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ENERGY RESOURCES CONSERVATION ACT

Chapter E-10

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

Definitions

1 In this Act,

- (a) "Board" means the Energy Resources Conservation Board;
- (a.1) "carbon capture and storage project" means a project for the injection of captured carbon dioxide conducted pursuant to rights granted under an agreement under Part 9 of the *Mines and Minerals Act*;
- (b) "chair" means the chair of the Board;

- (c) “energy resource” means any natural resource within Alberta that can be used as a source of any form of energy;
- (d) “environment” means the components of the earth and includes
 - (i) air, land and water,
 - (ii) all layers of the atmosphere,
 - (iii) all organic and inorganic matter and living organisms, and
 - (iv) the interacting natural systems that include components referred to in subclauses (i) to (iii).

RSA 2000 cE-10 s1;2010 c14 s1

Purposes of Act**2** The purposes of this Act are

- (a) to provide for the appraisal of the reserves and productive capacity of energy resources and energy in Alberta;
- (b) to provide for the appraisal of the requirements for energy resources and energy in Alberta and of markets outside Alberta for Alberta energy resources or energy;
- (c) to effect the conservation of, and to prevent the waste of, the energy resources of Alberta;
- (d) to control pollution and ensure environment conservation in the exploration for, processing, development and transportation of energy resources and energy;
- (e) to secure the observance of safe and efficient practices in the exploration for, processing, development and transportation of the energy resources of Alberta;
- (e.1) to secure the observance of safe and efficient practices in the exploration for and use of underground formations for the injection of substances;
- (f) to provide for the recording and timely and useful dissemination of information regarding the energy resources of Alberta;
- (g) to provide agencies from which the Lieutenant Governor in Council may receive information, advice and recommendations regarding energy resources and energy.

RSA 2000 cE-10 s2;2010 c14 s1

Consideration of public interest

3 Where by any other enactment the Board is charged with the conduct of a hearing, inquiry or other investigation in respect of a proposed energy resource project or carbon capture and storage project, it shall, in addition to any other matters it may or must consider in conducting the hearing, inquiry or investigation, give consideration to whether the project is in the public interest, having regard to the social and economic effects of the project and the effects of the project on the environment.

RSA 2000 cE-10 s3;2010 c14 s1

ALSA regional plans

3.1 In carrying out its mandate under this Act and other enactments, the Board must act in accordance with any applicable ALSA regional plan.

2009 cA-26.8 s75

Continuation of Board

4(1) The Energy Resources Conservation Board is continued as a corporation.

(2) The head office of the Board is to be at the City of Calgary.

RSA 1980 cE-11 s3

Membership of Board

5(1) The Board shall consist of not more than 9 members appointed by the Lieutenant Governor in Council, one of whom shall be designated as chair, not more than 2 of whom may be designated as vice-chairs and the remainder of whom shall be designated as Board members.

(2) In the event of any vacancy occurring in the membership of the Board, the Lieutenant Governor in Council may appoint a member and, in case the office of chair or a vice-chair becomes vacant, the Lieutenant Governor in Council may designate any member to fill the vacancy.

(3) Each of the members of the Board holds office during good behaviour for a term of 5 years from the date of that member's appointment and afterwards during the pleasure of the Lieutenant Governor in Council.

(4) Notwithstanding anything in this section, any member of the Board may be removed from office by the Lieutenant Governor in Council at any time during the 5-year term referred to in subsection (3) on the address of the Legislative Assembly.

(5) The Lieutenant Governor in Council shall determine the remuneration of the members of the Board, which is to be paid by the Board.

(6) The Lieutenant Governor in Council may delegate to the Minister all or any of the Lieutenant Governor in Council's powers to determine the remuneration of all or any of the members.

RSA 2000 cE-10 s5;2007 cA-37.2 s82(5)

Chief Executive

5.1(1) The Board shall appoint a Chief Executive and shall determine the Chief Executive's powers, duties and functions.

(2) The Board shall set the remuneration to be paid to the Chief Executive.

