

CROSS-COUNTRY CHECK-IN: COVID-19 AND THE ENVIRONMENT

Posted on September 10, 2020

Categories: [Insights](#), [Publications](#)

This Bulletin is current to September 10, 2020 and will be updated as events warrant.

In general, obligations under Canadian environmental legislation remain in effect despite the COVID-19 pandemic and consequences for failure to comply remain as they were. Certain governmental and regulatory bodies have taken steps to temporarily alter legal requirements in order to lessen the burden on businesses while protecting public health during the COVID-19 pandemic.

In Alberta, Saskatchewan and Quebec relief measures have been imposed. However, as normal business starts to resume, many of these measures have been modified or terminated accordingly meaning that obligations more closely resemble the ordinary course.

This Bulletin discusses the current state of Canadian environmental law requirements and enforcement activity in light of COVID-19 together with suggestions for action and a discussion on the long-term implications of how companies respond to the crisis with respect to their environmental obligations.

Since our last Bulletin on July 24, 2020, the following key developments with regard to Canadian environmental law requirements and enforcement activities have occurred:

- Alberta has continued to initiate its Relaunch plan resulting in most of the relief measures in relation to environmental law requirements having expired or been repealed, meaning that obligations more closely resemble the ordinary course. In addition, the suspension of limitation periods for proceedings has been lifted.
- Saskatchewan has initiated its Re-Open Saskatchewan plan resulting in a methodological and phased-in approach to lifting restrictions and re-opening businesses, meaning that obligations more closely resemble the ordinary course.
- The British Columbia Environmental Appeal Board (and the related Forest Appeals Commission and Oil and Gas Commission) has ceased automatically extending statutory due dates for legislated timeframes, including the filing of appeals.
- Ontario's suspension of limitation periods and other timelines under the *Emergency Management and*

Civil Protection Act will expire and begin to run again on September 14, 2020.

- The Ontario Environmental Review Tribunal and Local Planning Appeal Tribunal have announced that matters not suitable to be heard in writing or by video/teleconference will be rescheduled to a later date.
- Quebec has authorized the reopening of all economic activity sectors with the exception of vacation camps that provide accommodations.
- The Centre de contrôle environnemental du Québec will be resuming its monitoring and inspection activities including in-person site visits.
- The Quebec Ministre de l'Environnement et de la Lutte contre les changements climatiques will be automatically extending the expiration of certain permits and certificates for the sale and use of pesticides.
- The Quebec Ministre de l'Environnement et de la Lutte contre les changements climatiques' suspension of phase 2 of the ClimatSol-Plus Program appears to have resumed.
- The previous suspension of filing deadlines for adjudicative applications to the Nova Scotia Aquaculture Review Board under the *Aquaculture Licence and Lease Regulation* appears to have resumed.

For up to the minute updates on federal and provincial orders, directions and statements arising from the COVID-19 crisis as they relate to environmental regulation, including exceptions and modifications, please contact us directly.

A. Compliance with Environmental Laws

Subject to the exceptions discussed below, statutory environmental obligations on individuals and companies remain in effect and regulatory bodies continue to exercise their authority to inspect, investigate and issue orders as well as to prosecute parties for failure to comply. Accordingly, any assessment, reporting, investigation, remediation, risk management and clean-up requirements in relation to contaminants, waste and spills remain in full force and effect and all due diligence and compliance activities normally undertaken should be maintained.

a. Environmental Approvals

Where a party, facility or property has been issued an approval, permit or license by an environmental regulatory body ("**Environmental Approval**") including in relation to emissions, waste management and the storage, use, handling, treatment and disposal of contaminants, the holder of the Environmental Approval must continue to comply with its terms.

That said, the ability of Environmental Approval holders to comply with those requirements may be impacted by recent federal and provincial orders and directions relating to specific occupational health and safety obligations intended to limit the spread of COVID-19 or simply preventing specific activities and industries from

carrying on operations (i.e. having been deemed non-essential). For more information on current essential designations across Canada, please click [here](#).

For example, compliance with the terms of an Environmental Approval may become challenging as a result of social distancing requirements and reduced supply availability leading to facilities being short-staffed or unable to carry out normal operations. Businesses are encouraged to look for alternative ways of ensuring compliance such as setting up temporary staffing protocols. For more information on COVID-19 occupational health and safety requirements and issues, please click [here](#) and [here](#).

In instances where it may be difficult or impossible to comply with the terms of an Environmental Approval, discussions with the regulatory body should be initiated immediately. We would expect regulators to be willing to become involved in how best to address particular challenges at issue which should decrease the likelihood of a regulatory order being issued or charges laid.

b. Environmental Due Diligence

We continue to recommend implementing the following best practices with respect to due diligence:

- Identify qualified individuals at your facility tasked with specifically managing environmental compliance during the COVID-19 crisis.
- Continue to monitor any regulatory changes or notices that may apply to your facility, operations and property.
- Identify any potential compliance issues that may arise or have already arisen as a result of the crisis and implement proactive measures to address or prevent them including updating staffing protocols to address social distancing and safety requirements, engaging alternative suppliers and making alternative arrangements with third party consultants and agents whose normal services may also be impacted by the circumstances.
- Ensure that employees assigned to temporary roles as a result of changes to staffing protocols or duties are properly trained.
- Make sure you keep detailed records of modifications made as a result of COVID-19 orders and directions, including any temporary procedures, policies and guidelines.
- Establish a special purpose Environmental Management System (“**EMS**”) in the form of a comprehensive system ensuring environmental compliance and preventing the commission of environmental offences. An EMS will include the appointment of specific individuals to manage environmental compliance at the facility and train and supervise employees as well as a system of communication between these individuals and the board of directors regarding the operation of the EMS and any non-compliance events, among other things. The EMS should take into account extreme health, economic, political and

environmental events (often referred to as “acts of God” or included in “force majeure” clauses).

- Existing EMS’s should be reviewed and updated as necessary to ensure they incorporate the operational challenges faced in the context of an “act of God” or “force majeure” event. Alternatively, a stand-alone “extreme event, pandemic or public health emergency” plan may be developed which addresses and modifies as necessary any obligations under the existing EMS.
- Most jurisdictions have deemed environmental and waste management, monitoring, remediation and spill response services provided by environmental consultants as essential. However, the current essential services list for a particular jurisdiction should be assessed on a case-by-case basis to ensure there are no direct impacts on ordinary course environmental due diligence or on required environmental due diligence in the context of transactions.
- Where compliance with any material environmental requirement may not be possible, begin discussions with the regulator immediately.

B. Enforcement Challenges

As noted, in the absence of an explicit indication to the contrary, failure to comply with any environmental law, including any term of an Environmental Approval, involves a risk of enforcement action.

Normally, enforcement actions are preceded by inspections and investigations often involving in-person attendances at a facility for evidence gathering and face-to-face interviews. COVID-19 requirements may temporarily hinder provincial officers from carrying out these activities due to social distancing requirements, travel restrictions and limited availability of protective equipment. In addition, many businesses are temporarily closed down or operating at modified capacity so physical access to premises is further limited and arrangements may need to be made for provincial officers to gain access to these sites.

Even when sufficient information is gathered to complete the investigation, the ability of the regulator to pursue the prosecution through the court system will depend on the forum and the urgency of the matter as most courts are currently only hearing urgent matters including proceedings aimed at preventing serious or irreparable harm to a person, property or the environment. Information on changes to court operations and civil procedures is available on the court website for each jurisdiction.

While we expect that regulator response to environmental emergencies such as spill events will remain a priority, regular non-urgent inspection and investigation activities may be reduced during or postponed until after the period of the pandemic. As a result, there may be renewed enforcement efforts once the crisis has ended. However, in the absence of any statements to the contrary by regulators, and subject to the exceptions noted, companies and individuals should conduct themselves on the basis that inspections and investigations will remain active.

C. Exceptions and Modifications to Environmental Compliance Obligations

Please refer to the Appendix to this Bulletin below for a summary of all exceptions and modifications to environmental compliance arising from COVID-19 federal and provincial orders, directions and statements as they relate to environmental regulation.

IN CLOSING

Whether any company (or its directors or officers) will be granted relief from environmental liabilities should not be assumed even though these are extraordinary times. The answer will ultimately depend on the application of long-standing legal principles as well as on the discretion of regulators.

