

**ENVIRONMENT AND
SUSTAINABLE RESOURCE
DEVELOPMENT
COMPLIANCE ASSURANCE
MANAGEMENT FRAMEWORK
2013**

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“Looking Forward”

Our Department of Environment and Sustainable Resource Development has made a commitment to ensure the compliance principles contained in this document remain current and relevant. This document will be updated periodically to reflect changes in the Department, as well as changes in regulations, compliance approaches and strategies.

➤ Shared Stewardship

Shared stewardship will continue to be central to our work. We will continue to build collaborative approaches with citizens, the regulated community and others to achieve our compliance goals. We added principles to strengthen accountability processes, as we anticipate growth in shared responsibilities and partnerships in program deliver. This should ensure clear roles with measurable performance expectations.

➤ Continuous Improvement

We encourage regulated parties to develop ways to achieve, or surpass, minimum compliance requirements. Some sector organizations and associations promote an ethic of stewardship and continuous improvement practices among their membership through sponsorship of industry-specific environmental management systems, backstopped with credible auditing and certification processes.

We will continue with both formal and informal processes for recognizing facilities and parties that demonstrate sound compliance and continuous improvement.

➤ Innovation in Approaches and Tools

The Department evaluates and adopts innovative regulatory and non-regulatory tools that provide greater flexibility to parties in achieving outcomes. Expanding the options of available management tools also increases our capacity to address compliance objectives. For example, we achieved measurable benefits through inspection sweeps that targeted whole sectors or clusters of activities located together in an area. Benefits have also emerged through partnerships with other departments, municipal agencies, industry associations and others. As well, advancements in electronic data processing and web-based applications have increased information processing capacities and opened opportunities for improved public access to compliance information.

➤ Performance Measurement

Program area managers will review the Compliance Assurance Program on a continuous basis to ensure it remains meaningful and relevant. The effectiveness of the program and the delivery of its approaches and activities will also be measured. These measurements will provide Albertans with an indicator of the effectiveness of the program and its role in achieving the desired environmental assurance outcomes.

Compliance Assurance Management Framework (CAMF)

“Looking Forward”

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Objectives and Guiding Principles

Alberta Environment and Sustainable Resource Development administers a variety of environmental and natural resource related legislation and programs. To meet this responsibility, a comprehensive and integrated legislative framework has been established. This framework sets out environmental, resource management/protection and conservation obligations and requirements for all Albertans.

Our regulatory framework, or set of “rules,” is a fundamental component in achieving this goal. We develop and implement a Compliance Assurance Program to ensure there is compliance with the statutory framework and regulatory requirements. Our Compliance assurance approach is based on three main components: **Education, Prevention and Enforcement.**

This policy document describes the business of Compliance Assurance for our Department. It sets out our goals, core principles and supporting policies. It also provides a detailed program guide. Links are included to the department’s website at <http://esrd.alberta.ca/> to direct the reader to updates and the most current information.

The purpose of this document is to:

- support consistent, coordinated and effective delivery of the Compliance Assurance Program;
- achieve objectives of the legislation;
- provide a credible guide for all Albertans, including stakeholders and industry, on environmental compliance and performance expectations and how they will be achieved;
- maximize compliance with all regulatory requirements under the mandate of ESRD;
- promote and encourage protection of the environment and its natural processes;
- support continuous improvement in environmental and resource management performance;
- provide a framework within which compliance assurance policy, procedures and operational guidelines can be developed;
- guide program planning and decision making for compliance assurance delivery;
- support the selection and application of compliance assurance approaches;

- maintain and enhance public confidence by ensuring consistency and co-ordination among all participating authorities in the delivery of compliance assurance activities;
- embody a vision and direction for the future of compliance assurance and performance improvement programs in Alberta;
- provide guidelines for measuring, assessing, reporting and improving the effectiveness and efficiency of compliance assurance activities;
- maximize compliance with all legislative requirements; and
- guide staff in the appropriate selection and application of compliance and performance tools.

Scope

The scope of this document includes all of the legislation for which our Department is responsible. A full list of all legislation under the mandate of the department can be found in Appendix 1 or on the department's website at <http://esrd.alberta.ca> (Links to online versions of the legislation are also available from this website.)

Key Roles and Responsibilities

We are the lead Department responsible for assuring compliance and promoting environmental performance under our mandated legislation, as well as where we have provisions under the legislation of other ministries. Other government departments, agencies and local authorities empowered to carry out provisions of our mandated legislation will apply the same principles and programs in developing and conducting their compliance assurance activities.

Key terms used in the Compliance Assurance Management Framework

- **Authorizations:** include any form of written document issued by Environment and Sustainable Resource Development providing authority under our legislation to conduct an activity, operation or diversion, except for an enforcement or remedial response. Examples of authorizations include certificates, approvals, permits, licences, temporary licences, written directions, registrations, notifications and authorizations
- **Regulatory Agency:** an agency, including our department, other departments of the Alberta Government, a municipal government, a board, or other entity (public or private sector), that has been empowered to carry out compliance and performance assurance activities under ESRD legislation
- **Compliance:** the state of conformity with the law
- **Compliance assurance:** refers to those activities undertaken to ensure regulated parties comply with legislative requirements
- **Compliance staff:** employees of authorized agencies that are empowered to carry out compliance assurance duties
- **Statutory decision maker:** a person who has been delegated powers as a Director under the various pieces of legislation to make prevention order and enforcement response decisions
- **Environmental legislation:** for the purposes of this document means all legislation within the mandate of our department
- **Performance:** i) the level or degree at which operations, facilities or parties perform in relation to a requirement/standard or towards a target, commitment or expectation and, ii) where parties undertake activities or practices to the benefit of the environment where no legislative requirements have been imposed
- **Regulated Activity / Regulated Party:** an activity or party subject to any of the requirements of Alberta's environmental legislation, whether or not the activities are authorized through approvals, licenses, registrations, etc.

