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COAL CONSERVATION ACT

Chapter C-17

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

Interpretation

1(1) In this Act,

- (a) “abandonment” means the permanent dismantlement and closure of a mine, mine site, in situ coal scheme or coal processing plant and includes any measures to ensure that the mine, mine site, in situ coal scheme or coal processing plant is left in a permanently safe and secure condition;
- (a.1) “agent” means a person appointed by the owner of a mine site, mine or coal processing plant, to act as a representative of the owner;
- (b) “Board” means the Energy Resources Conservation Board;
- (c) “certificate of competency” means a certificate granted under the *Coal Mines Regulation Act*, RSA 1970 c52, or the *Coal Mines Safety Act*, RSA 1980 cC-15, and entitling the holder to perform the duties of the occupation or office in respect of which the certificate is granted;
- (d) “coal” means combustible sedimentary rock that contains at least 50% by weight organic matter formed from plant or algal matter;
- (e) “coal processing plant” means an installation for upgrading the quality of coal or for producing a marketable solid fuel, and includes any coal storage facility directly associated with it;

- (e.1) “coal seam” means a layered unit of coal and inorganic matter that
- (i) contains less than 1/3 inorganic matter by volume, and
 - (ii) does not contain a layer of inorganic matter exceeding 0.3 metres in thickness;
- (e.2) “evaluation well” means a well that
- (i) is expected to penetrate a coal seam, and
 - (ii) is drilled for the purpose of evaluating the potential for an in situ coal scheme;
- (e.3) “experimental” means using methods that are untried or unproven;
- (f) “exploratory program” means a geological or geophysical study, investigation, reconnaissance or survey undertaken to establish the geological or physical settings of coal in a given area, or to ascertain the nature, quality or extent of coal occurrences in a given area;
- (f.1) “facility”, with respect to an in situ coal scheme, means any building, structure, installation, equipment or appurtenance over which the Board has jurisdiction and that is connected to or associated with the recovery, development, production, handling, processing, treatment or disposal of synthetic coal gas or synthetic coal liquid or any associated substances or waste products, and includes, without limitation, a battery, a central processing facility, a compressor, a dehydrator, a separator, a treater, a satellite or any combination of them, but does not include a well or a pipeline;
- (f.2) “in situ coal gasification” means the thermal or chemical conversion of coal into synthetic coal gas in an underground coal seam using an industrial process;
- (f.3) “in situ coal liquefaction” means the thermal or chemical conversion of coal into synthetic coal liquid in an underground coal seam using an industrial process;
- (f.4) “in situ coal scheme” means an operation for the purpose of in situ coal gasification or in situ coal liquefaction;
- (g) “manager” means the chief officer having control and daily supervision of a mine or mine site;

- (h) “mine” means a working, other than a drill hole made while exploring for coal, from which coal is or could be extracted, whether commercially or otherwise;
- (i) “mine site” means a location at which a facility for extracting coal by underground, strip or open pit operations exists or is to be developed, and includes
 - (i) a coal processing plant, storage facility or discard disposal facility that exists or is to be developed in connection with the mine, and
 - (ii) all connected access roads;
- (j) “mine surveyor” means a person qualified under the *Coal Mines Safety Act*, RSA 1980 cC-15, to survey a mine and to prepare the plans required under this Act;
- (k) repealed 2011 c11 s2;
- (k.1) “observation well” means a well that is used solely for the purpose of monitoring;
- (l) “open pit mine” means a mine worked by removal of overlying strata and subsequent excavation of exposed coal in terrain that is not flat or substantially flat;
- (m) “owner” when used in relation to a mine
 - (i) means a person who is the immediate proprietor, lessee or occupier of the mine or any part of it, and
 - (ii) includes, but not so as to exempt the owner from liability, a contractor engaged by the owner or the owner’s agent to operate the mine or any part of it,but does not include a person who merely receives a royalty or rent from the mine pursuant to a lease, grant or licence for the working of the mine, or is merely the owner of the soil and does not hold an interest in the mine or in the coal;
- (m.1) “pipeline” means a pipeline as defined in the *Pipeline Act*;
- (n) “plan” means
 - (i) a map of a mine or any part of it certified by the mine surveyor to be correct, or
 - (ii) a reproduction of such a map;
- (o) “small mine” means

- (i) a mine that by normal continuous operation produces coal at a rate of less than 90 tonnes per day, or
- (ii) a mine designated as a small mine by the Board;
- (p) “strip mine” means a mine worked by removal of overlying strata and subsequent excavation of exposed coal in flat or substantially flat terrain;
- (p.1) “synthetic coal gas” means the synthetic coal gas referred to in clause (f.2);
- (p.2) “synthetic coal liquid” means the synthetic coal liquid referred to in clause (f.3);
- (q) “underground mine” means any mine other than a strip mine or open pit mine;
- (r) “waste” means the mining or disposition of coal in a careless or improvident manner so that coal is lost or its recovery reduced, or the causing of needless deterioration of coal quality;
- (r.1) “well” means a well as defined in the *Oil and Gas Conservation Act*;
- (s) “working place” means any location in a mine at which coal or rock is being cut or otherwise loosened, and includes any part of the mine worked or actively maintained in connection with the mining program.

(2) A decision by the Board as to whether a definition in subsection (1) is applicable in a particular case is final.

RSA 2000 cC-17 s1;2011 c11 s2(2)

References to subdivisions of unsurveyed land

2 In this Act and in any regulations or orders made under it, unsurveyed land may be described or referred to as if it were surveyed into sections in accordance with the *Surveys Act*, and reference to a legal subdivision, section or township in land not so surveyed is deemed to refer to what would be the legal subdivision, section or township if the land were so surveyed.