Concepts such as due diligence, officially induced error, regulatory and prosecutorial discretion and evidentiary issues all in various ways affect environmental liabilities. The key question remains how such concepts are being applied in the COVID-19 era. There is limited useful experience to guide us in this situation and so obtaining legal advice remains of central importance.

What remains the case is that the circumstances to which these principles and concepts are being applied are unprecedented. This makes prudence and enlightened due diligence the core principles to be followed by companies and their officers and directors. How companies respond and act in these circumstances will have important implications not just for immediate environmental liabilities but for longer term CSR and ESG responsibilities as well.

APPENDIX: EXCEPTIONS AND MODIFICATIONS TO ENVIRONMENTAL COMPLIANCE OBLIGATIONS FOR EACH FEDERAL AND PROVINCIAL JURISDICTION

This Appendix provides a summary of all exceptions and modifications to environmental compliance arising from COVID-19 federal and provincial orders, directions and statements as they relate to environmental regulation as of the effective date of this Bulletin. Click on the links below to jump to a particular jurisdiction.

[Federal](#)

[British Columbia](#)

[Alberta](#)

[Saskatchewan](#)

[Manitoba](#)

[Ontario](#)

[Quebec](#)

[Newfoundland & Labrador](#)

[New Brunswick](#)

[Nova Scotia](#)

[Prince Edward Island](#)

[Yukon](#)

[Northwest Territories](#)

[Nunavut](#)

a. Federal

i. Transport Canada

The Ministry of Transportation (Transport Canada) has invoked section 31(2.1) of the Transportation of Dangerous Goods Act, 1992 (“**TDG Act**”)[1] allowing for the issuance of temporary certificates authorizing an activity to be carried on in a manner that does not comply with the TDG Act. As of this date, Transport Canada has authorized the issuance of seven types of temporary certificates which came into effect between March 27 and July 10, 2020 and will remain effective until the earliest of September 30, 2020 or the day they are cancelled in writing by the Minister of Transport.

In addition, Transport Canada has published specific requirements for transporting COVID-19 cultures, samples and waste.[2]

The following temporary certificates are currently in effect in Canada:

Temporary Certificate No. TU 0750 – Providing certain exceptions to training certificate requirements under the Transportation of Dangerous Goods Regulation[3] (“TDG Regulations”).[4]

Temporary Certificate No. TU 0751 – Providing exceptions to the standardized means of containment prescribed under Part 5 of the TDG Regulations.[5]

Temporary Certificate No. TU 0752 – Authorizing the handling, offering for transport or transport of hand sanitizer in specific situations in a manner that does not comply with Parts 3, 4, 5 and 8 of the TDG Regulations.

Temporary Certificate No. TU 0753 – Authorizing Canada Post to handle, offer for transport or transport hand sanitizer by air to remote communities within Canada in a manner that does not comply with the TDG Regulations.[6]

Temporary Certificate No. TU 0754 – Providing exemptions to air carriers to handle, offer for transport or transport hand sanitizer from certain requirements under the TDG Regulations.[\[7\]](#)

Temporary certificate No. TU 0764 – Authorizing certain exceptions to the requirements for handling, offering for transport, or transportation of COVID-19 samples and laboratory results under the TDG Regulations in order for Canadian health care workers to analyse COVID-19 test results without delay.[\[8\]](#)

ii. Fisheries and Oceans Canada

The Ministry of Fisheries, Oceans and the Canadian Coast Guard (Fisheries and Oceans Canada) has confirmed all of its critical functions remain operational, including licensing, catch certification, monitoring and enforcement.[\[9\]](#) While travel and in-person meetings have been restricted as a result of COVID-19, the Ministry staff remain on the job and are reachable by phone or email and retain the capacity to respond to incidents on the water as they occur.[\[10\]](#) In particular, the Ministry will continue to process requests for Fisheries Act[\[11\]](#) authorizations, as well as requests to amend, suspend or cancel existing authorizations.[\[12\]](#)

Note that Fisheries and Oceans Canada has issued a Fisheries Management Order requiring that all authorized fishing activities under the Fisheries Act be carried out, on a temporary basis, without any at-sea observer coverage onboard fishing vessels, unless specific requirements under the Order are met.[\[13\]](#)

Fisheries and Oceans Canada has advised that it is engaging with the fishing industry on issues pertaining to the management of the commercial fishery to ensure an efficient response to market signals. Industry-led proposals for delays in opening and closing times are being assessed on a case-by-case basis.[\[14\]](#) For recent Fisheries and Oceans Canada decisions on this issue, [click here](#).

Most recently, Fisheries and Oceans Canada issued a Notice to remind fishers to keep a physical distance between each other and asked fishers to respect the instructions of their local harbour authority to protect the health and safety of themselves and harbour users.[\[15\]](#)

iii. Changes to publication and filing deadlines

The following changes have been made to publication and filing deadlines under federal legislation:

The National Pollutant Release Inventory (NPRI) amended the deadline for the annual 2019 reporting requirement from June 1, 2020 to July 31, 2020 for owners and operators of facilities meeting the requirements under to the Canadian Environmental Protection Act, 1999.[\[16\]](#)

The Forward Regulatory Plan for the years 2020-2022 of Environment and Climate Change Canada (“ECCC”) which is usually published every year by April 1, is delayed to take into account the regulatory initiatives related to COVID-19 so the Forward Regulatory Plan can be adjusted accordingly.[\[17\]](#)

The Canadian Aquatic Biomonitoring Network Training (CABIN), both online and field, is suspended by the

ECCC and the Canadian Rivers Institute for the year 2020.^[18]

The ECCC has extended the reporting deadline under the Greenhouse Gas Reporting Program (GHGRP) from June 1 to July 31, 2020 for the 2019 calendar year.^[19]

The ECCC has extended the deadlines for the 2019 compliance period for the Output-Based Pricing System (OBPS) under the Greenhouse Gas Pollution Pricing Act^[20] as follows: (a) the submission date for annual reports and associated verification reports has been extended from June 1, 2020 to October 1, 2020; (b) the regular-rate compensation deadline has been extended from December 15, 2020 to April 15, 2021; and (c) the increased-rate compensation deadline has been extended from February 15, 2021 to June 15, 2021.^[21]

b. British Columbia

i. Open Burning Restrictions

The MECCS' April 16, 2020 prohibition on most open burning (fire)^[22] activities throughout British Columbia has been lifted.^[23] Responsible open burning is now allowed in the majority of the province, but specific restrictions may still apply at the local level.^[24]

ii. Environmental Appeal Board

On March 27, 2020, the Environmental Appeal Board (and the related Forest Appeals Commission and the Oil and Gas Commission) ("**EAB**") issued a statement concerning disruptions to the Tribunals' functions.^[25] The EAB hears appeals from certain decisions made by government officials related to environmental issues under the *Environmental Management Act*,^[26] including water licenses, contaminated site remediation orders, pesticide permits and the cancellation of hunting licenses. While its operations are not suspended, the EAB will be focusing on "critical matters" and the Minister of Public Safety has suspended all mandatory timeframes for filing appeals including in relation to the EAB.^[27]

On July 23, 2020, the EAB issued an updated statement concerning the Tribunal's functions due to COVID-19. Given the easing of emergency restrictions in BC, the Tribunal will cease to automatically extend the statutory due date for any legislated timeframes for decisions. As of July 27, 2020, the timeframe for filing an appeal will no longer be automatically extended. However, parties may apply for an extension after that date on a case-by-case basis.^[28]

iii. Ministry Enforcement

The Ministry of Environment and Climate Change Strategy ("**MECCS**") has confirmed that its Regional Operations Branch, which deals with enforcement, has staffing resources in place to maintain all core business functions. However, the MECCS will be prioritizing responses to any events or notifications which have the potential to impact human health, the environment or relate to the maintenance of essential services.^[29]

iv. Environmental Authorizations Compliance

The MECCS has confirmed that environmental authorization requirements remain in effect and it is expected that all reasonable measures be taken to comply. However, the MECCS has encouraged authorization holders who are unable to meet authorization requirements due to orders, directives or guidance issued by the province related to COVID-19 to notify the MECCS identifying the compliance issues, the rationale clearly stating how the compliance issues are related to COVID-19 and the mitigation measures being taken.[\[30\]](#)

The MECCS has advised that it will take into consideration the above noted provincial orders in addressing these non-compliances.[\[31\]](#) While it has not advised how it intends to address these issues, the MECCS' direction to contact them in this circumstance indicates that it may allow some flexibility with the subject authorization holder's compliance requirements and determine appropriate temporary compliance measures.

v. Oil and Gas Commission

The BC Oil and Gas Commission has issued guidance on its operations during the pandemic. While its offices are closed, meetings continue to be held by phone and the Commission is continuing to actively review and make decisions on applications, and anticipating little to no change with regards to timelines for some application types.