2007 cA-37.2 s82(5)

Duty of care

6(1) Every member, in exercising powers and in discharging functions and duties,

- (a) shall act honestly, in good faith and in the public interest,
- (b) shall avoid conflicts of interest, and
- (c) shall exercise the care, diligence and skill that a reasonable and prudent person would exercise under comparable circumstances.

(2) The Board shall establish and maintain policies and procedures addressing the identification, disclosure and resolution of matters involving conflict of interest of members of the Board and senior officers and employees of the Board.

RSA 2000 cE-10 s6;2007 cA-37.2 s82(5)

Acting Board member

7(1) The Lieutenant Governor in Council may from time to time nominate one or more persons from among whom acting members of the Board may be selected.

(2) When in the chair's opinion it is necessary or desirable for the proper and expeditious performance of the Board's duties, the chair may name a person nominated under subsection (1) as an acting member for a period of time, during any circumstance or for the purpose of any matter before the Board.

(3) An acting member has, during the period, under the circumstances or for the purpose for which the acting member is

named an acting member, all the powers, duties, rights, protections and obligations of a member of the Board and shall receive the remuneration determined by the chair.

(4) The Board may be enlarged to more than the number of members referred to in section 5(1) by the naming of one or more acting members in accordance with this section.

RSA 2000 cE-10 s7;2007 cA-37.2 s82(5)

Divisions of the Board

8(1) The chair may designate any one or more members of the Board to sit as a division of the Board and may direct that division to conduct any hearing, inquiry or investigation that the Board itself could conduct under this or any other Act.

(2) A majority of the members constitute a quorum at any hearing, inquiry, investigation or other meeting held by a division of the Board.

(3) Any decision or other action made or taken at a hearing, inquiry, investigation or other meeting held by a division of the Board at which a quorum is present is the decision or action of the Board and binds all members of the Board.

(4) A division of the Board may exercise and perform all the jurisdiction, powers and duties of the Board under this or any other Act with respect to the hearing, inquiry or investigation it is directed to conduct and for that purpose any reference in this or any other Act to the Board is deemed to be also a reference to a division of the Board.

(5) The chair may designate a member of a division of the Board to preside at any sitting of the division at which the chair is not present.

(6) A division of the Board shall conduct a hearing, inquiry, investigation or other meeting separately from those of any other division of the Board being conducted at the same time but may not sit at any time during which the Board itself is sitting.

(7) If in the opinion of the chair a member of a division is not properly carrying out his or her duties, the chair may remove the member from sitting in a division.

RSA 2000 cE-10 s8;2007 cA-37.2 s82(5)

Absent Board members

9 When a hearing, inquiry or investigation is conducted by the Board or a division of the Board and a member or members of the Board or division do not for any reason attend on any day or part of

a day, the other member or members who are sitting on the hearing, inquiry or investigation may, if they constitute a quorum of the Board or the division, as the case may be, continue the hearing, inquiry or investigation as fully and effectively as though the member or members were present.

RSA 1980 cE-11 s8

Services of technical specialists

10 Subject to the approval of the Lieutenant Governor in Council, the Board may from time to time appoint one or more persons having special technical or other knowledge

- (a) to sit with the Board to hear and consider any matter before it, or
- (b) to inquire into and report to the Board in respect of any matter before it.

RSA 1980 cE-11 s9

Report by Board member

11(1) The Board or the chair may authorize any member of the Board to report to the Board on any question or matter arising in connection with the business of the Board.

(2) A member authorized pursuant to this section to report to the Board on a question has and may exercise all the powers of the Board for the purpose of taking evidence or acquiring the necessary information for the purpose of the member's report.

RSA 1980 cE-11 s10

Meetings

12(1) Meetings of the Board shall be held at the call of the chair at the place or places and on the notice that seems proper to the chair.

(2) The chair shall call a meeting of the Board immediately on being requested in writing to do so by 3 members of the Board.

(3) Three members of the Board constitute a quorum at a hearing, inquiry, investigation or other meeting held by the Board.