RSA 1980 cC-14 s2

Part 1

Purposes and Application of the Act

Application of Act

3 This Act applies to every mine, coal processing plant and in situ coal scheme in Alberta, and to all coal produced and transported in Alberta.

RSA 2000 cC-17 s3;2011 c11 s2(3)

Purposes of Act

4 The purposes of this Act are

- (a) to provide for the appraisal of Alberta's coal resources;
- (b) to provide for appraisals of coal requirements in Alberta and in markets outside Alberta;
- (c) to ensure orderly, efficient and economic development of Alberta's coal resources in the public interest;
- (d) to effect conservation, and prevent waste, of the coal resources of Alberta;
- (e) to assist the Government to control pollution and ensure environment conservation in the development of the coal resources of Alberta;
- (f) to ensure the observance of safe and efficient practices in
 - (i) the exploration for, and the mining, storing, processing and transporting of, coal, and
 - (ii) in situ coal gasification and in situ coal liquefaction;
- (g) to provide for the recording, and for the timely and useful dissemination, of data and information relating to exploration for coal and to the occurrence, reserves, quality, production, transportation, processing and use of coal in Alberta.

RSA 2000 cC-17 s4;2011 c11 s2(4)

Part 2

Overriding Provisions

Overriding provisions

5 A provision of

- (a) this Act,

- (b) regulations made pursuant to this Act,
- (c) a declaration, order or direction of the Board pursuant to this Act or in any matter over which the Board has jurisdiction, or
- (d) an order of the Lieutenant Governor in Council under this Act,

overrides the terms and conditions of any contract or other arrangement that conflicts with the provisions of this Act, the regulations, declaration, order or direction.

RSA 1980 cC-14 s5

Conflicting provisions unenforceable

6 No terms or conditions of a contract or other arrangement that conflict with a provision referred to in section 5 are enforceable or give rise to any cause of action by any party against any other party to the contract or arrangement.

RSA 1980 cC-14 s6

Part 3 Powers and Duties of the Board

Board orders

7 The Board, with the approval of the Lieutenant Governor in Council, may make any just and reasonable orders or directions that may be necessary to effect the purposes of this Act but are not otherwise specifically authorized by this Act.

RSA 1980 cC-14 s7

Examinations and investigations

8 The Board, when required by the Lieutenant Governor in Council shall, or on its own motion may, inquire into, examine and investigate any matter referred to in section 4, and publish reports, maps, statistical material and other documents on those matters.

RSA 1980 cC-14 s8

Disposition of applications

8.1(1) On receiving an application under this Act, the Board may, after considering the circumstances of the particular case,

- (a) deny the application,
- (b) require that an amended or modified application be made, or

- (c) grant a permit, licence or approval, or an amendment of a permit, licence or approval, as the case may be, subject to any conditions, restrictions or stipulations it considers appropriate and sets out in the permit, licence, approval or amendment.

(2) Notwithstanding subsection (1)(c), the Board shall not grant a permit, licence or approval or an amendment of a permit, licence or approval under this Act unless in its opinion it is in the public interest to do so.

2011 c11 s2(5)

Regulations

9(1) The Board may make regulations

- (a) prescribing the manner in which an application under this Act or the regulations is to be made;
- (b) specifying the information that is to be included in or to accompany an application under this Act or the regulations;
- (c) requiring that an applicant deposit a specified performance bond with the Board as a guarantee of proper operations and prescribing the form of the deposits;
- (c.1) requiring the holders of approvals for in situ coal schemes to provide to the Board deposits, letters of credit or other forms of security to guarantee the proper and safe suspension and abandonment of in situ coal schemes and the carrying out of any other activities necessary to ensure the protection of the public and the environment, including regulations respecting the amount and form of those deposits, letters of credit and security and how they may be used, retained, forfeited and returned;
- (d) restricting or prohibiting the development of a mine, mine site, coal processing plant or in situ coal scheme at any point within a stated distance of a boundary, road, road allowance, lake, river, stream, pipeline or other public or private works;
- (e) restricting or prohibiting mining within any city, town or village or within a hamlet designated or continued under the *Municipal Government Act*;
- (f) requiring notice to the Board, and Board approval, of
 - (i) a suspension of normal operations at a mine, mine site or coal processing plant, or

- (ii) a resumption of operations in a previously closed or abandoned mine, mine site or coal processing plant;
- (f.1) respecting the suspension and abandonment of in situ coal schemes, including, without limitation, regulations respecting
 - (i) applications for suspension and abandonment,
 - (ii) the circumstances under which an in situ coal scheme must be suspended or abandoned,
 - (iii) the timing of the suspension or abandonment of an in situ coal scheme,
 - (iv) the manner in which suspension and abandonment are to be carried out, and
 - (v) measures required to ensure that
 - (A) an abandoned in situ coal scheme is left in a permanently safe and secure condition, and
 - (B) a suspended in situ coal scheme is left in a safe and secure condition;
- (g) requiring the Board's approval of any mining machinery, transportation equipment and electric apparatus or devices intended for use in a mine or at a mine site;
- (h) prescribing what inspections are to be made in a mine or at a mine site or an in situ coal scheme and by whom the inspections are to be carried out and reported;
- (i) prescribing the data and samples that must be taken, the manner in which they are to be taken, and the methods by which samples are to be tested or analyzed;
- (j) requiring the submission to the Board of samples, cores, test data, survey logs, geophysical logs and other relevant data or information;
- (k) designating and registering coal seams, coal deposits, coal fields and coal-bearing zones;
- (l) prescribing the manner in which measurements are to be taken and the units in which measurements are to be expressed;
- (m) prescribing the manner and form of records to be kept, the persons by whom and the place at which they are to be