The Commission has indicated that greater flexibility in timelines may be a consideration for those applications that require consultation and engagement with other parties; however, this will be determined on an application-by-application basis.[\[32\]](#)

vi. Environmental Consultants

The BC government has confirmed that businesses that support environmental management/monitoring and spill clean-up and response, including environmental consulting firms and professional engineers and geoscientists are considered essential services.[\[33\]](#)

c. Alberta

i. Reporting Requirements

Below are updates on the Ministerial Orders issued in relation to reporting requirements:

- **Ministerial Order 15/2020** issued on March 30, 2020 which extended certain deadlines under the Technology Innovation and Emissions Reduction Regulation (TIERR) expired on June 30, 2020. Regulated facilities had until June 30, 2020 to submit 2019 compliance reports and emissions reduction plan reports.[\[34\]](#)

- **Ministerial Order 16/2020** issued on March 30, 2020 which suspended certain reporting requirements under the Renewable Fuels Standard Regulation expired on June 30, 2020. Fuel suppliers, approved contributors and renewable fuel providers had to submit reports for the 2019 compliance period by June 30, 2020.[\[35\]](#)
- **Ministerial Order 17/2020** issued on March 31, 2020 which provided for amendments to the reporting requirements under the Environmental Protection and Enhancement Act (“EPEA”),[\[36\]](#) the *Water Act*[\[37\]](#) and the *Public Lands Act* (“PLA”) [\[38\]](#) and permitted industrial operations and airsheds to deviate from select Air Monitoring Directives was repealed and replaced by Ministerial Order 32/2020.[\[39\]](#)
- Ministerial Order 32/2020 provides for the reporting requirements affected by Ministerial Order 17/2020 to resume to the normal course on July 15, 2020.
- Ministerial Order 219/2020 which suspended certain reporting requirements under the *Coal Conservation Act*,[\[40\]](#) *Oil and Gas Conservation Act*[\[41\]](#) and *Oil Sands Conservation Act*[\[42\]](#) was repealed and replaced by Ministerial Order 328/2020.[\[43\]](#) Ministerial Order 328/2020 provides for the reporting requirements affected by Ministerial Order 219/2020 to resume to the normal course on July 15, 2020.
- Ministerial Order 026/2020 provides relief under section 97.6 of the *Timber Management Regulation*[\[44\]](#) such that holding and protection charges for the year from May 1, 2020 to April 30, 2021 are now payable on or before November 1, 2020.[\[45\]](#)
- The Alberta Energy Regulator (“**AER**”) issued two decisions suspending certain reporting and monitoring requirements for in situ oil sand project operators and conventional oil and gas production under the *EPEA*[\[46\]](#), the *Water Act*[\[47\]](#) and the *PLA*[\[48\]](#). However, both of the decisions were amended to expire effective as of July 15, 2020, and consequently, all normal requirements have now resumed. [\[49\]](#)

ii. Public Lands Access

Ministerial Orders 18/2020[\[50\]](#) and Ministerial Order 20/2020[\[51\]](#) issued on March 27 and 30, 2020, respectively, prohibit certain access to and uses on the province's public lands. These Orders remain in effect until further notice. There are a number of exceptions, being that individuals with affirmed Part II rights under *The Constitution Act, 1982*[\[52\]](#) or under section 12 of the *Natural Resources Transfer Agreement*[\[53\]](#) are still permitted to exercise their rights as are persons who are accessing the lands for the purpose of exercising their rights pursuant to a registered fur management agreement under the *Wildlife Act*[\[54\]](#) or a disposition under the *PLA* or a timber disposition under the *Forests Act*.[\[55\]](#)

iii. Provincial Offences Enforcement

The Alberta Minister of Justice and Solicitor General issued Ministerial Order 27/2020[\[56\]](#) suspending limitation

periods and periods of time within which any step must be taken from March 17 to June 1, 2020, with the exception of proceedings under the *Provincial Offences Procedure Act* [\[57\]](#). The Order has not been extended or amended, meaning that regular limitation periods and periods of time for which any step must be taken have now resumed.

Alberta generally seems to be taking an empathetic approach to interrupted business operations and staffing concerns, so we would expect that enforcement activities will be less strict unless public health and safety are at risk, non-compliance is not related to COVID-19, or there has been intentional violations. For example, the Alberta Utilities Commission (“**AUC**”) has paused the enforcement of specified penalties of utility billing infractions to allow the utilities to focus on the delivery and maintenance of services. [\[58\]](#)

iv. Alberta Environmental Tribunals

Regulatory tribunals and boards have not taken a consistent approach to changing their operations. However, generally all offices have been closed to the public but are still accepting deliveries of mail and materials. In addition, all public consultations, information sessions, and other live gatherings have seemingly been suspended to comply with the provinces’ respective mass gathering prohibitions. To the extent that regulatory proceedings can be continued remotely or there is a critical, economic or safety event requiring the matter to proceed, various boards and tribunals are attempting to make appropriate arrangements, albeit sometimes by untraditional methods.

The AER, Surface Rights Board and Land Compensation Board and the AUC have issued guidance on their current operations and hearing procedures. As of the date of writing, the Alberta Environmental Appeals Board and Alberta Public Lands Appeal Board have not issued any guidance on changes to their operations.

v. Environmental Consultants

Alberta’s government published a list of essential services which allowed for businesses and services on the list to operate so long as proper risk mitigation measures are in place. [\[59\]](#) The list of essential services includes “environmental emergency response and regulatory enforcement”, “construction work and services that support health and safety and environmental rehabilitation projects” and “environmental services for agriculture, mining, oil and gas”. [\[60\]](#) That being said, as the province re-opens under Stage 2, those environmental businesses or businesses providing environmental support services whom did not previously fall under the definition of essential services are allowed to resume operations so long as risk mitigation measures are in place.

vi. Business Continuity Planning

The Alberta government has issued business continuity planning guidelines for certain sectors operating

during the pandemic. These include the following:

- COVID-19 Pandemic Planning for the Waste Sector: Business Continuity Planning for Waste Management Facilities;[\[61\]](#)
- COVID-19 Pandemic Planning for the Water and Wastewater Sector: Business Continuity Planning for Water & Wastewater Systems;[\[62\]](#)
- COVID-19 Guidance for Wastewater Workers;[\[63\]](#) and
- COVID-19 Waste Management: Information on Managing Waste Potentially Contaminated by COVID-19.[\[64\]](#)

The Alberta government has also modified various certification and recertification requirements for Alberta pesticide applicators and water and wastewater operators during the duration of the pandemic.[\[65\]](#)

d. Saskatchewan

i. Temporary Enforcement Policy during the COVID-19 Pandemic

The Ministry of Environment had issued the *Temporary Enforcement Policy during the COVID-19 Pandemic* (the “**Temporary Enforcement Policy**”)[\[66\]](#) to provide enforcement discretion for environmental regulations at all industrial and municipal operations regulated by the Ministry. The policy has been rescinded effective as of August 31, 2020, and consequently, all usual regulatory requirements have now resumed.[\[67\]](#)

This includes those requirements relating to the *Environmental Management and Protection Act, 2010*,[\[68\]](#) the *Environmental Assessment Act*,[\[69\]](#) the waste stewardship regulations,[\[70\]](#) the *Wildlife Act*,[\[71\]](#) the *Provincial Lands Act*,[\[72\]](#) and *The Crown Resource Land Regulations, 2019*,[\[73\]](#) the *Conservation Easements Act*,[\[74\]](#) the *Management and Reduction of Greenhouse Gases Act*[\[75\]](#) and the *Saskatchewan Environmental Code*,[\[76\]](#) together with related regulations.