RSA 1980 cE-11 s11

Chair and vice-chair

13(1) The chair has the power to act for, and in the name of, the Board in the execution, performance and carrying out of any act, matter or thing that is within the power of the Board, subject only to any express directions or decisions given or made by a resolution of the Board.

(2) Repealed 2007 cA-37.2 s82(5).

(3) At any time during which the office of chair is vacant or the chair is absent from the head office of the Board or is incapacitated for any reason from executing the chair's functions as chair, or on the direction of the chair, a vice-chair has and shall exercise or perform all the powers, duties and functions conferred or imposed on the chair by this Act.

(4) At any time during which the offices of the vice-chairs are vacant or the vice-chairs are absent from the head office of the Board or are incapacitated for any reason from executing their functions as vice-chairs, or on the direction of the chair, a Board member has and may exercise and perform all the powers, duties and functions conferred or imposed on a vice-chair by this Act.

RSA 2000 cE-10 s13;2007 cA-37.2 s82(5)

Delegation of powers

14 The Board may delegate any of the powers, duties and functions conferred or imposed on it under this Act or any other enactment to any member or any other person unless the regulations under section 51 prohibit the delegation.

RSA 2000 cE-10 s14;2007 cA-37.2 s82(5)

Proof of Board orders

15(1) Repealed 2007 cA-37.2 s82(5).

(2) A copy of an order, direction or other document purporting to be issued by authority of the Board, when certified as a true copy by the Board's solicitor, shall be admitted in evidence to prove the order, direction or other document and its contents without any proof of the authority of the member by whom the order, direction or document purports to be signed and without any proof of the signature or of the appointment of or authority of the solicitor.

RSA 2000 cE-10 s15;2007 cA-37.2 s82(5)

Powers of Board

16 The Board, in the performance of the duties and functions imposed on it by this Act and by any other Act, may do all things that are necessary for or incidental to the performance of any of those duties or functions.

RSA 1980 cE-11 s15

Order to comply with ALSA regional plans

16.1(1) The Board may, in making an order that it is authorized to make under this Act or other enactments, direct a person who is the

subject of the order to comply with a provision of an ALSA regional plan.

(2) The Board may enforce a direction under subsection (1) by any means provided for by this Act or any other enactment providing for the enforcement of Board orders.

2009 cA-26.8 s75

Personnel

17(1) The Board may

- (a) employ technical or professional persons and other officers, clerks or employees as the Board considers necessary for the proper and convenient transaction of its business,
- (b) prescribe the duties, conditions of employment and remuneration of persons employed by it,
- (c) appoint from time to time persons having special technical or other knowledge of any matter before the Board to inquire into and report to the Board in respect of the matter in question, any of which persons may or may not be employees of the Board, and
- (d) appoint examiners, from its staff or otherwise, for the purpose of conducting hearings, inquiries and other investigations and reporting on them to the Board.

(2) The *Public Service Act* does not apply to the Board or to the Board's employees or persons providing services to the Board.

RSA 2000 cE-10 s17;2007 cA-37.2 s82(5)

Hearing by examiners

18 Subject to section 33, where any Act or regulation provides that the Board shall hear an application or other matter, the hearing may, if the Board so directs, be held by examiners appointed under section 17(d), and when examiners have heard an application that is contested or denied, the Board shall send each person who has appeared at the hearing as an applicant or intervener a copy of the examiners' report to the Board.

RSA 1980 cE-11 s17

Fiscal year

19 The fiscal year of the Board is April 1 to the following March 31.

RSA 1980 cE-11 s18

Powers of Board

20 The Board, with the approval of the Lieutenant Governor in Council, may take any action and may make any orders and directions that the Board considers necessary to effect the purposes of this Act and that are not otherwise specifically authorized by this Act.