- kept, the length of time for which they are to be kept, and providing for their submission to the Board;
- (n) specifying what reports are to be made, the persons who are to make them, the authority or person to whom they are to be submitted, the times at which they are to be made, and their form, nature and extent;
 - (o) specifying which records, reports or information submitted to, or otherwise acquired by, the Board under this Act shall be confidential, and when and to whom the information contained in them may be made available;
 - (p) with respect to small mines
 - (i) exempting small mines from the regulations or any part of the regulations, and
 - (ii) prescribing particular regulations in respect of small mines;
 - (p.1) exempting all or parts of experimental in situ coal schemes from some or all of the provisions of this Act or the regulations except provisions respecting the approval of experimental in situ coal schemes;
 - (q) prescribing the measures that the holder of a permit, licence or approval under this Act must take at a mine site, coal processing plant or in situ coal scheme to prevent pollution of air, water and land;
 - (r) prescribing the manner in which land and bodies of water disturbed by mine site development, mining, coal processing or in situ coal scheme development must be reclaimed or restored;
 - (r.1) respecting the entitlements that a person is required to hold to apply for a permit, licence or approval under this Act and prescribing other eligibility requirements for applying for or holding a permit, licence or approval under this Act;
 - (s) prescribing forms to be used under this Act or the regulations;
 - (t) establishing a schedule of fees
 - (i) pertaining to an application under this Act or the regulations,
 - (ii) for any map, report, document or other record of the Board, or

(iii) for any other service provided by the Board;

(u) generally, prescribing measures to conserve coal or to prevent its waste or improvident disposition, and stipulating any other provisions reasonably incidental to the efficient development of mines, mine sites, coal processing plants and in situ coal schemes, and to production from them;

(v) respecting compliance with and enforcement of ALSA regional plans.

(2) When a regulation pursuant to subsection (1) authorizes the Board to issue a permit or licence or to approve an operation, the Board may prescribe particular conditions under which it grants the permit, licence or approval.

(3) Notwithstanding any regulations under subsection (1)(b) that specify the information that must be included with or accompany an application under this Act or the regulations, the Board may act on an application that does not contain all that information, or may require additional information.

(3.1) A regulation made pursuant to subsection (1)(o) respecting confidentiality of records, reports or information submitted to or acquired by the Board under this Act prevails despite the *Freedom of Information and Protection of Privacy Act*.

(4) Where no form has been prescribed pursuant to subsection (1)(s) for use under this Act or the regulations, the Board may accept any form or format of submission it considers adequate.

RSA 2000 cC-17 s9;2002 c12 s1;2006 c23 s19;
2009 cA-26.8 s73;2011 c11 s2(6)

Part 4

Development, Operation and Abandonment of Mines

Application

9.1 This Part applies to mines and mine sites.

2011 c11 s2(7)

Commencement of Operations

Requirement for permit

10(1) No person shall

(a) in connection with an exploratory or experimental program for coal, drill holes to a depth in excess of 150

metres or develop an adit, tunnel, shaft or other excavation, or

- (b) develop a mine site or mine,

without first applying for, and obtaining, a permit from the Board.

(2) Notwithstanding subsection (1), a site for a mine may be surveyed without a permit.

(3) This section does not apply to an in situ coal scheme, evaluation well or observation well.

RSA 2000 cC-17 s10;2011 c11 s2(8)

Licence for operations

11 No person shall

- (a) begin mining operations at a site at which mining operations have not previously been undertaken,
- (b) begin mining operations at an abandoned mine, or
- (c) resume mining operations at a mine at which normal working has been suspended for a period of more than 12 months,

without first applying for, and obtaining, a licence from the Board.

RSA 1980 cC-14 s11

Reclamation scheme

12 When an application is made for

- (a) a permit to develop a new strip or open pit mine, or
- (b) a licence to resume operations at a previously abandoned strip or open pit mine,

the application must be accompanied with a proposed scheme for reclamation of all land that may be disturbed.

RSA 1980 cC-14 s12

Departure from approved program prohibited

13(1) The holder of a permit or licence shall not extend or materially alter the program of operations on which the holder's permit or licence was granted unless the Board, on application, amends the permit or licence to authorize the extension or alteration.

- (2) An application under subsection (1) to amend a permit or licence shall
- (a) include a statement setting out the reasons for the proposed extension or alteration,
 - (b) describe the proposed extension or alteration, and
 - (c) be supplemented with any other information the Board requires.

RSA 1980 cC-14 s13

14 Repealed 2011 c11 s2(9).

Notice of Change in Ownership

Notice of change in ownership

15(1) When a change in the ownership of a mine site, mine or any substantial part of it occurs, the former owner and the new owner shall forthwith send the Board written notice of the transaction and furnish any particulars about the change that the Board requests.

(2) On receipt of the notice and particulars sent in accordance with subsection (1), the Board shall

- (a) amend the permit for the development of the mine site or mine or the licence to operate the mine to reflect the change in ownership, or
- (b) cancel the permit for the development of the mine site or mine or the licence to operate the mine and issue a new permit or licence to the new owner.

RSA 1980 cC-14 s15

Suspension of Normal Operations and Abandonment

Suspension or abandonment of operations

16(1) Except in an emergency, no licensee shall suspend normal operations at, or abandon, a mine or mine site or any substantial part of a mine or mine site without prior permission of the Board, and the suspension or abandonment, if permitted, is subject to any conditions the Board prescribes.

(2) When operations are suspended because of emergency conditions in a mine or at a mine site, the licensee or the licensee's agent or manager shall immediately advise the Board of the circumstances that forced the suspension and of the steps being taken to resume normal working.

