

## **2.0 REGULATORY REQUIREMENTS**

There are a number of federal and provincial acts and regulations governing activities that cause, or can cause harm to the environment, including construction projects that result in erosion and/or sedimentation. Regulatory agencies also publish codes of practice, guidelines and standards that set out requirements for undertaking certain types of activities. Most legislation and other types of regulatory tools make reference to preventing the release of harmful or deleterious substances, including silt, to the environment.

Fisheries and Oceans Canada (DFO) operates in Alberta to enforce the relevant federal legislation. Alberta Environment enforces relevant provincial legislation in collaboration with DFO federal legislation.

Brief overviews of the major acts are presented below. More thorough descriptions are provided in the AT Environmental Management System (EMS) Manual at <http://www.transportation.alberta.ca/2643.htm>.

### **2.1 Federal**

#### **2.1.1 Navigable Waters Protection Act**

The *Navigable Waters Protection Act* applies to in-stream work involving construction or placement in, on, over, under, through, or across any navigable water. This Act contains prohibitions related to the deposition of materials (e.g., sediment) in navigable waters.

#### **2.1.2 Fisheries Act**

The *Fisheries Act* exists to protect fish and fish habitat. The Fisheries Act prohibits any person from depositing or permitting the deposit of a deleterious substance of any type in water frequented by fish or in any place under any conditions where the deleterious substance may enter such water. Silt is among the most common types of deleterious substance.

The Act creates a duty to report the deposit of a deleterious substance, where a deposit occurs in water frequented by fish and results or may result in damage to fish or fish habitat.

Persons are also required to take all reasonable measures to prevent any deposit or to counteract, mitigate or remedy any adverse effects that result or may result from a deposit.

The Act prohibits the carrying on of any work or undertaking that results in the harmful alteration, disruption or destruction of fish habitat, unless authorized by the Minister.

Additional sections of the Fisheries Act relevant to roadway construction activities require that fishways be maintained, fish passage be kept free, and that sufficient water flow is maintained in watercourses.

## **2.2 Provincial**

### **2.2.1 Environmental Protection and Enhancement Act (EPEA)**

The *Environmental Protection and Enhancement Act* exists to support and promote the protection, enhancement and wise use of the environment. Under the Act, it is prohibited to release or permit the release of a substance into the environment in an amount, concentration or level or at a rate of release that is in excess of an approval or a regulation that causes or may cause a significant adverse effect.

One of the definitions of substance is "any matter that is capable of becoming dispersed in the environment". This includes erosion of soil particles resulting from construction activities.

Under the Act, there is also a duty to take remedial measures "where a substance is released into the environment that has caused, is causing or may cause an adverse effect".

Under the Act, "a person who releases or causes or permits the release of a substance into the environment that may cause, is causing or has caused, an adverse effect shall, as soon as that person knows or ought to know of the release, report it".

## **2.3 Due Diligence**

Most environmental legislation provides for "due diligence" as a defence to the majority of environmental offences.

AT is working to meet its due diligence obligations with respect to erosion and sediment control by taking the following steps:

- Publication of this document for its implementation in the highway construction industry by both contractors and consultants;
- Offering training workshops on the proper use of this document;
- Increasing awareness of erosion pollution adverse impacts, regulatory requirements and penalties for contravention; and
- Enforcing the proper use of best management practices for erosion and sediment control for the highway construction industry through contracts and training.