RSA 1980 cE-11 s21

Inquiries and recommendations

21 The Board may, and at the request of the Lieutenant Governor in Council shall, at the places, at the times and in a manner it considers advisable

- (a) make inquiries and investigations and prepare studies and reports on any matter within the purview of any Act administered by it relating to energy resources and energy or the injection of substances into underground formations, and
- (b) recommend to the Lieutenant Governor in Council any measures it considers necessary or advisable in the public interest related to the exploration for, production, development, conservation, control, transportation, transmission, use and marketing of energy resources and energy or the injection of substances into underground formations.

RSA 2000 cE-10 s21;2010 c14 s1

Co-operative proceedings

22(1) If the Board is of the opinion that it would be expedient or in the public interest to do so, the Board may conduct a hearing, inquiry or investigation under this Act or participate in other proceedings in respect of matters relating to the purposes of this Act jointly or in conjunction with another board, commission or other body constituted in Alberta.

(2) Subject to the approval of the Lieutenant Governor in Council, the Board may enter into any agreements it considers desirable with the Government of Canada or an agency of it with respect to a matter relating to the purposes of this Act or with any government of a jurisdiction outside Alberta or an agency of that government in respect of the effects of that matter in that jurisdiction.

(3) Pursuant to an agreement under subsection (2), the Board may hold proceedings jointly or in conjunction with the government or agency referred to in that subsection.

(4) A proceeding referred to in subsection (3) may be held outside Alberta.

RSA 1980 cE-11 s23;1992 c14 s2

Records as evidence

23 The minutes, accounts and records of the Board are admissible in evidence by the production of them by a member of the Board or by any employee of the Board who is authorized by the Board to produce them.

RSA 1980 cE-11 s25

Copies of records as evidence

24 A copy of any record, document, plan, book, paper, minute or account belonging to or deposited with the Board and attested under the signature of a member of the Board or an employee authorized for the purpose by the Board shall be admitted in evidence in all proceedings in which the original record, document, plan, book, paper, minute or account would be evidence.

RSA 1980 cE-11 s27

Board decision final

25 When any Act authorizes the Board to examine, inquire into, hear or determine any matter or question, subject to sections 40 and 41, every action, decision and order of the Board with respect to that matter or question is final and conclusive and is not open to question or review in any court.

RSA 1980 cE-11 s28

Hearings

26(1) Unless it is otherwise expressly provided by this Act to the contrary, any order or direction that the Board is authorized to make may be made on its own motion or initiative, and without the giving of notice, and without holding a hearing.

(2) Notwithstanding subsection (1), if it appears to the Board that its decision on an application may directly and adversely affect the rights of a person, the Board shall give the person

- (a) notice of the application,
- (b) a reasonable opportunity of learning the facts bearing on the application and presented to the Board by the applicant and other parties to the application,
- (c) a reasonable opportunity to furnish evidence relevant to the application or in contradiction or explanation of the facts or allegations in the application,

- (d) if the person will not have a fair opportunity to contradict or explain the facts or allegations in the application without cross-examination of the person presenting the application, an opportunity of cross-examination in the presence of the Board or its examiners, and
- (e) an adequate opportunity of making representations by way of argument to the Board or its examiners.

(3) When by subsection (2) a person is entitled to make representations to the Board or its examiners, the Board is not or examiners are not by subsection (2) required to afford an opportunity to the person

- (a) to make oral representations, or
- (b) to be represented by counsel,

if the Board or examiners afford the person an opportunity to make representations adequately in writing, unless the statutory provision authorizing the Board's decision requires that a hearing be held.

RSA 1980 cE-11 s29

Rules of evidence

27 The Board in the conduct of its hearings is not bound by the rules of law concerning evidence applicable to judicial proceedings.

RSA 2000 cE-10 s27;2007 cA-37.2 s82(5)

Board's funds and expenditures

27.1(1) All expenditures incurred by the Board must be charged against money provided in accordance with this section.

(2) In each fiscal year, funds equivalent to the estimated net expenditures to be incurred in the year by the Board, if not provided under section 27.2, shall be provided from money voted by the Legislature for that purpose.

(3) The Minister responsible for this Act shall pay the funds provided by vote and referred to in subsection (2) as soon after April 1 as convenient and in an amount that the Minister in consultation with the Board decides.