(3) The permission for an abandonment operation by the Board does not relieve the licensee, or any other person liable, of the burden of other or further abandonment operations that may from time to time become necessary.

RSA 2000 cC-17 s16;2011 c11 s2(10)

Board may perform abandonment operations

17(1) If, in the opinion of the Board, the suspension of normal operations at, or an abandonment of, a mine or mine site or any substantial part of a mine or mine site is not in accordance with the procedures or conditions permitted or prescribed by the Board under section 16, the Board or a person authorized by it is entitled to access to and may enter on the mine or mine site or any workings or structures on the mine or mine site, and do whatever the Board considers necessary because of the failure to comply with the procedures or conditions permitted or prescribed.

(2) The Board may use all or any part of the performance bond or deposit that the regulations require of the holder of a permit or licence to defray all direct and incidental costs of work done by the Board under subsection (1).

(3) Any costs under this section that remain unpaid after use or expenditure of the performance bond or deposit by the Board under subsection (2) are a debt payable to the Board by the holder of the permit or licence.

RSA 2000 cC-17 s17;2006 c23 s19;2011 c11 s2(11)

Obligations unaffected by agreement

18 No agreement between the holder of a permit or licence, an owner or a person having an interest in a mine or in the coal, and any other person

- (a) relieves the holder of a permit or licence of the obligation
 - (i) to perform the required abandonment operation, or
 - (ii) to comply with the relevant provisions, orders, directives or conditions prescribed by the Board,
- (b) precludes or prevents the conduct of any operation necessary for the purposes of clause (a)(i), or
- (c) relieves the holder of a permit or licence, as between the holder and any other person, of liability with respect to any operation mentioned in clause (a) or (b) and the costs and expenses of that operation.

RSA 1980 cC-14 s18

Delivery of plans

19 The Board may, by order, require any person having in the person's possession or custody any plan of an abandoned mine or mine site or coal seam to deliver it to the Board for inspection and copying.

RSA 2000 cC-17 s19;2011 c11 s2(21)

Cancellation of Permits and Licences**Cancellation of permit or licence**

20(1) If the holder of a permit or licence fails to comply with this Act, the regulations or the terms and conditions of the permit or licence, the Board may, by order, cancel or suspend the permit or licence, or make any other order it considers necessary and appropriate under the circumstances.

(2) Except when there exists, in the Board's opinion, an immediate danger to a person or to public or private property, the Board shall not

- (a) cancel or suspend a permit or licence under subsection (1) until it has given the holder at least 30 days' notice to rectify the holder's default, or
- (b) require any action that would result in a significant expense, loss or deprivation to the holder of a permit or licence under this Act without due notice and an opportunity to be heard by the Board.

RSA 1980 cC-14 s20

General**Authorization required**

21(1) When an application is made under section 10(1)(b) with respect to a mine or proposed mine that is or will be capable of producing more than 45 000 tonnes of coal per year by normal operations, the Board shall not grant the permit unless the Lieutenant Governor in Council has first authorized the granting of the permit.

(2) The Lieutenant Governor in Council may make the Lieutenant Governor in Council's authorization under subsection (1) subject to any terms and conditions the Lieutenant Governor in Council considers necessary or desirable.

(3) The authorization of the Lieutenant Governor in Council is not required in respect of

- (a) an amendment to a permit issued under this section, or

- (b) a consolidation of a permit issued under this section and one or more amendments to that permit.

RSA 2000 cC-17 s21;2011 c11 s2(12)

Compliance with other Acts

22 The performance of an operation in accordance with a permit or licence under this Part does not relieve a person from the requirements or liabilities arising under any other Act or otherwise.

RSA 1980 cC-14 s22

Part 5 Operation and Abandonment of Coal Processing Plants

Coal processing plants

23(1) No person shall

- (a) construct or begin operations at a new coal processing plant,
- (b) resume operations at a previously shut-in or abandoned coal processing plant,
- (c) resume normal operations at an extensively rebuilt, modified or re-equipped coal processing plant, or
- (d) operate facilities directly connected with a coal processing plant,

without applying for, and obtaining, an approval from the Board.

(2) An application under subsection (1) shall include

- (a) a map or plan showing the exact location of the coal processing plant and all connected facilities in relation to
 - (i) the mine or mines from which the plant draws coal,
 - (ii) all nearby bodies of water, and
 - (iii) inhabited buildings and other private or public works,
- (b) an outline of what steps are proposed for controlling pollution from the coal processing plant and its connected facilities, and
- (c) any further information the Board requires.

RSA 1980 cC-14 s23

Authorizations and approvals required

24(1) No approval relating to a coal processing plant capable of treating more than 45 000 tonnes of coal per year by normal continuous working shall be issued by the Board pursuant to this Part unless the Lieutenant Governor in Council has first authorized the issue of the approval.

(2) The Lieutenant Governor in Council may make the Lieutenant Governor in Council's authorization under subsection (1) subject to any terms and conditions the Lieutenant Governor in Council considers necessary or desirable.

(3) The authorization of the Lieutenant Governor in Council is not required in respect of

- (a) an amendment to an approval issued under this section, or
- (b) a consolidation of an approval issued under this section and one or more amendments to that approval.

RSA 2000 cC-17 s24;2009 c20 s2

Order to shut down plant

25 If at any time after the issue of an approval under section 23, it appears to the Board that operations at a coal processing plant or facilities connected with the plant fail to comply with the conditions of the approval, the Board may order the plant or affected parts of it to be shut down until it is satisfied that the conditions will be complied with.