As a reminder, the Temporary Enforcement Policy included some notable conditions such as a requirement to provide documentation of the nature and circumstances of the non-compliance and reporting, mitigation and record-keeping obligations where compliance was not reasonably practicable as proponents may be later audited by the Ministry.

ii. Temporary Regulatory Relief Measures During the COVID-19 Pandemic

The Ministry of Energy and Resources had issued the *Temporary Regulatory Relief Measures* (“**Temporary Regulatory Relief Measures**”)[\[77\]](#) to provide enforcement discretion for oil and gas regulations on all oil and gas wells, facilities and pipelines regulated by the Ministry. A number of measures have been rescinded effective as of September 1, 2020, and consequently, most usual regulatory requirements have now

resumed.^[78]

The obligations covered under the measures include those relating to *The Oil and Gas Conservation Act*,^[79] *The Oil and Gas Conservation Regulations, 2012*,^[80] *The Oil and Gas Emissions Management Regulations*,^[81] *The Pipelines Act, 1998*,^[82] *The Pipelines Administration and Licensing Regulations*,^[83] together with all related Directives.

The notable measures that have been rescinded are set out below:

- a. The suspension of penalties associated with reporting non-compliance has ceased. Businesses are granted a two-month grace period from applicable penalties to allow them to become compliant, after which time any outstanding obligations will be invoiced back to the original due date.
- b. Well, facility and pipeline operators are now required to comply with test/measurement requirements, field regulatory monitoring programs, and well, facility and pipeline inspections and audits. The Ministry has returned to normal practices regarding the setting of timelines for the completion of inspection items and requests to operators related to annual reporting requirements.
- c. Leak Detection and Repair (LDAR) surveys and well and facility equipment installations and other field work under *Directive PNG036: Venting and Flaring Requirements* should resume.
- d. All low risk regulatory inspections and field regulatory monitoring programs and associated reporting requirements should resume in the usual course.

The following relief measures will remain in place:

- a. The Ministry has extended the full compliance implementation date for *Directive PNG017: Measurement Requirements for Oil and Gas Operations Implementation* and *Directive PNG076: Enhanced Production Audit Program* until April 1, 2021.
- b. Annulus tests for low and medium risk wells will remain exempt until December 31, 2020 but will be required to resume again starting January 1, 2021.
- c. Licensee Liability Rating Program (LLR) invoices will continue to be issued, but enforcement of outstanding payments will be deferred.
- d. Expiry dates for authorizations, deadlines for annual project reporting, and timeline requirements for the reclamation of newly drilled leases and non-critical remediation and reclamation work (where there is no imminent risk), that were not yet expired as of March 1, 2020 are automatically extended to December 31, 2021.

iii. Regulatory Relief Measure for Oil and Gas Dispositions

The Ministry of Energy and Resources has also issued the Regulatory Relief Measure for Oil and Gas

Dispositions to provide relief for oil and gas dispositions.^[84] The measures apply retroactively to March 31, 2020 for all dispositions issued under *The Oil and Gas Tenure Registry Regulations*.^[85]

Under the relief, all Crown petroleum and natural gas leases in whole or in part expiring on March 31, 2020 will continue to March 31, 2021. In addition, extensions will be made for exploration licences and permits and leases of spaces active on March 31, 2020, including extensions for reporting permit expenditure estimates and actuals, completion of exploration and drilling programs, creating facilities and continued operations for lease of spaces agreements, and grouping terms. ^[86]

iv. Relief Measures for Mining Sector

Lastly, the Ministry of Energy and Resources has announced amendments to *The Mineral Tenure Registry Regulations*^[87] to grant relief to the mining sector.^[88] The measures provide mining companies with more time to raise capital and to access mine sites to carry out exploration activities, work programs, and engagement with impacted stakeholders and First Nations.

The following amendments have been implemented:

- a. Waiver of expenditure requirements for the current term and subsequent 12 months for mineral claims and leases that were active on March 18, 2020;
- b. Allowance for expenditures incurred during the relief period to be applied toward expenditure requirements under the regulations; and
- c. Allowance for the holder to meet requirements for refund of deficiency deposits after the relief period has ended.

Notably these amendments apply to exploration programs for all Crown minerals.

v. Saskatchewan Environmental Tribunals

Regulatory tribunals and boards have not taken a consistent approach to changing their operations. However, generally all offices have been closed to the public but are still accepting deliveries of mail and materials. In addition, all public consultations, information sessions, and other live gatherings have seemingly been suspended to comply with the provinces' respective mass gathering prohibitions, but we understand efforts are being made to re-schedule where appropriate. To the extent that regulatory proceedings can be continued remotely, or there is critical, economic or safety event requiring the matter to proceed, we understand that the provinces' various boards and tribunals are attempting to make appropriate arrangements.

As of the date of writing, the Public and Private Rights Board and Surface Rights Board of Arbitration have not issued any guidance on the impacts of the pandemic on its operations.

vi. Environmental Consultants

The government has published a list of critical public services and allowable business services that can continue to operate in accordance with social distancing practices.^[89] The list includes "hazardous material responders from government and the private sector", inspection services, services provided to the mining, forestry, energy, agriculture and manufacturing sector, and businesses and services that are engaged in or that support the movement of essential goods and supply chains and the operation, maintenance and repair of critical infrastructure.^[90]

As a result, the services provided by environmental consulting firms and professional engineers and geoscientists are considered an essential service in Saskatchewan provided that services are in support of the industries listed above or are otherwise supporting critical infrastructure or the movement of essential supply chains. That being said, as the province re-opens under Phase 4, those environmental businesses or businesses providing environmental support services whom did not previously fall under the definition of essential services will be allowed to resume operations so long as risk mitigation measures are in place.

e. Manitoba

As of the time of writing, Manitoba has not issued any Ministerial Orders or other directives specifically addressing environmental matters in relation to COVID-19.

However, in an order dated April 13, 2020, the Minister of Health, Seniors and Active Living pursuant to the *Public Health Act* confirmed that businesses that support environmental management or monitoring services or that provide environmental clean-up and response services are critical services and may remain open.^[91]

The government has also announced that it is investing \$33 million, an additional 10% top up than what was already committed, in damage prevention and climate resiliency projects to support municipalities across the province through the pandemic.^[92]

i. Manitoba Hydro

Manitoba Hydro has asked the province to relax some environmental requirements during the COVID-19 pandemic, particularly with respect to requirements under environmental licensing for certain low-risk elements of projects. The province has confirmed that it is considering the request.^[93]

ii. Burning Permits

As a wildfire prevention measure, all provincial burn permits issued under The Wildfires Act within the burning permit area were suspended and no other permits were issued. This change was implemented to protect front-line firefighters and support staff during the pandemic and to ensure they remain healthy and available

to respond to wildfires during the upcoming season. As of the date of this publication, fire restrictions remain in certain regions of the province.^[94]

f. Ontario

On September 14, 2020, the order under the Emergency Management and Civil Protection Act suspending limitation periods and other timelines in the Province will expire. The Attorney General of Ontario has confirmed that the order will not be extended. As a result, as of September 14, 2020, limitation periods and other timelines, such as filing deadlines, will begin to run again.^[95] This will impact environmental litigation as well as matters before tribunals and other administrative bodies, such as the Environmental Review Tribunal (“**ERT**”).

i. Environmental Review Tribunal

In a statement updated on August 21, 2020, the ERT confirmed that it will continue to receive and process new appeals and applications. The ERT continues to hold hearings, mediations, and case conferences by videoconference, teleconference, or in writing; however, some matters not suitable to be heard using these methods may have to be rescheduled to later dates.^[96]

On July 1, 2020, the ERT amalgamated under the Ontario Land Tribunals with the Local Planning Appeal Tribunal, Board of Negotiation, Conservation Review Board and the Mining and Lands Tribunal. The Ontario Land Tribunals will adjudicate and mediate matters related to land use planning, environmental and heritage protection, expropriated land valuation, mining and other matters.^[97]

ii. Local Planning Appeal Tribunal

As of August 21, 2020, the Local Planning Appeal Tribunal (“**LPAT**”) continues to hold hearings, mediations, and case conferences by videoconference, teleconference, or in writing; however, some matters not suitable to be heard using these methods may have to be rescheduled to later dates.^[98] All front-line counter services remain closed and most documents may be filed electronically.^[99]

iii. Conservation Authorities

On March 26, 2020, the Ministry of Environment, Conservation and Parks (“**MECP**”) issued a Minister’s Direction providing conservation authorities within Ontario the authority to amend their by-laws to allow for virtual meetings and hearings, including by teleconference.^[100] Information regarding changes to hearing procedures related to COVID-19 can be obtained from individual conservation authorities within the province.