Operations Division

The Operations Division of our department has the core responsibility for delivering the Compliance Assurance Program for the Department's various Acts. In order to deliver services most effectively, the Division is organized into five geographical regions with a corporate office in Edmonton. Various offices are found throughout the regions. A map of these offices is located in Appendix 2.

The key responsibilities of compliance staff include:

- preparation and distribution of educational material and guidance documents on compliance and performance;
- planning and conducting compliance assessment and monitoring programs through inspections and audits;
- responding to environmental and non-compliance incidents;
- responding to natural disasters such as fires and floods and environmental emergencies;
- conducting investigations; and
- undertaking enforcement responses.

Compliance staff are legally authorized and trained to carry out their responsibilities in an appropriate and professional manner. Staff are required to meet the requirements of the *Code of Conduct and Ethics for Public Service in Alberta*, as well as departmental policies.

Justice and Solicitor General

Department compliance staff interact with two sections of Alberta Justice: the Environmental Law Section on civil and regulatory law matters, and the Specialized Prosecutions Branch on prosecutions under environmental legislation.

The Environmental Law Section provides interpretations and applications of the various Acts, provides reviews of investigation files, assesses evidence, and provides options for courses of action, as requested.

The Specialized Prosecutions Branch directs and coordinates all prosecutions under the department's various pieces of legislation. This branch assumes full responsibility for all decisions and directions on case files once our department decides to advance a case file to them for prosecution.

Integrating compliance and environmental performance objectives

The emphasis of the principles and program guide is directed at assuring compliance. Compliance is a critical benchmark and backstop for the department's overall environmental assurance processes. However "compliance" in itself represents an intermediate objective in the department's broader goals of environmental quality and resource sustainability.

In carrying out compliance activities, staff will act to promote environmental stewardship and continuous improvement in environmental performance, in addition to ensuring strict compliance with the law. Environmental compliance and performance objectives are complementary, combining a broad range of tools and approaches that represent a more integrated strategy for environmental protection.

PART 1: Compliance Assurance Goal and Core Principles

The *Compliance Assurance Goal and Core Principles* establish the minimum requirements and expectations that guide the development of compliance assurance programs and activities.

COMPLIANCE ASSURANCE GOAL

Develop an attitude of stewardship and environmental awareness in the public and the regulated community through a sound compliance assurance program. The measure of success will be compliance with the laws and regulations under the mandate of the department.

CORE PRINCIPLES

The application of the following *Principles* to compliance assurance programs and activities will support the delivery of a consistent and effective approach.

- Education, prevention and enforcement will be used to achieve compliance with legislation administered by the Department.
- Regulatory requirements will be clear, enforceable and widely known within the regulated community and the public.
- All staff undertaking compliance activities will have adequate training and authority to enable them to carry out their duties. Staff will carry out their duties in a competent, safe and professional manner.
- The Department will foster partnerships with other government agencies and the public to promote compliance.
- The Department will use inspections, audits, and monitoring to verify compliance with environmental legislation. Reports will be filed and follow-ups performed to ensure issues are corrected.
- Compliance activities will be delivered in a lawful, fair, consistent and timely manner.
- Every suspected contravention that comes to the attention of the Department will be assessed and responded to in an appropriate and timely manner.
- The Department's responses to non-compliance will consider all applicable legislation and will use the most appropriate legislation and compliance assurance response.
- Enforcement will be firm and fair.

- Enforcement will use remediation, deterrence and/or punishment to ensure compliance with legislation. Enforcement responses will be based on a “polluter pays” / “resource restitution” philosophy.
- The Department will recognize good performance in environmental compliance.
- The regulated community will be encouraged to develop innovative approaches to promote continuous improvement and performance that goes beyond required compliance.
- The Department will measure, evaluate and report on the effectiveness of its compliance assurance programs and activities.

Philosophy

The compliance assurance goal is to ensure compliance with our regulatory requirements. This is achieved through legislation which sets out clear rules for the protection and enhancement of our environment and natural resources. Through education and prevention programs and strict enforcement measures, we will ensure Albertans understand and follow the province’s environmental laws.

Regulatory requirements administered by the Department are dealt with in the context of a social regulatory approach as opposed to the command and control approach reflected in the *Criminal Code of Canada*. This distinction is important for the delivery of Department compliance policies, as a social regulatory approach allows the program areas to be consultative in determining the most appropriate response to incidents of non-compliance.

Where non-compliance is identified, all of the circumstances are evaluated. We will work with a company or individual to identify and correct areas of non-compliance. However, those who do not comply with the laws and regulations will be held responsible for the effects of their actions. If a company or individual did not take reasonable measures to prevent a contravention, or knowingly and deliberately broke the law, enforcement actions may be taken.

PART 2: Overview of Regulatory Requirements

This part is intended to provide a brief overview of the regulatory requirements under the legislation administered by ESRD. More detailed information can be found on the department's website at <http://esrd.alberta.ca> or by contacting Department staff.