RSA 1980 cC-14 s25

Change in ownership

26(1) When a change in ownership of a coal processing plant occurs, the former owner and the new owner shall

- (a) immediately notify the Board in writing and furnish any particulars respecting the change the Board requests, and
- (b) apply to the Board for an amendment of the approval or for a new approval to reflect the change of ownership.

(2) If a coal processing plant has been materially altered, expanded or re-equipped, the holder of the approval shall apply to the Board for an amendment of the approval before resuming operations.

RSA 1980 cC-14 s26

Shut-down or suspension of operations

27(1) When it is intended to abandon a coal processing plant or a major facility directly connected with it, or when normal operations

are to be suspended for more than 3 months, the holder of the approval shall advise the Board of the planned abandonment or suspension and obtain its consent.

(2) The abandonment or suspension shall comply with any conditions the Board sets out in its consent.

(3) If, in connection with an abandonment or suspension under subsection (1), the holder of the approval fails to comply with the conditions prescribed in the Board's approval or consent, the Board may

- (a) direct other qualified personnel to do whatever is necessary to remedy the failure, and
- (b) charge all attendant costs to the holder of the approval.

RSA 2000 cC-17 s27;2011 c11 s2(13)

Part 6 Development, Operation and Abandonment of In Situ Coal Schemes

Application

28 This Part applies to in situ coal schemes, including experimental in situ coal schemes.

2011 c11 s2(14)

Requirement for approval

29 Unless otherwise authorized by the Board, no person shall

- (a) undertake any operations preparatory or incidental to the drilling, construction or operation of an in situ coal scheme other than drilling an evaluation well, or
- (b) resume operations at an in situ coal scheme that has been suspended,

unless the person holds an approval for the in situ coal scheme that is in full force and effect.

2011 c11 s2(14)

Eligibility for in situ coal scheme approval

30(1) No person shall apply for or hold an approval for an in situ coal scheme unless that person is entitled to the rights to the coal and the petroleum and natural gas in the coal seam to be converted by in situ coal gasification or in situ coal liquefaction, as the case may be.

(2) If, after 30 days from the mailing of a notice by the Board to a holder of an approval for an in situ coal scheme sent to the holder's last known address, the holder fails to prove to the satisfaction of the Board that the holder meets the eligibility requirements referred to in subsection (1), the Board may cancel or suspend the approval on any terms and conditions that the Board may specify.

(3) Where an approval for an in situ coal scheme is cancelled or suspended under subsection (2),

- (a) all rights conveyed by the approval are cancelled or suspended, and
- (b) notwithstanding the cancellation or suspension of the approval, the liability of the holder of the approval to suspend or abandon the in situ coal scheme as the Board directs continues after the cancellation or suspension.

2011 c11 s2(14)

Requirements for evaluation wells

31 No person shall commence to drill an evaluation well or undertake any operations preparatory or incidental to the drilling of an evaluation well, other than surveying of the site, unless a licence for the well has been issued under the *Oil and Gas Conservation Act* and is in full force and effect and the person is the licensee.

2011 c11 s2(14)

Requirements for wells, pipelines or facilities

31.1(1) No person shall commence to drill a well or construct a pipeline or facility associated with an in situ coal scheme, or undertake any operations preparatory or incidental to the drilling of a well or the construction of a pipeline or facility associated with an in situ coal scheme, other than surveying of the site, unless

- (a) the person holds an approval for the in situ coal scheme,
- (b) a licence for
 - (i) the well or facility has been issued and is in full force and effect under the *Oil and Gas Conservation Act*,
or
 - (ii) the pipeline has been issued and is in full force and effect under the *Pipeline Act*,

and

- (c) the person is the licensee.

(2) Subsection (1) does not apply to

- (a) an evaluation well, or
- (b) an observation well.

2011 c11 s2(14)

Departure from approved program prohibited

31.2 The holder of an approval for an in situ coal scheme shall not extend or materially alter the program of operations for which the approval was granted unless the Board, on application, amends the approval to authorize the extension or alteration on any terms or conditions the Board prescribes.

2011 c11 s2(14)

Transfer of approval

31.3(1) An approval for an in situ coal scheme shall not be transferred without the written consent of the Board.

(2) The Board may, on an application for the Board's consent to the transfer of an approval for an in situ coal scheme,

- (a) consent to the transfer of the approval subject to any conditions, restrictions or stipulations that the Board may prescribe,
- (b) cancel the approval and issue a new approval, or
- (c) refuse to consent to the transfer of the approval.

(3) The Board may direct that an approval for an in situ coal scheme be transferred to a person who agrees to accept the approval and who, in the opinion of the Board, has a right to receive the approval, and the direction of the Board has the same effect as a transfer consented to under this section.

(4) A transfer of an approval for an in situ coal scheme has no effect until the Board has consented to, or directed, the transfer of the approval under this section.

2011 c11 s2(14)

Suspension and abandonment

31.4(1) The holder of an approval for an in situ coal scheme shall suspend or abandon the in situ coal scheme when required to do so by the regulations or directed to do so by the Board.

(2) The holder of the approval for an in situ coal scheme shall

- (a) suspend or abandon wells and facilities associated with the in situ coal scheme

- (i) when required to do so under the *Oil and Gas Conservation Act* or the regulations under that Act, or
 - (ii) when directed to do so by the Board;
- (b) discontinue or abandon pipelines associated with the in situ coal scheme
- (i) when required to do so under the *Pipeline Act* or the regulations under that Act, or
 - (ii) when directed to do so by the Board.

(3) An in situ coal scheme must be suspended or abandoned by the holder of the approval for the in situ coal scheme in accordance with the regulations and any requirements and direction of the Board.