2007 cA-37.2 s82(5)

Funding

27.2(1) In this section,

- (a) “administration fee” means an amount imposed as an administration fee under this section;
 - (a.1) “coal project” means a mine or operation that is the subject of a licence under the *Coal Conservation Act*;
 - (b) “facility” means any scheme or operation that is under the jurisdiction of the Board or is subject to any enactment that is administered by the Board;
 - (c) “oil sands project” means a scheme or operation that is the subject of an approval under the *Oil Sands Conservation Act*;
 - (d) “operator” means, in relation to any facility, oil sands project, coal project or well,
 - (i) the person who is the actual operator of the facility, oil sands project, coal project or well, or
 - (ii) the person who holds an approval, licence or permit issued by the Board or to whom or in respect of whom an order is granted by the Board;
 - (e) “prescribed date” means, in relation to any year, the date or dates prescribed by the regulations under subsection (3) as the prescribed date or dates for that year for the purposes of this section;
 - (f) “well” has the meaning given to it in the *Oil and Gas Conservation Act*.
- (2) The Board may in respect of any fiscal year impose and collect an administration fee with respect to any facility, oil sands project, coal project or well on a basis that will produce a sum sufficient to defray a portion or all of the estimated net expenditures of the Board in that fiscal year.
- (3) The Board may make regulations
- (a) prescribing the rates of the administration fees applicable to facilities, oil sands projects, coal projects or wells or any classes of facilities, oil sands projects, coal projects or wells;
 - (b) prescribing a date or dates in the calendar year during which a regulation is made under clause (a) as the prescribed date or dates for that year for the purposes of this section;
 - (c) respecting the imposition and payment of administration fees;

- (d) prescribing, in any manner the Board considers appropriate, classes of facilities, oil sands projects, coal projects or wells;
- (e) respecting the exemption of any facility, oil sands project, coal project or well or any class of facility, oil sands project, coal project or well from the imposition of an administration fee;
- (f) respecting the imposition and payment of penalties for the late payment of administration fees;
- (g) respecting appeals with respect to the determination or imposition of administration fees and penalties.

(4) An administration fee prescribed in a fiscal year with respect to a facility, oil sands project, coal project or well is payable to the Board by the person who was the operator of the facility, oil sands project, coal project or well on the prescribed date or dates.

(5) The Board may shut in a facility, oil sands project, coal project or well of an operator if the operator fails to pay an administration fee by the prescribed date.

2007 cA-37.2 s82(5);2009 c20 s3

Local interveners' cost

28(1) In this section, "local intervener" means a person or a group or association of persons who, in the opinion of the Board,

- (a) has an interest in, or
- (b) is in actual occupation of or is entitled to occupy

land that is or may be directly and adversely affected by a decision of the Board in or as a result of a proceeding before it, but, unless otherwise authorized by the Board, does not include a person or group or association of persons whose business includes the trading in or transportation or recovery of any energy resource.

(2) On the claim of a local intervener or on the Board's own motion, the Board may, subject to terms and conditions it considers appropriate, make an award of costs to a local intervener.

(3) Where the Board makes an award of costs under subsection (2), it may determine

- (a) the amount of costs that shall be paid to a local intervener, and
- (b) the persons liable to pay the award of costs.

- (4) The local intervener or a person who is determined by the Board to be liable to pay the costs awarded may request that the Board conduct a review of the award of costs.
- (5) Where the Board conducts a review of the award of costs, the Board may
- (a) vary the award of costs,
 - (b) refuse to vary the award of costs, or
 - (c) deny the award of costs.
- (6) If in the Board's opinion it is reasonable to do so, the Board may make an advance of costs to a local intervener and it may direct any terms and conditions for the payment or repayment of the advance by any party to the proceeding that the Board considers appropriate.
- (7) The Board may make regulations respecting
- (a) the awarding of costs,
 - (b) the making of advances of costs,
 - (c) the liability of persons to pay costs, and
 - (d) the review of costs awarded.
- (8) A certified copy of an award of costs made under this section 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.