The various Acts set out a comprehensive and integrated regulatory framework, which includes specific obligations and requirements ("rules") to meet the Department's objectives for environmental protection, and for sound resource management and conservation practices. These requirements are specified through Acts, regulations, codes of practice, authorizations (including approvals and licences) and associated standards and guidelines.

Overview and Key Components

The compliance assurance and performance program for legislation describes how we utilize all of the key components of compliance assurance. The program begins with the establishment of sound **regulatory requirements** through Acts, regulations, authorizations, codes of practice and associated policies, standards and guidelines. Compliance with these requirements is achieved through **education** and **prevention**, and activities that compel compliance through **enforcement**. Key functions and processes that support our capacity to carry out compliance activities include staff training and empowerment, and the collection and release of information.

2.1 Environmental Statutes

2.1.1 The *Environmental Protection and Enhancement Act (EPEA)*

The *Environmental Protection and Enhancement Act (EPEA)* came into effect in September 1993, updating and consolidating separate air, land and water environmental statutes into one act. The purpose of *EPEA* is to "support and promote the protection, enhancement and wise use of the environment." The following are key components of the Act:

- an environmental assessment process for specified activities;
- requirements for approvals, registrations and certificates for specified activities;
- regulation of substance releases that may cause an adverse effect on the environment;
- requirements for the identification and clean-up of contaminated sites;
- requirements for the conservation and reclamation of specified land;
- regulation of potable water and waterworks systems;
- regulation of the storage, transport, handling, sale, application and disposal of hazardous substances and pesticides;
- promotion of waste minimization and recycling and the regulation of waste disposal and hazardous waste management;

- provisions for enforcement of the Act, including the powers and obligations of inspectors and investigators; and
- designation of offences and penalties under the Act.

2.1.2 The *Water Act*

The *Water Act* came into effect on January 1, 1999, replacing the *Water Resources Act*. The purpose of the *Water Act* is to “support and promote the conservation and management of water, including the wise allocation and use of water, while recognizing:

- the need to manage and conserve water resources to sustain our environment and to ensure a healthy environment and high quality of life in the present and the future;
- the need for Alberta's economic growth and prosperity;
- the need for an integrated approach and comprehensive, flexible administration and management systems based on sound planning, regulatory actions and market forces;
- the shared responsibility of all residents of Alberta for the conservation and wise use of water and their role in providing advice with respect to water management planning and decision-making;
- the importance of working co-operatively with the governments of other jurisdictions with respect to trans-boundary water management; and
- the important role of comprehensive and responsive action in administering this Act.”

The Act is Alberta’s primary legislation for regulating water diversions, allocations and all activities that may affect water bodies.

2.1.3 The *Climate Change and Emissions Management Act*

The *Climate Change and Emissions Management Act* provides a framework for the implementation of Alberta’s action plan on climate change. This legislation strengthens and complements our existing statutes on environmental protection and resource management related to air emissions. The new Act provides for:

- an overall greenhouse gas (GHG) emission reduction target for Alberta and reduction targets for specific sectors of the province’s economy that will be established through negotiated agreements;
- matters that could be included in sectoral agreements, including regulation powers for their implementation and enforcement; and
- a framework relating to a GHG emissions offset system.

Sections of the Act have now been proclaimed in support of the Greenhouse Gas Emissions Reporting Program. The Specified Gas Reporting Regulation and Specified Gas Reporting Standard, which set out the detailed requirements for greenhouse gas

reporting, are also in place. Compliance assurance activities will be designed and undertaken to ensure compliance with this new legislation.

2.1.4 *Public Lands Act*

The Public Lands Act governs most of the approximately 60 per cent of Alberta that is public land. This is land that is not privately owned. It is not held by the federal government as national park, First Nations reserve, or by the Department of National Defence, and it isn't used for provincial infrastructure or provincial parks.

2.1.5 *Forests Act*

The Forests Act provides guidance for access to Crown timber through forest tenures and actions that are allowed or required in public forests.

2.1.6 *Forest and Prairie Protection Act*

The Forest and Prairie Protection Act establishes regulations in regard to fire control, prevention and education in the forested and prairie land in Alberta.

2.1.7 *Alberta Land Stewardship Act*

The Alberta Land Stewardship Act establishes the legal basis for the development of regional plans under the Land-use Framework. The Act:

- provides a means by which government can give direction and provide leadership in identifying the objectives of the province, including economic, environmental and social objectives;
- provides a means to plan for the future, recognizing needs of current and future Albertans;
- provides for coordination of decisions by decision-makers concerning land, species, human settlement, natural resources and the environment;
- creates legislation and policy that enable sustainable development by taking into account and responding to cumulative effects of human endeavour and other events.

2.1.8 *Wildlife Act*

The Wildlife Act governs the management of wildlife as a Crown resource and enables the hunting and trapping of wildlife, stating that the remains of dead animals are the property of the Crown unless otherwise specified; also addresses conservation of species at risk (endangered, threatened).

2.1.9 *Fisheries (Alberta) Act*

The Fisheries Act restricts the marketing of fish and licensing of Albertans to fish. It also states fishery guardians can be appointed to administer this Act.

2.1.10 Other Legislation

The Department works with other regulatory agencies to help develop requirements that meet Alberta's objectives to assure environmental quality. As well, we employ other legislation to support achievement of environmental objectives. (For example, there are provisions for surface water control systems for livestock operations included in the *Agricultural Operations Practices Act*, which is administered by the Natural Resources Conservation Board.) A list of other provincial legislation relevant to the Department's Compliance Assurance Program is included in Appendix 1.