(4) If, in the opinion of the Board, the suspension or abandonment of an in situ coal scheme is not in accordance with the regulations and any requirements and directions of the Board, the Board or a person authorized by the Board is entitled to access to and may enter on the site of the in situ coal scheme and do whatever the Board considers necessary because of the failure to comply with the regulations, requirements or directions.

(5) The Board may use all or any part of a deposit, letter of credit or other form of security that the regulations require of the holder of the approval for the in situ coal scheme to defray all direct and incidental costs of work done by the Board under subsection (4).

(6) Any costs under this section that remain unpaid after use or expenditure of the deposit, letter of credit or other form of security required by the Board are a debt payable to the Board by the holder of the approval for the in situ coal scheme.

(7) The Board may, by order, require the holder of an approval for an in situ coal scheme to pay the costs referred to in subsection (6) within the time specified in the order and may, in the order, provide for an amount that is payable as a penalty if the costs are not paid within the specified time.

(8) A certified copy of an order of the Board under subsection (7) may be filed in the office of the clerk of the Court of Queen's Bench and, on filing and on payment of any fees prescribed by law, the order shall be entered as a judgment of the Court and may be enforced according to the ordinary procedure for enforcement of a judgment of the Court.

2011 c11 s2(14)

Obligations unaffected by agreement

31.5 No agreement between the holder of an approval for an in situ coal scheme, or an owner of or a person having an interest in an in situ coal scheme or in the coal, and any other person

- (a) relieves the holder of the approval for the in situ coal scheme of the obligation
 - (i) to perform the required suspension and abandonment operations referred to in section 31.4, or
 - (ii) to comply with the regulations and any requirements and directions of the Board,
- (b) precludes or prevents the conduct of any operation necessary for the purposes of clause (a)(i), or
- (c) relieves the holder of the approval for the in situ coal scheme of liability with respect to any operation mentioned in clause (a) or (b) and the costs and expenses of that operation.

2011 c11 s2(14)

Cancellation or suspension of approval or licence

31.6(1) If the holder of an approval for an in situ coal scheme fails to comply with this Act, the regulations, the *Oil and Gas Conservation Act* or the regulations under that Act, the *Pipeline Act* or the regulations under that Act, any conditions, restrictions or stipulations to which the approval is subject or any other applicable requirements of the Board with respect to the wells, facilities or pipelines associated with the in situ coal scheme, the Board may

- (a) cancel or suspend the approval for the in situ coal scheme, the licence for the well or facility issued under the *Oil and Gas Conservation Act* or the licence for the pipeline issued under the *Pipeline Act*, or make any order it considers necessary and appropriate under the circumstances, or
- (b) require that approved methods be adopted or that remedial measures be taken before any operation proceeds at the in situ coal scheme.

(2) Except when, in the Board's opinion, there exists an immediate danger to a person or to public or private property, the Board shall not

- (a) cancel or suspend an approval or licence under subsection (1) until it has given the holder of the approval or the licensee at least 30 days' notice to rectify the default, or

- (b) require any action that would result in a significant expense, loss or deprivation to the holder of the approval or the licensee without due notice and an opportunity to be heard by the Board.

2011 c11 s2(14)

Compliance with other Acts

31.7 The performance of an operation in accordance with an approval for an in situ coal scheme does not relieve the holder of the approval from the requirements or any liability arising under any other Act or otherwise.

2011 c11 s2(14)

Part 7 Inspections

Inspections

32(1) At any reasonable time, any Board member or a person authorized by the Board

- (a) shall have unrestricted access to mine sites, mines, coal processing plants and in situ coal schemes, and to all roads and other works connected with them,
- (b) is free to enter on any land that must be crossed to reach a mine site, mine, coal processing plant, in situ coal scheme or connected works,
- (c) is entitled to make inspections, investigations or tests at a mine site, mine, coal processing plant, in situ coal scheme and connected works, and to take samples there, and
- (d) has the right to examine all books, records and documents pertaining to a mine site, mine, coal processing plant, in situ coal scheme and connected works.

(2) A person authorized by the Board to exercise any of the powers referred to in subsection (1) shall, at any time while exercising these powers, produce the person's certificate of authority when requested to do so.

(3) A holder of a permit, licence or approval under this Act, or a person in charge of a mine site, mine, coal processing plant or in situ coal scheme, or any contractor or employee of those persons, shall assist any Board member or person authorized by the Board in the exercise of powers conferred by subsection (1).

RSA 2000 cC-17 s32;2011 c11 s2(15)

Part 8

Registers, Records and Reports

Registered Addresses

Registered addresses

33(1) Subject to the regulations made under subsection (6), every holder of a permit or licence under this Act shall register the holder's address with the Board and, if resident outside Alberta,

- (a) register with the Board an address for service in Alberta,
- (b) appoint an agent in Alberta to carry out the holder's duties and responsibilities under this Act, and
- (c) notify the Board in writing of the name and address of the agent.

(2) A holder of a permit, licence or approval under this Act who is resident in Alberta

- (a) may carry out the holder's duties and responsibilities under this Act directly or through an agent, and
- (b) if the holder appoints an agent, shall notify the Board in writing of the name and address of the agent.

(3) The appointment of an agent in accordance with subsection (1) or (2) and the registration of the agent's appointment and address with the Board does not relieve the holder of the permit, licence or approval of any duty or responsibility under this Act.

(4) If any of the registered addresses, or the agent appointed in accordance with subsection (1) or (2), is changed, the holder of the permit, licence or approval shall register the change with the Board within 15 days after it.

(5) If the holder of a permit or licence under Part 4 has not appointed an agent, the manager is deemed to be an agent with respect to all operations at the particular mine site or mine.