As restrictions begin to ease in Ontario, many conservation authorities are reopening lands and services at their own discretion. Information regarding a particular conservation authority can be obtained from the authority’s

website.

iv. Environmental Bill of Rights

In April 2020, the MECP temporarily exempted government ministries from the minimum 30-day consultation requirement to post pandemic-related proposals for acts, regulations, policies and instruments to the Environmental Registry. This temporary measure exempted proposals for policies, acts, regulations and instruments from Part II of the *Environmental Bill of Rights, 1993* and removed the requirement to consider the Statements of Environment Values so that it could expedite decision-making and implementation of measures to respond to the emergency.

These temporary measures were revoked on June 15, 2020, reinstating the full protections of the Environmental Bill of Rights.[\[101\]](#)

v. Environmental Consultants

The Ontario government has confirmed that businesses that provide or support the delivery of environmental rehabilitation, management and monitoring, as well as spill clean up and response services are considered essential services.[\[102\]](#)

On May 14, 2020, the Ontario government announced that additional businesses could reopen starting May 19, 2020, including construction sites and construction related services not already allowed to operate as well as professional services related to environmental research and development.[\[103\]](#) As the Province is now in Phase 3 with lessened restrictions on businesses, it is anticipated that environmental consultants are likely to expand their services..

vi. The Ministry of Environment, Conservation and Parks

It is expected that the MECP will recognize the impact the pandemic has had on the regulated community and will be committed to finding practical solutions that support critical operations while ensuring the ongoing protection of the environment and human health during this time. We are aware that the Ministry has received some requests for temporary regulatory relief from members of the regulated community who are facing disruption to their regular business as a result of COVID-19. The MECP is working to assess these requests and is responding on a case-by-case basis.

vii. Changes to reporting and filing deadlines

As noted above, Ontario has suspended all limitation periods under any provincial statute, regulation or by-law until September 14, 2020 as part of the *Emergency Management and Civil Protection Act*[\[104\]](#) enacted on March 20, 2020, which includes any provincial environmental offences. While this suspension will impact the

timing for the laying of charges arising from an environmental non-compliance event, this does not impact general compliance obligations or provincial officers' inspection and investigation powers. This temporary emergency legislation and orders also extends to the suspension of limitation periods and filing deadlines in civil, family and certain criminal proceedings.

The following changes have been made to reporting and filing deadlines under Ontario legislation:

- **Ministry of Energy, Northern Development and Mines** – On April 17, 2020, the Ministry issued an update under the *Mining Act* providing that claim holders with claim anniversary dates on or before March 31, 2020, will be granted an exclusion of time order by making a brief request via email. There will be no cost for COVID-19 related exclusion requests and the exclusion of time orders will set aside the requirement to carry out assessment work for up to 12 months.[\[105\]](#)
- **Greenhouse Gas Emissions: Quantification, Reporting and Verification Regulation** – Ontario has amended the *Greenhouse Gas Emissions: Quantification, Reporting and Verification* regulation to allow the Director of the MECP to provide temporary relief for large emitters by extending the administrative greenhouse gas emissions reporting and verification requirements.[\[106\]](#) The Director has extended timelines as follows:
 - Emissions reports for 2019 emissions, except production parameters, are now due on July 31, 2020;
 - Production parameter information for 2019 (paragraph 6 of Schedule 5) is now due on October 1, 2020; and
 - Verification reports and statements for 2019 emissions are now due on October 1, 2020.
- **Endangered Species** – The temporary approach for forestry operations under the *Endangered Species Act* has been extended for an additional year. This extension will maintain the current requirements and avoid additional regulatory burden and economic strain on the forestry sector while a long-term approach is finalized.[\[107\]](#)
- **Excess Soil Regime** – The implementation of phase 1 of Ontario's new Excess Soil Regime has been delayed from July 1, 2020 to January 1, 2021.[\[108\]](#) In the meantime, the Ministry's current waste regulatory framework will continue to apply.

viii. COVID-19 Economic Recovery Act

The Ontario government has passed the *COVID-19 Economic Recovery Act*, an omnibus bill that will change 20 pieces of current legislation that govern the province's schools, municipalities, and justice system and fast-tracks environmental assessments.[\[109\]](#)

The Bill, which received Royal Assent on July 21, 2020, amends the *Environmental Assessment Act* by:

- Changing which projects are subject to the Environmental Assessment Act, by creating a “designated projects” list;
- Introducing a “streamlined” environmental assessment process for class assessments, which allow a proponent to obtain an environmental approval for a class of related projects; and
- Introducing requirements that proponents of an undertaking to establish a landfill site obtain municipal support for their undertaking.

Prior to the amendments, the Act applied to enterprises and activities and proposals, plans and programs in respect of those enterprises and activities, both public and private, that were set out in section 3 and referred to in the Act as undertakings. The amendments remove references to undertakings from the Act and give the Lieutenant Governor in Council the power to make regulations designating enterprises and activities, and proposals, plans and programs in respect of enterprises and activities, as projects to which the Act applies. Environmental assessments will only be required for projects that are designated.

The proposed regulations to effect how these changes will be implemented have not yet been published. However, several environmental groups and First Nations have launched a challenge of the Province’s revisions to the *Environmental Assessment Act*.^[110]

g. Quebec

Following Quebec’s declaration of a state of health emergency, the Government ordered the closure of all non-priority businesses and services on March 23, 2020 and in the process issued a list of essential services and commercial activities. Quebec’s gradual resumption of economic activity began on May 4, 2020 and to date, economic activity in Quebec has almost returned to normal. In addition, since July 18, 2020, private-sector employers whose employees were working at home can have up to a maximum (not an objective) of 25% of their staff return to work.^[111]

i. Essential services and commercial activities

The majority of the essential services and authorized commercial activities by Quebec in the early stage of the pandemic were based on a determination as to their necessity, including protection of the environment and the health and safety of the public. Environmental consulting firms, professional engineers and geoscientists appeared to be essential services in only limited circumstances that likely did not extend to ordinary environmental due diligence.

As of August 18, 2020, Quebec has authorized the reopening of all economic activity sectors with the exception of vacation camps that provide accommodations. Private sector employers whose employees were working at home can have up to a maximum of 25% of their staff return to work if certain health measures are maintained.

However, teleworking is encouraged in the case of activities that can be carried out remotely.^[112]

ii. Exemptions for Ministerial Authorizations

On April 2, 2020, the Quebec Ministre de l'Environnement et de la Lutte contre les changements climatiques (the "MELCCC") exercised its authority under section 31.0.12 of the *Environment Quality Act* ("EQA")^[113] to introduce temporary exemptions for certain ministerial authorizations otherwise required to modify or convert a company's operations, upon request and approval by the MELCCC, relating to COVID-19 in the following two situations:^[114]

- a. Increase in production of a product the company already manufactured; and
- b. Temporary modification of usual activities in order to produce a new product. The modification or addition of activity includes equipment that can be modified or facilities that could be quickly reorganized to meet medical needs or to manufacture personal protective equipment such as gloves, masks, gowns, disinfectants, wipes, respirators and other medical equipment and supplies.^[115]

The temporary exemption is only valid for the duration of the health emergency. At the end of that period, temporary activities will be required to cease as soon as possible and regular activities must resume in accordance with any ministerial authorizations in force, if applicable.^[116]

iii. Ministry Operations and Enforcement

At the beginning of the pandemic, the Centre de contrôle environnemental du Québec ("CCEQ") had modified its operations in order to maintain social distancing and in consideration of current issues faced by impacted parties. Since the resumption of activities in Québec, CCEQ has indicated that it has increased its monitoring and inspection activities including in-person site visits, while complying with the current government directives in force.^[117]

Note that all environmental obligations remain in full effect in any situation which may impact the health and safety of the population or environment and any entities, private or public. However, the CCEQ has indicated that it will show understanding and flexibility in the event of compliance omissions with respect to various administrative obligations of companies whose activities have been affected by the restrictions implemented by the Quebec government in response to COVID-19.^[118]

The CCEQ has also indicated that enforcement measures under the EQA, such as notices of non-compliance, administrative monetary penalties or any other recourse will be limited and adapted to the specific situation at hand.^[119]

iv. Changes to reporting, certification and approvals procedures

The following changes have been made to reporting, certification and approvals procedures:

- **Mandatory reporting for issuers** – The MELCCC has extended the mandatory reporting deadline for reporting issuers to submit annual declarations and verification reports under the *Regulation respecting mandatory reporting of certain emissions of contaminants into the atmosphere* [\[120\]](#) from June 1, 2020 to July 31, 2020. [\[121\]](#)
- **Permits and certificates for the sale and use of pesticides** – The MELCCC has adapted certain steps leading to the issuance of certificates and permits for the sale and use of pesticides in relation to training, examinations and applications. Permits and certificates that are not temporary, that were not renewed before April 30, 2020, and are expiring between March 1 and September 1, 2020, will be automatically extended free of charge for 6 months. [\[122\]](#)
- **Adjustments to Environmental Approvals** – The MELCCC has confirmed that the process for applications for Ministerial environmental authorizations and statements of compliance will remain in effect with particular special features relating to submission of applications for Ministerial Environmental Approvals, filing declarations of compliance and financial compensation for damage to wetlands or water bodies. [\[123\]](#)
- **Authorization and request for reimbursement of the financial contribution paid for the damage to a wet or water environment** – The MELCCC published a Notice of cessation of activity or request for maintenance form for persons who were required to perform wetlands or water bodies works but who could not begin such work within the prescribed period. Reimbursement may be requested from the MELCCC for all or part of the financial contribution paid under the EQA if the authorized works have not yet begun or if the loss of surface area has been less than anticipated. [\[124\]](#)
- **Declaration of water withdrawals** – The MELCCC will show understanding regarding any delay in filing 2019 water withdrawal declarations by the March 31, 2020 deadline under the *Règlement sur la déclaration des prélèvements d'eau*. [\[125\]](#) However, the MELCCC has not indicated this is a suspension of the filing obligation. This understanding also applies to payment of water usage fees for the year 2019 which was postponed to September 1, 2020. No interest or penalty will be applied until further notice. [\[126\]](#)

v. Drinking Water Management

While regulatory water treatment requirements continue to apply, the MELCCC has adjusted its expectations in situations where COVID-19 affects personnel involved in drinking water production and distribution. Where monitoring of the quality of the drinking water cannot be performed or where it is necessary to adapt the monitoring performed, the situation should be documented and the appropriate regional office of the MELCCC contacted. Those responsible are also required to inform the appropriate regional office of the MELCCC and public health regional office of any notices issued regarding drinking water quality. Although the MELCCC will

exercise leniency with respect to certain administrative obligations, there will be strict compliance required with respect to monitoring of drinking water quality.^[127]

vi. Municipal Wastewater Management

The MELCCC has confirmed that municipalities in Quebec must ensure that: (i) wastewater collection and treatment is maintained, (ii) competent personnel are on hand, and (iii) effluent quality is monitored. In addition, the MELCCC has set out additional specific requirements for municipalities. The MELCCC has advised that it will exercise leniency concerning certain of obligations, but does not specify which ones. The MELCCC provides more information for municipalities on the Municipal wastewater treatment works monitoring system homepage^[128] and a published Guide to Developing a Specific Epidemic and Pandemic Plan for Municipalities^[129] to developing a specific epidemic and pandemic plan for municipalities.^[130]

vii. Suspension of Phase 2 of the ClimatSol-Plus Program

On May 11, 2020, the MELCCC had announced the suspension of phase 2 of the ClimatSol-Plus Program for an indefinite period of time (Phase 1 was completed on March 31, 2020). Although calls for projects were de facto suspended, some projects which were considered urgent and essential could be accepted. As the MELCCC's suspension notice has been removed from their website, it is presumed to have resumed.

viii. Tribunal Administratif

The Tribunal Administratif du Quebec, Territory and Environment Section, which hears applications contesting decisions made by a government department or agency or a municipality in relation to land protection, agricultural activities and environmental protection, has gradually resumed hearing and other activities in person starting on June 1, 2020. Since May 4, 2020, remote means (presumably phone or video conference) have been used for hearings and other meetings and such technological means remain privileged.^[131]

The suspension of time limits for filing a proceeding due to the declared health emergency were repealed by Order in Council 615-2020 dated June 10, 2020, except for the suspension of the time limits for applying for the renewal of a permit^[132].

h. Newfoundland & Labrador

The Department of Fisheries and Land Resources has extended the annual validation expiry date for all current existing aquaculture licences in Newfoundland and Labrador from March 31, 2020 to May 31, 2020.^[133]

As of the date of this Bulletin, Newfoundland and Labrador has not issued any Ministerial orders or other directives limiting services performed by environmental firms, engineers and geoscientists. However, employers and workplaces are required to comply with the health and safety guidance documents issued by

the Province.[\[134\]](#)

i. New Brunswick

As of the time of writing, New Brunswick has not issued any Ministerial Orders or other directives specifically addressing environmental matters in relation to COVID-19.

On June 19, 2020, the government of New Brunswick issued an updated order regarding business operations in the province. Businesses are generally allowed to resume operations as long as reasonable measures are put in place to protect against risks associated with COVID-19. While the order does not list businesses to which it applies, it appears to include all businesses, including environmental consultants and engineers.[\[135\]](#)

j. Nova Scotia

Nova Scotia has closed the Nova Scotia Aquaculture Review Board (“**NSARB**”) and suspended all hearings until further notice. In addition, approved aquaculture licensing and leasing option period expiry dates are suspended until further notice.[\[136\]](#) The previous suspension of referral of adjudicative applications to the NSARB under the *Aquaculture Licence and Lease Regulation* [\[137\]](#) expiry dates appears to have resumed.

As of the date of this Bulletin, Nova Scotia has not issued any Ministerial orders or other directives limiting services performed by environmental firms, engineers and geoscientists. However, employers and workplaces are required to comply with the health and safety protocols under the Health and Protection Order issued April 23, 2020.[\[138\]](#) As the province opens back up, the government continues to provide updates for businesses on COVID-19 restrictions.[\[139\]](#)

k. Prince Edward Island

As of the time of writing, Prince Edward Island has not issued any Ministerial Orders or other directives specifically addressing environmental matters in relation to COVID-19.

The Province has designated essential services, including professional services (including but not limited to, lawyers and paralegals, engineers, accountants - teleworking and working from home, where possible); provision of clean water; garbage, recycling and waste management collection; and construction services and projects (industrial, commercial, institutional and residential; only if issued a building permit).[\[140\]](#)

Given the above list of essential services, in particular the reference to engineers and other unlisted professional services, it is likely that services performed by environmental firms, engineers and geoscientists may continue in the Province.

On June 1, 2020, the province moved to Phase 3 of its re-opening plan. As in Phase 3, services such as

construction, maintenance and repair services, cleaning and restoration services and extermination and pest control may open if they were not already considered essential services.^[141] Further, larger gatherings are allowed to occur both inside and outside, depending on the activity. As a result, it is likely that environmental consultants working in these industries will be able to provide an expanded range of services. ^[142]

I. Yukon

As of the time of writing, Yukon has not issued any Ministerial Orders or other directives specifically addressing environmental matters in relation to COVID-19. The offices of the Department of Environment are currently open although operating at limited capacity.

m. Northwest Territories

As of the time of writing, the Northwest Territories have not issued any Ministerial Orders or other directives specifically addressing environmental matters in relation to COVID-19. However, the government has confirmed that compliance with relevant authorizations, legislation and management and monitoring plans is still required during the COVID-19 pandemic.^[143]

n. Nunavut

As of the time of writing, Nunavut has not issued any Ministerial Orders or other directives specifically addressing environmental matters in relation to COVID-19.

For up to the minute updates on these topics, please contact us for more information.

by Ralph Cuervo-Lorens, Talia Gordner, Candice Hévin, Julia Loney and Holly Sherlock

[1] SC 1992, c 34.

[2] Government of Canada, "[COVID-19: Requirements for safe transportation of infectious substances \(Class 6.2\)](#)", (last modified 7 April 2020).

[3] SOR/2001-286.

[4] Transports Canada, "[Temporary Certificate Pursuant to Subsection 31\(2.1\) of the Transportation of Dangerous Goods Act, 1992: Certificate Number: TU 0750](#)", (27 March 2020).

[5] Transports Canada, "[Temporary Certificate Pursuant to Subsection 31\(2.1\) of the Transportation of Dangerous Goods Act, 1992: Certificate Number: TU 0751](#)", (27 March 2020).