2.2 Regulated Activities

Regulated activities are defined under legislation and the regulations under the Acts. Individuals, companies, municipalities, and government departments who undertake these regulated activities are required to obtain authorizations. Authorizations come in many forms including, but not limited to, approvals, licences, registrations (codes of practice), and preliminary certificates. Authorizations typically include requirements such as terms, conditions and associated standards and limits that are specific to a project, site or operation. To obtain an authorization, permit or licence under a specific piece of legislation, the proponent of the activity must apply to the Department and provide specific information.

Environmental Assessment Process

An environmental assessment of an activity may be required before starting the authorization review process. The environmental assessment ensures that environmental and economic decisions are integrated into the early stages of planning a proposed activity. This occurs by predicting the environmental, social, economic and cultural consequences of a proposed activity and providing plans to mitigate adverse impacts resulting from the proposed activity. The process provides an opportunity for public input that may identify potential environmental problems and encourages "up-front" environmental prevention and control. The *Environmental Assessment (Mandatory and Exempted Activities) Regulation* sets out the activities that must have an environmental assessment, and those for which the Director needs to decide whether an environmental assessment is required.

2.3 Authorizations (Approvals and Licences)

An authorization is the proponent's permission, in accordance with specific legislation, to proceed with an activity, operation, or water diversion. Requirements included in an authorization are the "project-specific rules" for that activity and non-compliance with them is an offence.

Authorizations consider the life cycle of an activity. This means they include all phases such as construction, operation, and reclamation, which enables "cradle-to-grave" environmental protection and natural resource management. Authorizations can be

amended, renewed, cancelled and suspended. Before issuing an authorization, staff will often discuss the authorization with the regulated party to ensure that the terms and conditions and the consequences of non-compliance are clear.

2.4 Codes of Practice

Codes of practice set out standardized requirements for activities with low potential for environmental impact. Generally, these standardized requirements apply throughout the province. However, the codes may also include requirements that are specified by geographic area. For example, the *Code of Practice for Watercourse Crossings* includes requirements related to times of the year when in-stream construction is permitted in specified river reaches. Codes of practice improve administrative efficiency and effectiveness by shifting away from the need to have individual approvals for each operator to standardized requirements that apply to all operators.

Some examples of activities regulated with codes of practice include exploration operations, watercourse crossings, outfall structures, wastewater lagoons, and drinking water distribution systems. A listing of current codes of practice can be found in Appendix 1 or on the Department website at <http://esrd.alberta.ca/>

2.5 Standards and Guidelines

We develop standards and guidelines based on science and best management practices. These standards and guidelines are used in two ways. First, requirements under the various pieces of legislation and their associated authorizations often set out standards and guidelines that must be achieved. These are then enforceable requirements.

Secondly, and more specifically, the standards and guidelines of the province are also important under the general provisions of various pieces of legislation. While only specified activities require authorization, all activities (and all parties) are subject to the general provisions of the legislation regarding releases that may cause an adverse effect to the environment or loss or damage. Standards and guidelines set out benchmarks that assist in gauging and preventing adverse effects to the environment.

2.6 Improving the Regulatory System

For compliance assurance programs to be effective, the regulatory requirements must be clear, measurable, consistent, and enforceable.

Compliance staff provide valuable advice and feedback to other staff in the Department who are responsible for other key programs and activities, including the development and review of legislation and regulations, the development and review of standards and guidelines, and the reviewing of applications for authorizations. As part of their role in setting a sound environmental framework, compliance assurance staff will:

- participate in ongoing reviews of regulatory requirements, policy and authorizations;
- document, report and recommend suggested improvements in, and corrections to, the legislation and to the regulatory and non-regulatory tools used by the department;
- identify and report on any circumstance where environmental damage is or has occurred despite full regulatory compliance; and
- ensure that legislative and authorization requirements are co-coordinated and do not conflict when more than one piece of legislation regulates an activity or operation.

PART 3: Compliance Assurance Program

3.1 Overview and Key Components

This section outlines the Compliance Assurance Program and describes how the Department uses all of the key components of compliance assurance. The program begins with a foundation of sound **regulatory requirements** (or “rules”) through statutes, regulations, authorizations, codes of practice and associated policies, standards and guidelines. Compliance with these requirements is achieved by activities that promote compliance through **education** and **prevention**, and activities that compel compliance through **enforcement**.

The **Education** component raises awareness of environmental protection and management, regulatory requirements, how to comply with those requirements, and the consequences of non-compliance. Education is also used by the Department to encourage continuous improvement and environmental stewardship.

The **Prevention** component supports compliance by building capacity and the willingness within the regulated community to comply with the regulatory requirements, and identifies and addresses potential problems before they cause environmental damage. Prevention is a shared responsibility and includes the activities and actions of the Department, other regulatory authorities, the regulated community and the public.

The purpose of the **Enforcement** component is to ensure that there are consequences for non-compliance, so that parties do not benefit economically from non-compliance, and that responsibility to address damages is clearly assigned. This includes actions that remedy, deter and punish where appropriate. Parties that are in non-compliance are required to remedy problems – to correct the non-compliance and to minimize any damages. Deterrence and punishment measures are used to discourage future contraventions and repeat contraventions.

Collection, Use and Disclosure of Information

Openness and transparency of information supports public confidence and encourages the regulated community to achieve and go beyond compliance requirements. The use of actual situation examples is an important component in educating and preventing non-compliance. The following sections describe how compliance assurance information is collected and how access to that information is provided. The collection, use and disclosure of information by the Department is governed by the *Freedom of Information and Protection of Privacy Act (FOIP Act)*, and the access to information provisions of the various pieces of legislation within our department's mandate.