(6) The Board may make regulations respecting the exemption of holders of a permit, licence or approval or classes of holders of a permit, licence or approval from the application of some or all of the requirements of this section, subject to any terms and conditions provided for in the regulations, including the substitution of any other requirements.

RSA 2000 cC-17 s33;2008 c7 s3;2011 c11 s2(16)

Mine Plans

Scope of mine plans

34(1) The holder of a permit or licence under Part 4 shall keep in an office at the mine or mine site true plans showing

- (a) the boundaries of each lease or other grant of coal
 - (i) in which any part of the mine site or mine lies, or
 - (ii) that comprises an adjoining area from which the holder of the permit or licence has a right to mine and recover coal;
- (b) the legal description of all land from which coal is being or will be mined;
- (c) the outer boundaries of the area surveyed in the most recent survey, and the date on which that survey was made;
- (d) the boundaries of all mine workings and working places;
- (e) the elevation of all workings and working places relative to sea level and their positions relative to the surface;
- (f) the location of all mine entrances, exits, ventilation shafts, effluent discharge openings and the same relative to the surface;
- (g) the general direction and degree of dip of each coal seam;
- (h) a section of each coal seam and of the strata in which it lies and immediately adjoining strata;
- (i) the position, direction and dip of all known faults, the throw or displacement of strata affected by the faults, and all known washouts, dikes or sills in the mine.

(2) If more than one coal seam is being worked in an underground mine, separate plans shall be kept for each coal seam in which operations are being conducted.

RSA 2000 cC-17 s34;2011 c11 s2(21)

Requirements of mine plans

35(1) Plans prepared pursuant to section 34 must

- (a) be made by a mine surveyor,
- (b) be on a scale consistent with good engineering practice,

- (c) show all workings and working places surveyed up to a date not more than 3 months previous, and
- (d) indicate in sketched form all extensions of workings and working places made up to a date not more than one month previous.

(2) The Board in its discretion may vary the requirements of subsection (1)(c) and (d) with respect to any mine.

RSA 1980 cC-14 s35

Copies of mine plans

36 Copies of plans prepared in accordance with section 34 shall

- (a) be furnished to the Board annually or at any lesser intervals that the Board directs,
- (b) be produced on demand to any Board member or person authorized by the Board, and
- (c) on request, be made to show the progress of all workings up to the time at which they are being produced.

RSA 1980 cC-14 s36

Plan of mine workings

37 The holder of a permit or licence under Part 4 shall

- (a) keep in an office at the mine a plan showing the location and elevation of the mine workings and working places relative to all highways, pipelines and known aquifers that lie within the land contained in the lease or grant conferring the right to mine and recover the coal, and
- (b) notify the Board in writing as soon as the vertical planes within which the workings lie approach within 150 metres of a highway, pipeline or aquifer referred to in clause (a).

RSA 1980 cC-14 s37

Failure to furnish or keep plans

38(1) If a plan is not furnished or kept in accordance with the requirements of this Part, the Board may

- (a) direct the holder of the permit or licence to furnish or prepare a correct plan within 30 days, or
- (b) appoint a mine surveyor to prepare a correct plan and deliver it to the Board and the holder of the permit or licence.

(2) When a plan is prepared and delivered by a mine surveyor in accordance with subsection (1), the Board shall charge the holder of the permit or licence with all attendant costs and expenses incurred in the preparation and delivery of the plan.

RSA 1980 cC-14 s38

Right to Information

Availability of information

39 The holder of a permit or licence under Part 4 or an approval under Part 6 is entitled to obtain from the Board information as to whether an adjoining mine, mine site or in situ coal scheme is being worked into the area described in the holder's permit, licence or approval.

RSA 2000 cC-17 s39;2011 c11 s2(17)

Other Records

Records of permittee or licensee

40(1) The holder of a permit or licence under Part 4 shall

- (a) keep in an office at the mine
 - (i) an up-to-date register of the names, residence addresses and designated positions of all managerial personnel employed at or in connection with the mine site or mine, and of the certificates of competency, if any, held by all of those persons, and
 - (ii) a record of the daily production and disposition of coal from the mine or mines worked at the site,
- (b) furnish true copies of the register required by clause (a)(i) to the Board annually or at any lesser intervals that the Board may from time to time determine, and
- (c) furnish true copies of the record required by clause (a)(ii) to the Board monthly or at any other intervals that the Board may from time to time determine.

(2) When a mine works more than one coal seam, the record required by subsection (1)(a)(ii) shall show the production and disposition of coal from each coal seam separately.

(3) When more than one mine is operated at a mine site, the record required by subsection (1)(a)(ii) shall show the production and disposition of coal from each mine separately.

RSA 2000 cC-17 s40;2011 c11 s2(21)

Records of approval holder

41(1) The holder of an approval under section 23 shall

- (a) keep at the office of the coal processing plant or, where the plant is operated as an integral part of a mine site, at the mine office
 - (i) an up-to-date register of the names, residence addresses and designated positions of all managerial personnel employed at or in connection with the plant, and
 - (ii) a record of the daily intake, output and disposition of coal,
- (b) furnish true copies of the register required by clause (a)(i) to the Board annually or at any lesser intervals that the Board may from time to time determine, and
- (c) furnish true copies of the record required by clause (a)(ii) to the Board monthly or at any other intervals that the Board may from time to time determine.

(2) When a plant uses different kinds of processes for upgrading or otherwise treating coal, the record required by subsection (1)(a)(ii) shall show the intake, output and disposition of coal for each process separately.