RSA 1980 cE-11 s31;1981 c47 s2;1988 c18 s5

Powers of Board on hearing

29 If the Board is charged with the conduct of a hearing, inquiry or other investigation by or pursuant to any other Act, it has for the purpose of conducting the hearing, inquiry or other investigation all of the powers granted to it by this Act for the purpose of conducting a hearing, inquiry or other investigation, and each witness at the hearing, inquiry or other investigation pursuant to any other Act shall have the protection given a witness by this Act.

RSA 1980 cE-11 s32

Coming into force of order

30(1) The Board may provide in an order or direction that the order or direction or a portion or provision of it is to come into force

- (a) at a future fixed time,
- (b) on the happening of a contingency, event or condition specified in the order or direction, or
- (c) on the performance to the satisfaction of the Board or of a person named by it of any terms that the Board imposes on any party interested.

(2) The Board may direct that the whole or a portion of the order or direction is to have force for a limited time or until the happening of a specified event.

(3) When any work, act, matter or thing is by an order or direction of the Board required to be done, performed or completed within a specified time, the Board, if it thinks it proper to do so, may extend the time specified.

RSA 1980 cE-11 s33

Restraining order

31(1) If this or any other Act authorizes the Board to make or issue an order or direction and a person commences, undertakes or continues an activity

- (a) for which that order or direction is required but has not been obtained, or
- (b) that is in excess of or not in compliance with an order or direction made or issued by the Board,

the Board, in addition to any other action or proceeding it may be authorized to take, may apply to the Court of Queen's Bench for an order restraining that person, that person's employees or agents from continuing the activity, unless and until that person has obtained the required order or direction.

(2) If the Board makes or issues an order or direction under this or any other Act and a person does not comply with the order or direction, the Board, in addition to any other action or proceeding it may be authorized to take, may apply to the Court of Queen's Bench for an order requiring that person or that person's employees or agents to comply with the order or direction.

RSA 1980 cE-11 s34;1992 c14 s3

Content of order

32 An order of the Board need not show on its face that any proceeding or notice was had or taken, or that any circumstances existed necessary to give it jurisdiction to make the order.

RSA 1980 cE-11 s35

Application for hearing

33(1) When a hearing, inquiry or investigation is conducted by examiners appointed by the Board for that purpose, the applicant or an intervener who has filed a submission in accordance with the Board's rules of practice may at any time file with the examiner or examiners an application to the Board to have the hearing, inquiry or investigation conducted by the Board.

(2) On the filing of the application, the examiner or examiners shall adjourn the hearing, inquiry or investigation.

(3) If the Board after considering the application is satisfied that the hearing, inquiry or investigation should be conducted by the Board, the Board shall proceed to conduct it and the proceedings before the examiner or examiners are of no effect.

(4) If the Board refuses the application, the examiner or examiners shall proceed with the hearing, inquiry or investigation on the date the Board designates.

RSA 1980 cE-11 s36

Notices

34(1) Any notice with regard to matters before or to come before the Board that is required or authorized to be given in writing

- (a) by the Board, may be signed by any member of the Board or the solicitor of the Board,
- (b) by a person appointed by the Board, may be signed by that person, or
- (c) by any other person, may be signed by that person or that person's authorized agent or solicitor.

(2) In contentious matters, the Board shall give or may require to be given notice, of not less than 10 days, of an application to or a hearing by the Board that the Board considers necessary, and the notice may be given by mail, newspaper publication or any other means the Board considers proper.

RSA 1980 cE-11 s37

Costs of advertising hearing

35 When the Board publishes a notice in connection with an application, hearing, inquiry or investigation by the Board, whether under this Act or otherwise, it may order that the cost of advertising be paid in whole or in part by any party to the hearing, inquiry or investigation.

RSA 1980 cE-11 s38

Power of Board on inquiry

36 For the purpose of any hearing, inquiry or investigation pursuant to this Act, the Board and any member of it and any other person authorized by the Board to conduct a hearing, or to make an inquiry or investigation, has all the powers of a commissioner appointed under the *Public Inquiries Act*.