1. Release of Information and Reports Submitted to the Department

Our mandated legislation sets out the type of information that the public can access from our Department. The legislation also includes provisions on exemptions and exceptions to disclosure.

All information and reports required to be submitted to the Department that are categorized as publicly accessible will be disclosed in their entirety, upon request, unless the information or report relates to an open investigation or an enforcement response that is under way.

2. Requests for Confidentiality

Records and information submitted to the Department are not confidential, unless a request for confidentiality is made to the Director and accepted. When a record or information is submitted to the Department with a request for confidentiality, and there is no applicable confidentiality provision in the statute:

- confidentiality will be denied;
- the record or information will be disclosed by the Department, on request, in accordance with the access to information provisions under our mandated legislation; and
- the submitter will be advised that the record or information may be released while it is in the regulator's possession.

Within a specified time period after voluntary submission of records and information, the regulator will, at the submitter's request, return records to the submitter.

3. Compliance Assurance Program Reports

Comprehensive Compliance Assessment and Enforcement Reports are produced on an annual basis. These reports include a summary of:

- compliance assessment activities undertaken;

- the results of compliance assessment activities, including the level of compliance by regulated operations or activities; and
- enforcement responses taken as a result of non-compliance found through compliance assessments.

On a quarterly basis, an enforcement summary document is compiled and released, providing an overview of enforcement of all acts and regulations under our mandate during that period. These reports summarize the numbers of enforcement responses, list the amounts of fines and the types of penalties assessed, and provide details on enforcement responses. This includes information on each contravention, the company or individual involved, the decision date, the amount of the penalty and general comments about the offence.

4. Compliance Assessment Inspection Information

Upon request, information contained in a formal routine inspection report will be disclosed.

A formal routine inspection report includes the results of a specific inspection. It may be written in a specific format such as a form, or as a letter or memorandum. A formal routine report does not include an inspector's hand-written notes, or regulator reports, or information on the regulator's planned compliance assessment programs.

5. Investigation Information

Records relating to an open investigation will not be disclosed because it could interfere with a third party's right to a fair trial, or to an impartial adjudication, or cause harm to the prosecution or other disposition if the information was released in advance. However, subject to the *Freedom of Information and Protection of Privacy Act* and the requirements of administrative fairness, the regulator may disclose information to the person who is the subject of the open investigation.

Records may be disclosed once the investigation is closed, subject to the provisions in the legislation under which the investigation occurred. Requests for information relating to a closed investigation will be referred to the *FOIP Act* process, unless the regulator routinely discloses the information requested.

Upon request, information leading to the issuance of an order may be released once the order has been issued, even if the investigation is not closed. This does not apply in cases when the investigation is ongoing for an anticipated prosecution, administrative penalty or warning letter, or when a prosecution is underway.

6. Records Management

Appropriate records management practices will be followed for investigative records including, where practical, clearly identifying on the face of the record or file when an

investigation has been commenced and concluded. Investigative records should remain distinct from non-investigative records.

All records surrounding investigations and enforcement responses will be comprehensive and finalized in a timely manner. To accomplish this, the records will fully document the case by including the following:

- any enforcement response taken, or reasons why no enforcement response was taken;
- the manner in which the enforcement response was completed;
- the manner and time in which each condition or term of an order was complied with; and
- the written notification (to the subject) of completion and closure of an order.

When a file is closed, the complainant will be advised of the investigation's outcome upon request. If the complaint was made pursuant to the section of mandated legislation that provides for a formal request for an investigation, the Director will report back to the complainant within 90 days of receiving the application to inform the complainant about the progress of the investigation and any action to be taken with respect to the alleged offence.

7. Personal Information Management

Personal information is collected and managed in accordance with the provisions of the *Freedom of Information and Protection of Privacy (FOIP) Act*. When a request is made to Alberta Environment and Sustainable Resource Development for records that include personal information provided to the department in a business or professional context, it will be disclosed, as this is not considered to be an unreasonable invasion of privacy under the *FOIP Act*. This may include information such as an individual's name and business contact information (business title, address, telephone number, fax number and email address), information related solely to the professional or business capacity of a person working for a corporation, provided by the corporation or an individual acting on behalf of a corporation, or related information about a person carrying out their corporate duties.

The Department may disclose statistical information and documents relating to enforcement responses against an individual or corporation. For example, we routinely release summaries about specific enforcement responses, including the names of offenders.

When conducting compliance assurance activities, we will only collect personal information that, at the time of the compliance assurance activity, is reasonably required for performing statutory duties and necessary for meeting the compliance assurance goals of the program.

8. Intelligence Information

Intelligence information is considered to be confidential and is subject to the provisions of the *FOIP Act*. This type of information may not be released because of the potential for harm to law enforcement.

3.2 EDUCATION (Promoting Compliance)

Compliance promotion is any activity that increases awareness, educates, motivates, or changes behaviour, and encourages voluntary compliance with a regulatory requirement. Promotion may be conducted as a stand-alone activity or it may occur in conjunction with compliance verification activities.