RSA 1980 cC-14 s41

Part 9 Provisions of General Application

Powers of the Lieutenant Governor in Council and of the Board

Suspension of Act in emergency

42 In the event of an emergency or grave economic disturbance, the Lieutenant Governor in Council may suspend particular provisions of this Act in respect of either all mines or any class of mines, and for the period of time the Lieutenant Governor in Council may order.

RSA 1980 cC-14 s42

Suspension of Act in special cases

43 The Board may, with the authorization of the Lieutenant Governor in Council,

- (a) if suspension is thought necessary for the conduct of experimental operations likely to lead to safer, more

effective or more economical coal mining procedures, suspend any provision of this Act for the period and subject to the conditions that it may prescribe, and

- (b) make regulations to provide for any method of coal mining not contemplated in this Act and vary the provisions of this Act so far as necessary for that method.

RSA 1980 cC-14 s43

Investigations

Investigations

44(1) The Board on the request of the Lieutenant Governor in Council shall, or at its own initiative when it appears necessary or expedient may,

- (a) hold an investigation of any matter connected with the development and operation of a mine site, mine, coal processing plant, in situ coal scheme and connected facilities, or
- (b) direct an examiner appointed by it to conduct an investigation under clause (a).

(2) The Board or an examiner holding an investigation under subsection (1) may conduct the investigation in the manner and under the conditions that the Board or the examiner considers most effectual, and for that purpose has all the powers of a commissioner appointed under the *Public Inquiries Act*.

(3) On completion of an investigation, the Board, on the instruction of the Lieutenant Governor in Council or on its own motion, as the case may be, may make a report of the investigation public at a time and in a manner it thinks fit.

RSA 2000 cC-17 s44;2011 c11 s2(18)

Direction to alter program of development or operations

45(1) If it appears to the Board that the method of development or operation at a mine, coal processing plant or in situ coal scheme is such that coal is not being recovered in accordance with good conservation practices and the coal could be more efficiently recovered by other practical and reasonable mining, coal processing or in situ procedures, the Board may direct the holder of the permit, licence or approval within the time period specified in the direction to

- (a) alter the holder's program of development or operations by the institution of more effective methods, and

- (b) submit full particulars of planned program changes to the Board.

(2) If the holder of the permit, licence or approval to whom a direction was issued under subsection (1) does not take steps to improve development or operations at the mine, coal processing plant or in situ coal scheme and obtain the Board's consent to the changes within the time period specified in the direction, the Board may, on expiry of that period, order suspension of development or operations at the mine, coal processing plant or in situ coal scheme, or in any specified part of it, until improvements have been effected and the Board has concurred in the future program.

RSA 2000 cC-17 s45;2011 c11 s2(19)

Waste prohibited

46(1) No person shall commit waste.

(2) No prosecution under subsection (1) may be instituted without the written consent of the Board.

(3) In a prosecution under this section, no person shall be considered to have committed waste unless the person has failed to comply with a Board order or direction through which waste could have been avoided.

RSA 1980 cC-14 s46

Offence

47(1) A person who

- (a) whether as a principal or otherwise, contravenes or fails to comply with a provision of this Act or of the regulations or of an order or direction made pursuant to this Act,
- (b) either alone or in conjunction or participation with others causes a holder of a permit, licence or approval to contravene or to default in complying with any such provision, or
- (c) instructs, orders, directs or causes an officer, agent or employee of a holder of a permit, licence or approval to contravene or to default in complying with any such provision,

is guilty of an offence.

(2) A person who contravenes or fails to comply with a provision of this Act or of the regulations or an order or direction of the Board or a term or condition of a permit, licence or approval granted under this Act, is guilty of an offence.

RSA 1980 cC-14 s47

Commencement of prosecution

48 A prosecution of an offence under this Act may be commenced within 18 months from the time when the subject-matter of the prosecution arose, and not afterwards.

RSA 1980 cC-14 s48

Penalties

49(1) A person who is guilty of an offence under this Act is liable

- (a) if a corporation, to a fine of not less than \$300 and not more than \$1000, and
- (b) if a person other than a corporation, to a fine of not less than \$50 and not more than \$500 and in default of payment to a term of imprisonment not exceeding 6 months.

(2) A person who is guilty of a continuing offence under this Act is liable

- (a) if a corporation, to a fine of not less than \$300 and not more than \$1000 for the first day on which the offence occurs and of not less than \$100 and not more than \$500 for each subsequent day during which the offence occurs, and
- (b) if a person other than a corporation, to a fine of not less than \$50 and not more than \$500 for the first day on which the offence occurs and of not less than \$25 and not more than \$250 for each subsequent day during which the offence occurs.

(3) A person other than a corporation who defaults in payment of a fine imposed for a continuing offence is liable to a term of imprisonment not exceeding 6 months.

(4) The penalties imposed for a breach of any of the provisions of this Act or the regulations shall be in addition to any penalty imposed by any other Act for the same offence or matter.

RSA 1980 cC-14 s49

Injunctions

50 Notwithstanding any prosecution under this Act, the Board may apply to the Court of Queen's Bench for an order

- (a) to enjoin a person from committing waste,
- (b) to enjoin a contravention of any regulation or of any order or direction of the Board, or

- (c) to require compliance with any regulation, order or direction of the Board.

RSA 2000 cC-17 s50;2009 c53 s38

Cancellation of Industrial Development Permits and Applications

Cancellation of permits and applications

51 On the coming into force of section 2(14) of the *Energy Statutes Amendment Act, 2011*, all subsisting permits granted under Part 6 of this Act as it read immediately before the coming into force of section 2(14) of the *Energy Statutes Amendment Act, 2011* and all subsisting applications for permits under Part 6 of this Act as it then read are cancelled.

2011 c11 s2(20)