[6] Ibid.

[7] Ibid.

[8] Ibid.

[9] Fisheries and Oceans Canada, “[COVID-19 – Information for industry and partners](#)”, (last modified 4 April 2020), [[Information for industry and partners](#)]; See also Minister’s Joint Statement with counterpart Ministers in Quebec, New Brunswick, Newfoundland and Labrador, Nova Scotia, and Prince Edward Island, Government of Canada, “[Joint statement on ongoing collaboration of federal-provincial ministers related to COVID-19 impacts](#)”, (27 March 2020).

[10] Information for industry and partners, supra note 25.

[11] RSC 1985, c F-14.

[12] Information for industry and partners, supra note 25.

[13] Fisheries and Oceans Canada, “[Notice to Fish Harvesters](#)”, (3 April 2020) and “[Fisheries Management Order regarding At-Sea Observers on board fishing vessels](#)”, (date modified, 15 May 2020).

[14] Supra note 25.

[15] Fisheries and Oceans Canada, “[Reminder to respect physical distancing measures FN0432](#)”.

[16] Environment and natural resources Canada, “[Deadlines and most recent changes: National Pollutant Release Inventory](#)”, (last modified 24 April 2020).

[17] Environment and Climate Change Canada, “[Forward Regulatory Plan 2020-2022](#)”, (last modified 1 May 2020).

[18] Environment and Climate Change Canada, “[Aquatic biomonitoring network news and events](#)”, (last modified 12 May 2020).

[19] Department of the Environment, Notice amending the [Notice with respect to the reporting of greenhouse gases \(GHGs\) for 2019](#), Canada Gazette, Part I, Vol 154, Number 18 (2 May 2020).

[20] [Greenhouse Gas Pollution Pricing Act](#), SC 2018, c 12, s 186.

[21] Government of Canada, “[Output-Based Pricing System](#)” (9 September 2020); [Output-Based Pricing Systems Regulations](#), SOR/2019-266, s 57.

[22] Open Burning Smoke Control Regulation, BC Reg 152/2019 (open burning is defined as “the combustion of vegetative debris using an open fire other than (a) for a domestic or an agricultural purpose, if all of the vegetative debris is branches or other pieces of vegetative debris, with or without leaves, each branch or piece of which is less than 3 cm in diameter, or (b) a campfire.”, s 1).

[23] Ministry of Environment and Climate Change Strategy, “[Media Release: Open Burning Restrictions Issued for All High Smoke Sensitivity Zones in British Columbia](#)”, (26 March 2020).

[24] BC Wildfire Service, “[Fire Bans and Restrictions](#)”, (22 June 2020).

[25] As of July 23, 2020, the March 27, 2020 statement has been removed from the Environmental Appeal Board’s [website](#), and replaced with an updated statement. Environmental Appeal Board, “[Notice re: Novel Coronavirus \(COVID-19\)](#)” (23 July 2020).

[26] SBC 2003, c 53.

[27] Supra note 23.

[28] Environmental Appeal Board, "[Notice re: Novel Coronavirus \(COVID-19\)](#)", (7 September 2020).

[29] British Columbia, "[Environmental Compliance in BC](#)", (last visited 8 September 2020), "*NEW* Managing EMA Authorizations and Compliance during COVID-19".

[30] Ibid.

[31] Ibid.

[32] BC Oil & Gas Commission, "[BC Oil and Gas Commission COVID-19 Response for Industry](#)", (last 7 September 2020).

[33] British Columbia, "[List of COVID-19 Essential Services](#)", (last modified 12 June 2020).

[34] [Ministerial Order 15/2020](#) (Minister of Environment and Parks of the Province of Alberta, 30 March 2020).

[35] [Ministerial Order 16/2020](#) (Minister of Environment and Parks of the Province of Alberta, 30 March 2020).

[36] RSA 2000, c E-12.

[37] RSA 2000, c W-3.

[38] RSA 2000, c P-40.

[39] [Ministerial Order 32/2020](#) (Minister of Environment and Parks of the Province of Alberta 22 June 2020).

[40] RSA 2000, c C-17.

[41] RSA 2000, c O-6.

[42] RSA 2000, c O-7.

[43] [Ministerial Order 219/2020](#) (Government of Alberta, Department of Energy, 6 April 2020).

[44] Timber Management Regulation, AB Reg 60/1973.

[45] [Ministerial Order 026/2020](#) (Minister of Agriculture and Forestry of the Province of Alberta, 15 June 2020).

[46] RSA 2000, c E-12.

[47] RSA 2000, c W-3.

[48] RSA 2000, c P-40.

[49] Alberta Energy Regulator, "[Relief for Industry During COVID-19 Pandemic Response](#)", (last visited 22 July 2020).

[50] [Ministerial Order 18/2020](#) (Minister of Environment and Parks of the Province of Alberta, 27 March 2020).

[51] [Ministerial Order 20/2020](#) (Minister of Environment and Parks of the Province of Alberta, 27 March 2020).

[52] *Constitution Act, 1982*, being Schedule B to the Canada Act 1982 (UK), 1982, c 11.

[53] SA 1930, c 21.

[54] RSA 2000, c W-10.

[55] RSA 2000, c F-22.

[56] [Ministerial Order 27/2020](#) (Minister of Justice and Solicitor General of the Province of Alberta, 30 March 2020).

[57] RSA 2000, P-34.

[58] Alberta Utilities Commission, "[Announcement: Statement from AUC Chair Mark Kolesar regarding COVID-19](#)", (27 March 2020).

[59] Government of Alberta, "[Essential Services](#)", (last visited 8 September 2020).

[60] *Ibid.*

[61] Government of Alberta, "[COVID-19 Pandemic Planning for the Waste Sector: Business Continuity Planning for Waste Management Facilities](#)", (last visited 8 September 2020).

[62] Government of Alberta, "[COVID-19 Pandemic Planning for the Water and Wastewater Sector: Business Continuity Planning for Water & Wastewater Systems](#)" (last visited 8 September 2020).

[63] Government of Alberta, "[COVID-19 Guidance for Wastewater Workers](#)" (last visited 8 September 2020).

[64] Government of Alberta, "[COVID-19 Waste Management: Information on Managing Waste Potentially Contaminated by COVID-19](#)" (last visited 8 September 2020).

[65] Government of Alberta, "[Notice to Alberta Applicators](#)" (30 March 2020) and Government of Alberta, "[Conditional Certification during the COVID-19 Pandemic](#)" (24 March 2020).

[66] Saskatchewan Ministry of Environment, "[Ministry of Environment Temporary Enforcement Policy during the COVID-19 Pandemic](#)", (last visited 7 September 2020).

[67] Saskatchewan Ministry of Environment, "[Ministry of Environment Temporary Enforcement Policy during the COVID-19 Pandemic – Rescinded](#)", (last visited 7 September 2020).

[68] SS 2010, c E-10.22.

[69] SS 1979-80, c E-10.1.

[70] Agricultural Packaging Product Waste Stewardship Regulations, RRS c E-10.22 Reg 4; The Electronic Equipment Stewardship Regulations, RRS, c E-10.22, Reg 6; Household Packaging and Paper Stewardship Program Regulations, RRS, c E-10.21, Reg 5; Waterworks and Sewage Works Regulations, RRS, c E-10.22, Reg 3; Waste Paint Management Regulations, RRS, c E-10.21, Reg 3; Used Petroleum and Antifreeze Products Stewardship Regulations, RRS, c E-10.22, Reg 7; Scrap Tire Management Regulations, 2017. RRS, c E-10.22, Reg 5; The Household Hazardous Waste Products Stewardship Regulations, RRS, c E-10.22, Reg 8; Hazardous Substances and Waste Dangerous Good Regulations, RRS c E-10.2, Reg 3; PCB Waste Storage Regulations, RRS c E-10.2, Reg 1; Municipal Refuse Managements Regulations, RRS c E-10.2, Reg. 4; The Waterworks and Sewage Works Regulations, RRS c E-10.22, Reg 3.

[71] SS 1998, c W-13.12.

[72] SS 2016, c P-31.1.

[73] RRS c P-31.1 Reg 3.

[74] SS 1996, c C-27.01.

[75] SS 2010, c M-2.01.