Objectives

The Department relies on the public and industry to take responsible action based on a clear understanding of the regulatory requirements of the province. The objectives of the education component of compliance assurance are to:

- raise awareness and understanding of the Department's regulatory system and compliance assurance goals, principles and program;
- reinforce our commitment to using a balance of education, prevention and enforcement to ensure the laws under the mandate of the department are followed;
- develop a comprehensive and consistent set of communication tools for compliance awareness programs and compliance sweeps;
- promote the toll-free, 24-hour emergency response/public complaint number and reinforce when and how information should be reported to the Department;
- ensure consistency in how enforcement activities are publicly reported.

The key messages that we try to communicate are:

- Caring for the environment is a shared responsibility.
- Through education and prevention programs, and strict enforcement measures, we ensure that industry and the public understands and follows the rules outlined in Alberta's environmental legislation.
- Our compliance education programs provide an opportunity to work together with Albertans and industry to ensure they understand the role they play in protecting our environment.
- Those who do not comply with regulatory requirements will be held accountable for the effects of their actions on the environment and our natural resources.
- Every suspected contravention that comes to our attention will be assessed and responded to in an appropriate and timely manner.

Key Approaches and Initiatives

The following are key approaches and initiatives of the education component of the Compliance Assurance Program.

-
- Guidance information, including fact sheets and brochures, website pages, media advertisements, and articles
 - Educational programs and materials, including Special Weeks activities, classroom packages and programs, displays, newsletters, direct mailing materials, publications (department, community, etc.) and website information
 - Public consultation programs
 - Participation in meetings, seminars, conferences, workshops, tradeshow
 - Participation in emergency preparedness exercises
 - Education and communication strategies and inspection sweeps
 - Routine release of information including news releases, publication of enforcement summaries, publication of annual compliance assessment and enforcement reports

More information on these approaches and initiatives can be found on the Department's website and **Information Centre** and any of our regional and district offices.

INFORMATION SOURCES AND CONTACTS

ESRD website at <http://esrd.alberta.ca/>

Information Centre

ESRD

Main Floor, Great West Life Building
9920 108 Street
Edmonton Alberta Canada T5K 2M4

Hours of Operation:

8:15 a.m. - 4:30 p.m. Monday – Friday

Closed: Weekends & Statutory Holidays

Call Toll Free Alberta: 310-ESRD (3773)

Toll Free: 1 877 944-0313

Fax: 780 427-4407

Email: ESRD.Info-Centre@gov.ab.ca

3.2.1 Guidance Information

The Department and others publish a wide range of fact sheets, guides and guidance information, all for the purpose of informing the regulated community on how to achieve compliance. Most of these guidance documents can be accessed through our website at <http://srd.alberta.ca/>

3.2.2 Educational Programs

We use a range of educational programs, including classroom style education packages and programs, Special Weeks, and inspection sweeps. The Department also supports the implementation of education programs by others.

3.2.3 Education and Communication Strategies and Inspection Sweeps

The Department routinely identifies and focuses on specific issues and sectors of the regulated community where there is a need to assess or increase compliance, a significant potential impact associated with non-compliance, and an ability to influence behaviour. Education and communication strategies are developed to address the needs identified. These strategies are often followed by a compliance inspection sweep to reinforce the importance of compliance.

3.2.4 Routine Release of Information

-
- The publication of compliance assurance information supports transparency and helps to engage public opinion as an incentive for the regulated community to achieve high levels of compliance and improve environmental performance. Citizens must be able to obtain information to hold industry and government accountable. We provide information to the public in a number of ways, including:
 -
 - issuing news releases on enforcement actions;
 - publishing the annual Compliance Assessment and Enforcement Report; and
 - releasing enforcement summaries.

The Environmental Law Centre, a non-profit charitable organization, provides two information services. The first is an Enforcement Historical Search Service. Under this service, a search can be made on a computer database for the history of enforcement action taken by the Department under *EPEA* and its predecessor legislation, the *Hazardous Chemicals Act*, *Agricultural Chemicals Act*, *Clean Water Act* and *Clean Air Act*, dating back to 1971, and/or under the *Water Act* from 1999 onwards. Each search provides the name of the company or individual subject to the enforcement action, the date of the enforcement action, the type of enforcement action taken, the amount of the penalty, if any, the location of the event giving rise to the enforcement action and brief comments on the enforcement action.

The second service is the Environmental Site Assessment Reporting (ESAR). Under this service, a search can be made on a computer database for regulatory actions relating to reclamation taken by the Department under *EPEA* and its predecessor legislation, the *Land Surface Conservation and Reclamation Act* and the *Surface Reclamation Act* back to 1963. More information on these services and the fees charged can be found by contacting the Environmental Law Centre at www.elc.ab.ca or 1-800-661-4238 <http://www.esar.alberta.ca/esarmain.aspx>

Information Bulletins

News releases are generally published when the Department has issued an enforcement order, water management order, or environmental protection order, or has cancelled, restricted or suspended an authorization. We identify the companies or individuals and provide information on the contraventions, the orders issued and the penalties assessed. The news releases are also published to provide information on the sentencing decisions of the Court when there has been a prosecution under the various pieces of legislation.

