to determine that the remediation was successfully completed, and
  - (xiv) the analytical results showing that the remediation was successfully completed;
- (r) plans designed to effectively monitor, mitigate or prevent any adverse effect of the substance or substances identified in clause (i) outside the remediated zone;
- (s) a written declaration that the applicant has complied with all terms, conditions, directions, objectives and Guidelines applicable to the remediated zone, including

- (i) approvals, codes of practice, environmental protection orders and enforcement orders,
- (ii) the written directions of the Director or an inspector, and
- (iii) the Guidelines;
- (t) any reclamation certificate numbers applicable for all or part of the remediated area;
- (u) any other remediation certificate numbers applicable to all or part of the remediated zone;
- (v) the name and signature of the person from a Professional Regulatory Organization who has certified that all of the information submitted in the application is to the best of that person's knowledge true, accurate and complete.

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

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

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

AR 154/2009 s3;170/2012;89/2013

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

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

(2) The Director or an inspector may issue a remediation certificate under subsection (1) in respect of the substance that is the subject of the remediation if the substance within the remediated zone has been remediated in accordance with the Guidelines.

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

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



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

**(4)** A remediation certificate may not be issued under subsection (3) if the land that is the subject of the remediation is located within a natural area or on agricultural land.

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

**5** The name on the remediation certificate must be the applicant's name.

#### **Notice of decision**

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

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

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

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

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

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

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

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

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

**Contents of remediation certificate**

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

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

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

**Environmental protection orders**

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

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

whichever is later.

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

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

- (b) exceed the remediation objectives in the Guidelines that were applicable at the time the remediation certificate was issued.
- (3) An environmental protection order may be issued at any time to a person who
- (a) causes a change in the condition of the remediated area or the remediated zone specified in the remediation certificate in such a manner that, in the opinion of the Director or an inspector, the substance present within the remediated zone may cause, is causing or has caused an adverse effect, or
  - (b) changes the use of the remediated area specified in the remediation certificate in such a manner that, in the opinion of the Director or an inspector, the substance present within the remediated zone may cause, is causing or has caused an adverse effect.

#### Public information

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

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

#### Records

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

#### Offences

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

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

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

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

**Expiry**

**12** For the purpose of ensuring that this Regulation is reviewed for ongoing relevancy and necessity, with the option that it may be repassed in its present or an amended form following a review, this Regulation expires on June 30, 2018.

AR 154/2009 s12;102/2016









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