RSA 1980 cE-11 s39

Protection re evidence

37(1) No person shall be excused from testifying or from producing any book, document or paper in an investigation or inquiry by or on a hearing before the Board, when ordered to do so by the Board, on the ground that the testimony, book, document or paper might tend to incriminate the person or subject the person to penalty or forfeiture.

(2) A witness who testifies or produces documents at an investigation, inquiry or hearing under subsection (1) has the right not to have any incriminating evidence so given used to incriminate that witness in any other proceedings, except in a prosecution for or proceedings in respect of perjury or the giving of contradictory evidence.

RSA 1980 cE-11 s40;1985 c15 s10

Witnesses at hearing

38(1) In case of failure or refusal by a person to comply with a notice to attend issued by the Board, or to produce a book, document or paper when ordered to do so by the Board, the Court of Queen's Bench, on the application of the Board, may issue a bench warrant requiring the attendance of the witness before the Board, or the production by the witness of the book, document or paper.

(2) In case of refusal by a witness to give evidence or answer as to any matter regarding which the witness is questioned before the Board, or to produce a book, document or paper when ordered to do so by the Board, the Court of Queen's Bench, on the application of the Board, may commit the witness for contempt.

RSA 1980 cE-11 s41

Review, etc., of Board order

39 The Board may review, rescind, change, alter or vary an order or direction made by it, or may rehear an application before deciding it.

RSA 1980 cE-11 s42

Review of order made without hearing

40(1) A person affected by an order or direction made by the Board without the holding of a hearing may, within 30 days after the date on which the order or direction was made, apply to the Board for a hearing.

(2) A person affected by an order or direction made by the Board after a hearing and to whom notice of the hearing was not directly given may, within 30 days after the date on which the order or direction was made, apply to the Board to vary, amend or rescind it.

(3) An application under this section shall set out the matters complained against and the reasons for the complaint.

(4) On making an application under this section, the applicant may request that the order or direction referred to in the application be suspended until the application is heard, and the Board may suspend the order or direction on the terms and conditions it prescribes or may refuse the request.

(5) When an application is made under this section, the Board shall, after not less than 10 days' notice to all persons affected by the order or direction, hold a public hearing of the application, and may confirm, vary or rescind the order or direction, as to the Board seems just.

RSA 1980 cE-11 s43

Appeal

41(1) Subject to subsection (2), on a question of jurisdiction or on a question of law, an appeal lies from the Board to the Court of Appeal.

(2) An application for leave to appeal must be filed and served within 30 days from the day that the order or direction sought to be appealed from was made, or within a further period of time granted by the judge where, in the opinion of the judge, the circumstances warrant it.

(2.1) Notice of an application for leave to appeal must be given to the parties affected by the appeal and to the Board.

(2.2) If an applicant makes a written request for materials to the Board for the purpose of the application for leave to appeal under subsection (2), the Board shall provide the materials requested within 14 days from the date on which the written request is served on the Board.

(2.3) An applicant shall not request under subsection (2.2) the transcript of the hearing, but the Court of Appeal may, on application or on its own motion, if satisfied that the transcript is necessary for the purpose of determining the application for leave to appeal, direct that the Board provide the transcript within the time provided by the Court.

(3) An order or direction of the Board takes effect at the time prescribed by the order or direction, and its operation is not suspended by any appeal to the Court of Appeal, or by any further appeal, but the Board itself may if it thinks fit suspend the operation of its order, when appealed from, until the decision of the Court of Appeal is rendered, or the time for appeal to the Supreme Court of Canada has expired, or any appeal is abandoned.

(3.1) The notice of appeal must be given to the parties affected by the appeal and to the Board.

(3.2) On leave to appeal being granted by a judge of the Court of Appeal, the appeal shall proceed in accordance with the practice and procedure of the Court of Appeal.

(4) Within 30 days after leave has been obtained, the Board shall forward to the Registrar of the Court the transcript and record of the hearing and its findings and reasons for the order or direction.