- [76] Government of Saskatchewan, "[Saskatchewan Environmental Code](#)", (November 2014).
- [77] Saskatchewan Ministry of Energy and Resources, "[Temporary Regulatory Relief Measures](#)", (last visited 7 September 2020).
- [78] Saskatchewan Ministry of Energy and Resources, "[BT 2020-023 Rescinding of Temporary Oil and Gas Regulatory Relief Measures – August 27, 2020](#)", (last visited 7 September 2020).
- [79] RRS 1978, c O-2.
- [80] RRS 2012, c O-2 Reg 6.
- [81] RRS 2019, c O-2 Reg 7.
- [82] SS 1998, c P-12.1
- [83] RRS, c P-12.1 Reg 2.
- [84] Saskatchewan Ministry of Energy and Resources, "[Regulatory Relief Measure for Oil and Gas Dispositions](#)", (last visited 8 September 2020).
- [85] RRS, c C-50.2 Reg 31.
- [86] *Supra* note 84.
- [87] RRS c C-50.2 Reg 27.
- [88] Saskatchewan Ministry of Energy and Resources, "Government to Provide Relief Measures for Mining Industry" (last visited 8 September 2020).
- [89] Government of Saskatchewan, "[Critical Public Services to Address COVID-19 and Allowable Business Services](#)", (8 September 2020).
- [90] *Ibid.*
- [91] Minister of Health, Seniors and Active Living, "[Order under the Public Health Act](#)", (last modified 13 April 2020).
- [92] Manitoba, "[Manitoba Invests \\$33 Million in Damage Prevention and Climate Resiliency Projects](#)", (22 June 2020).
- [93] CBC News, "[Manitoba Hydro asks province to relax environmental requirements during COVID-19 pandemic](#)", (last modified 27 April 2020).
- [94] Manitoba Media Bulletin "[Province Suspends Permits Within Burning Permit Area As Part Of Wildfire Prevention Measures](#)", (23 June 2020).
- [95] Ontario, "[Ontario Extends Orders Under the Reopening Ontario Act, 2020](#)", (8 September 2020).
- [96] Ontario Land Tribunals, "[COVID-19 Updates on Ontario Land Tribunals Operations](#)", (last modified 21 August 2020).
- [97] Ontario Land Tribunals, "[About the OLT](#)", (8 September 2020).
- [98] Ontario Land Tribunals, "[COVID-19 Updates on Ontario Land Tribunals Operations](#)", (last modified 21 August 2020)..

[99] *Ibid.*

[100] Ministry of the Environment, Conservation and Parks, "[Minister's Direction](#)", (26 March 2020).

[101] Ontario, "[O. Reg. 115/20: Temporary Exemptions Relating to Declared Emergency](#)", (last visited 23 June 2020).

[102] Ontario, "[List of Essential Workplaces](#)", (last modified 22 April 2020).

[103] CTV News, "[Full List of Businesses that can Reopen in Ontario](#)", (last modified 14 May 2020).

[104] O Reg 73/20 (order under subsection 7.1(2) of the Emergency Management and Civil Protection Act).

[105] Ministry of Energy, Northern Development and Mines, "[MLAS Update – August 19, 2020](#)", (last modified 19 August 2020).

[106] Greenhouse Gas Emissions: Quantification, Reporting and Verification, O Reg 218/20.

[107] Ontario, "[Proposed amendment to a regulation under the Endangered Species Act, 2007 relating to forest operations in Crown forests](#)", (29 June 2020).

[108] Ontario, "[Delayed commencement of the new Excess Soil Regulation and exemption from Record of Site Condition for temporary hospitals and residences](#)", (20 July 2020).

[109] Ontario, "[Bill 197, Covid-19 Economic Recovery Act](#)", (20 July 2020).

[110] Law Times, "[First Nations and Environmental groups challenge Ontario's changes to Environmental Assessments](#)", (8 September 2020).

[111] Government of Quebec, "[Gradual resumption of activities under the COVID-19-related pause](#)" (last modified 4 September 2020).

[112] Quebec, "[Reopening and maintaining economic activities \(COVID-19\)](#)" (last updated 18 August 2020).

[113] CQLR c Q-2, s 31.0.12.

[114] Québec Ministre of l'Environnement et de la Lutte contre les changements climatiques, "[Une exemption ministérielle pour les entreprises qui modifieront leur production pour participer aux efforts de lutte contre la COVID-19](#)", (2 April 2020).

[115] Gouvernement of Quebec, "[Conversion d'activités industrielles \(COVID-19\)](#)" (last modified 19 August 2020).

[116] *Ibid.*

[117] Government of Quebec, "[Contrôle environnemental priorisé \(COVID-19\)](#)" (last updated 19 August 2020).

[118] *Ibid.*

[119] *Ibid.*

[120] RRQ, c Q-2, r 15.

[121] Ministre of l'Environnement et de la Lutte contre les changements climatiques, "[Déclaration obligatoire de certaines émissions de contaminants dans l'atmosphère](#)" (last consulted 8 September 2020).

[122] Ministre of l'Environnement et de la Lutte contre les changements climatiques, "[Permis et certificats pour la vente et l'utilisation de pesticides \(COVID-19\)](#)" (last updated 19 August, 2020).

- [123] Ministère de l'Environnement et de la Lutte contre les changements climatiques, "[Autorisations environnementales : ajustements \(COVID-19\)](#)" (last updated 19 August 2020).
- [124] Ministère de l'Environnement et de la Lutte contre les changements climatiques, "[Informations importantes à l'intention des partenaires et des clientèles](#)", (last updated 26 June 2020).
- [125] Règlement sur la déclaration des prélèvements d'eau, CQLR, c Q-2, r 14.
- [126] Ministère de l'Environnement et de la Lutte contre les changements climatiques, "[Déclaration des prélèvements d'eau 2019 – Tolérance pour la transmission et le paiement de la redevance](#)" (last consulted 8 September 2020).
- [127] Ministère de l'Environnement et de la Lutte contre les changements climatiques, "[Drinking water management \(COVID-19\)](#)", (last updated 19 August 2020).
- [128] Ministère de l'Environnement et de la Lutte contre les changements climatiques, "[Suivi des ouvrages municipaux d'assainissement des eaux usées](#)" (last accessed 8 September 2020).
- [129] Ministère des Affaires municipales et de l'Habitation, "[Guide to Developing a Specific Epidemic and Pandemic Plan for Municipalities](#)", (25 March 2020).
- [130] Ministère de l'Environnement et de la Lutte contre les changements climatiques, "[Municipal Waste Water Management \(COVID-19\)](#)", (last updated 19 August 2020).
- [131] [Tribunal administratif du Québec](#) (last consulted 8 September 2020); Justice Québec, "[Administrative Justice Time Limits Suspended](#)" (21 March 2020).
- [132] [Order in Council No.615-2020 dated June 10, 2020](#).
- [133] Newfoundland and Labrador, "[Public Advisory: Deadline Extended for Current Aquaculture Licenses](#)", (last viewed 22 April 2020).
- [134] Newfoundland and Labrador, "[COVID-19 Workplace Information](#)" (24 August 2020); Newfoundland and Labrador, "[COVID-19 Guidance on Personal Protective Equipment \(PPE\) for Employers](#)" (29, April 2020).
- [135] New Brunswick, "[Renewed and revised Mandatory Order COVID-19](#)", (last modified 19 June 2020).
- [136] Nova Scotia, "[Closures, cancellations and service changes](#)" (last modified 3 April 2020).
- [137] NS Reg 347/2015.
- [138] Nova Scotia, "[Order by the Medical Officer of Health Under Section 32 of the Health Protection Act 2004, c. 4, s.1](#)" (23 April 2020).
- [139] Nova Scotia, "[Coronavirus: Restriction Updates](#)", (7 September 2020).
- [140] Prince Edward Island, "[Essential and Non-Essential Services: COVID-19](#)" (last consulted April 30, 2020).
- [141] Prince Edward Island, "[Renew PEI Together](#)", (last consulted 19 May 2020).
- [142] Prince Edward Island, "[Renew PEI Together](#)", (last consulted 23 June 2020).
- [143] Mackenzie Valley Land and Water Board, "[Government of the Northwest Territories compliance and enforcement strategy COVID-19 March 2020](#)", (last modified 21 March 2020).

A Cautionary Note

The foregoing provides only an overview and does not constitute legal advice. Readers are cautioned against making any decisions based on this material alone. Rather, specific legal advice should be obtained.

© McMillan LLP 2020