News releases can also be used to raise awareness by providing information on proposed and actual regulatory requirements, how to be in compliance with requirements, and on responses to non-compliance. Copies of the Department's news releases can be obtained using the search engine at <http://www.gov.ab.ca/home/index.cfm?page=441>

Compliance Assurance Program Reports

We are committed to measuring and reporting on the effectiveness of our Compliance Assurance Program. Publication of two types of reports helps to achieve this goal. We will produce comprehensive *Compliance Assessment and Enforcement Reports* on an annual basis. These reports will provide highlights of compliance activities, plus a summary of enforcement actions over the year. On a quarterly basis, an enforcement summary document is compiled and released, providing an overview of enforcement activities during that period. These reports summarize the numbers of enforcement responses, list the amounts of fines and the types of penalties assessed, and provide details on enforcement responses. This includes information on each contravention, the company or individual involved, the decision date, the amount of the penalty and general comments about the offence. These reports are available on the Department's website at <http://srd.alberta.ca/LandsForests/ForestManagement/ComplianceEnforcement.aspx> for *Public Lands Act* and *Forests Act* contraventions and at <http://www.environment.alberta.ca/02271.html> for prosecutions under our mandated legislation.

3.3 PREVENTION - Verifying Compliance

Compliance verification refers to the inspections and audit activities that the Department employs to determine if parties are meeting regulatory requirements. Compliance information may also be obtained through self-reporting by regulated parties or reports of offences from the public.

Objectives

The principle of shared stewardship is central to the prevention component of the Compliance Assurance Program. We are committed to working with other government agencies, the regulated community and the public to find proactive ways to achieve the environmental assurance outcomes that Albertans expect. The objectives of the prevention component of compliance assurance are to:

- foster a shared stewardship approach to compliance assurance, including encouraging the regulated community to work with the public in a cooperative way to address local issues;
- build capacity and the willingness in the regulated community to comply;
- encourage the regulated sector to develop and implement continuous improvement approaches, best practices and innovation aimed at compliance assurance and performance that goes beyond required compliance; and
- identify and address potential problems before they cause environmental damage.

Key Approaches and Initiatives

The following are some of the key approaches and initiatives of the prevention component of the Compliance Assurance Program:

- Compulsory monitoring and reporting by regulated parties
- Voluntary monitoring and reporting by the public
- Compliance assessments – including unannounced and announced inspections, inspection sweeps, audits and compliance and performance reviews
- Voluntary environmental audits
- Orders and Directions for environmental protection and water management
- Emergency measures to protect the environment and water resources
- Ability to employ Public Land closures

More detailed information on these approaches and initiatives can be found in the following sections.

3.3.1 Compulsory Monitoring and Reporting by the Regulated Community

An important part of our environmental management system is compulsory monitoring and reporting undertaken by regulated parties as a requirement of their authorizations. Most authorizations under our mandated legislation require some form of compulsory monitoring and reporting. This monitoring of source emissions, facility operations, and the ambient environmental surroundings provides essential information on compliance, performance and impacts on the surrounding environment. More specifically, it serves a number of purposes for both government and regulated parties, including:

- providing a measure of performance relative to established limits, standards and guidelines;
- ensuring that all systems are operating effectively;
- providing an early warning system for potential issues (such as environmental contamination, and harm to the aquatic environment);
- natural resource management;
- helping regulated parties see and take proactive actions to prevent non-compliance;
- characterizing complex emissions to identify and prevent potential environmental impacts;
- providing information for provincial and federal emission inventories used in environmental management;
- providing information to meet water apportionment agreements with other jurisdictions;
- assessing and learning about the impact of releases on the environment;
- assessing and learning about habitat mitigation; and
- providing data for tracking trends in ambient environmental quality.

Compulsory monitoring covers a wide range of environmental issues depending on the size, nature and complexity of the particular activity and the quantity and type of emissions and environmental impacts that may result. Monitoring reports summarize ambient air, water, groundwater and soil data, summarize source emissions data, provide water metering information, and provide information on solid and hazardous waste generation and disposal. In addition, these reports also provide valuable information on

forest health, the overall fish and wildlife resources and biodiversity. These reports also outline problems that may have arisen and corrective actions that were taken.

3.3.2 Voluntary Monitoring and Reporting by the Public

The public is encouraged to report issues, concerns, emergencies and possible incidents of non-compliance of all environmental legislation by calling either the toll-free, 24-hour emergency response/public complaint number (1-800-222-6514) or the Department's regional or district office nearest the problem. Once reported, the incident is entered into our incident tracking system and a decision is made about what action the incident warrants.

3.3.3 Compliance Assessments

The goals of our compliance assessment programs are to evaluate and confirm whether regulated parties are complying with their statutory obligations, identify and correct non-compliance, educate and assist parties to prevent non-compliance, and promote improvement in environmental performance. Compliance assessments are conducted at many different types of facilities and for many regulated activities. Assessment activities include the following:

- **Inspections** – site and field evaluations of a regulated activity to verify that specified requirements are being met;
- **Audits** – site and field examinations to verify that designated methods and procedures for data gathering and/or collection meet all quality assurance/quality control criteria;
- **Compliance Performance Reviews** – assessments of compulsory monitoring reports, notices, records and other required submissions.

Annual compliance assessment plans and programs are developed and carried out by each region, taking into account regional priorities and issues, and the nature and type of regulated activities. Both the planning and delivery of programs and activities are also coordinated between regions to ensure consistency in approach.

Annual compliance assessment plans are developed with consideration of the following criteria:

- the risk to the environment associated with a particular activity or operation, such as the potential for an adverse effect, loss/damage to public land, the sensitivity of the receiving environment, the toxicity or hazard class of the pollutants being emitted or discharged, the proximity to residents and the emission or discharge levels;
- the history of compliance by regulated parties associated with the activity or operation, including the prior enforcement history, records of public complaints, contraventions reported by the facility, emissions performance and monthly and annual reports;

- whether facilities or operations have been certified under a recognized Environmental Management System (EMS) that includes independent third-party auditing and continuous improvement demonstrated through transparent reporting; and
- whether facilities or operations are required to be inspected as part of agreements with other government agencies.