(5) Repealed 2007 c3 s4.

(6) On the hearing of the appeal, no evidence other than the evidence that was submitted to the Board on the making of the order appealed from shall be admitted, and the Court of Appeal shall proceed either to confirm, vary or vacate the order appealed from and in the latter event shall refer the matter back to the Board for further consideration and redetermination.

(7) On the hearing of the appeal, the Court may draw all inferences that are not inconsistent with the facts expressly found by the Board and that are necessary for determining the question of jurisdiction or of law, as the case may be, and shall certify its opinion to the Board.

(8) The Board is entitled to be heard by counsel or otherwise on the argument of an appeal.

(9) Neither the Board nor any member of the Board is in any case liable to costs by reason or in respect of an appeal or application.

(10) If the order or direction is set aside or a variation is directed, the matter shall be reconsidered and redetermined by the Board, and the Board shall vary or rescind its order in accordance with the judgment of the Court of Appeal or the Supreme Court of Canada.

RSA 2000 cE-10 s41;2007 c3 s4

Exclusion of prerogative writs

42 Subject to section 41, no proceedings of or before the Board may be restrained by injunction, prohibition or other process or proceedings in any court nor are they removable by certiorari or otherwise into any court.

RSA 1980 cE-11 s45

Protection from action

43 No action or proceeding may be brought against the Board or a member of the Board or a person referred to in section 10 or 17(1) in respect of any act or thing done purportedly in pursuance of this Act, or any Act that the Board administers, the regulations under any of those Acts or a decision, order or direction of the Board.

RSA 2000 cE-10 s43;2007 cA-37.2 s82(5)

44 Repealed 2007 cA-37.2 s82(5).

Disposition of taxes and penalties

45 Any sum of money collected by the Board

- (a) pursuant to an Act that the Board administers, or
- (b) on account of fees, taxes or penalties,

and any fine imposed pursuant to an Act that the Board administers are the property of the Board.

RSA 1980 cE-11 s48;1982 c27 s8

Action for recovery

46 The Board may recover any money payable to it pursuant to this or any other Act by an action in debt.

RSA 1980 cE-11 s49

Enforcement of remedies

47 If the Board has more than one remedy for the enforcement of an order or for the payment of money payable to it, the Board may resort to any or all those remedies from time to time as it thinks proper, either concurrently or successively, until the order has been complied with or the money payable under it together with all costs and expenses has been paid and satisfied.

RSA 1980 cE-11 s50

References to former Board

48 Wherever a reference is made to the Petroleum and Natural Gas Conservation Board or to the Oil and Gas Conservation Board in any Act, regulation, order or direction or in any contract, agreement or other instrument in force in Alberta, the reference is deemed to be the Energy Resources Conservation Board.

RSA 1980 cE-11 s51

Rules of practice

49 The Board may make regulations prescribing rules of practice governing the Board's procedure and hearings.

2007 cA-37.2 s82(5)

Regulations regarding security

50(1) In this section, "terrorist activity" means terrorist activity within the meaning of the *Criminal Code* (Canada).

(2) For the purposes of addressing security in respect of terrorist activity or the threat of terrorist activity, the Board may make regulations

- (a) respecting the shutting down of a well, facility or pipeline;
- (b) respecting security measures to be taken in respect of a well, facility or pipeline;
- (c) respecting access to information filed with the Board in respect of a well, facility or pipeline.

(3) A regulation made under subsection (2) is of no force or effect unless it is approved by the Lieutenant Governor in Council.

(4) A regulation made under subsection (2)(c) prevails despite the *Freedom of Information and Protection of Privacy Act*.

2007 cA-37.2 s82(5)

Lieutenant Governor in Council regulations

51 The Lieutenant Governor in Council may make regulations

- (a) prohibiting the delegation of any powers, duties and functions of the Board under section 14;
- (b) respecting compliance with and enforcement of ALSA regional plans.

2007 cA-37.2 s82(5);2009 cA-26.8 s75