Inspection targets and frequencies are set for each of the following classes of activities:

- *EPEA* - industrial, municipal, pesticide activities, solid waste management, and land reclamation
- *Water Act* - agricultural, water management (including water mastered systems), dam and canal safety, habitat modification and enhancement activities
- *Forests Act* – timber production audits, forest operation inspections, silviculture activities
- *Public Lands Act* – industrial, commercial dispositions, bed and shore activity, general use of public lands

In general, facilities, operations and water diversions with a greater potential to cause an adverse effect, loss or damage to the natural resources, including public land, or with a history of non-compliance, can expect to be inspected more frequently. Operations that have demonstrated a sound history of compliance and performance will be rewarded with less frequent inspections.

We recognize the resources and commitments that regulated parties must put into assisting and cooperating with inspections. Inspections under our mandated legislation are coordinated with other agencies, where possible. The Department also works with other government agencies to support a cross government approach to compliance assurance.

Inspections

The Department has procedures for inspection planning and targeting; inspection preparation; monitoring, sampling and auditing; inspection follow-up and documentation and program evaluation and performance. Inspection goals include:

- gather information to confirm and document compliance status;
- identify environmental, process, operational or equipment concerns;
- advise of non-compliance and potential non-compliance issues;
- confirm that previously identified non-compliance issues have been corrected;
- verify the quality of the reporting data submitted;
- advise facilities and operations of their performance status;
- educate operators about their responsibilities under the various pieces of legislation and the associated regulations, approvals, registrations, and codes of practice;
- promote continuous improvement in environmental performance and resource management

- demonstrate the Department's commitment to compliance by creating a credible presence.

To ensure credibility of the program, most inspections are unannounced.

Conduct and Outcome of Inspections

Inspectors are expected to conduct themselves in an appropriate and professional manner. This includes being courteous, neutral and objective. Upon arrival at the activity, operation or water diversion to be inspected, the inspector advises the appropriate personnel of the purpose of the inspection, identifies themselves, produces an identification card when requested, and identifies or explains the nature of the powers or duties that the inspector wishes to carry out under the legislation.

In general terms, department compliance assurance staff have the power to undertake, or have the regulated parties undertake, the following activities during the course of an inspection:

- take samples;
- conduct tests or take measurements;
- require the production of information, data, records, reports and documents;
- record, or take copies or extracts of information, data, records, reports and documents;
- use computer systems to examine available data;
- use copying equipment to make copies;
- make reasonable inquiries of any person;
- take photographs, electronic or audio-visual records;
- remove information, data, records, reports and documents for examination;
- require things to be operated or set in motion, or require things to not be operated or set in motion, under conditions they specify; and
- use or move any machine, structure, material or equipment in the place of inspection in order to carry out the inspection.

More information on the powers and duties of an inspector can be found in the various pieces of legislation for which the Department is responsible.

Upon conclusion of the inspection, results and findings are discussed with facility personnel, particularly any non-compliance or potential non-compliance issues. In addition, inspectors acknowledge where excellent performance was identified. A written inspection report detailing the results and findings is prepared by the inspector and provided to the facility.

Audits

Specialized facility audit functions are also carried out as part of the overall facility inspection program. An audit involves a more detailed assessment of a particular area or procedures. Types of audits carried out by department staff include:

- **Air emission source audits** to ensure that a facility's manual source (stack) emission surveys are conducted using sampling equipment and procedures as specified by the approval and the Alberta Stack Sampling Code.
- **Continuous emission monitoring ("CEM") audits** to ensure the quality and reliability of a facility's stack CEM data. Audits include examinations of equipment and procedures, tests using calibration gas standards and comparisons of data results against standard testing methodology.
- **Ambient air monitoring audits** to ensure that a facility's equipment and methods of sample collection, standards for calibration and data collection, and processing procedures meet approval requirements.
- **Reclamation and remediation audits** to ensure the information provided by an operator during the Reclamation Certificate process is accurate, and that the "specified land" has been reclaimed and remediated.
- **Timber production audits** to ensure the timber industry is reporting, paying required dues and utilizing timber resources as per their approvals.
- **Aggregate audits** to ensure aggregate operators are operating, reporting extracted resource volumes accurately, dues are paid as required and reclamation of aggregate extraction sites is occurring as per the approval documents.

Inspection Sweeps

In addition to the annual proactive compliance inspection program, which is focused primarily on authorized facilities and activities, each region also plans and conducts inspection sweeps. Sweeps may be targeted at un-regulated businesses and activities that still have the potential to harm the environment and are subject to regulatory requirements, or they might be focussed on regulated activities for which more compliance information is required. The sweeps are generally planned:

- where there is an issue in a particular geographical area, for example, in industrial parks, a watershed, or a community;
- where there are unknown or questionable practices in a particular sector; or
- where there is non-compliance by an industry or group of individuals, or in a specific area.

Inspection sweeps combine education and prevention objectives. These programs give us an opportunity to work together with businesses and individuals to ensure they understand the role they play in protecting the environment and to build capacity in their ability to comply.

Inspection sweeps strive to raise awareness of environmental legislation, the need to protect the environment, and the consequences of non-compliance. Each sweep first involves an education component where specific detailed information about environmental regulations and requirements are provided and explained to the targeted group. The education program is combined with unannounced inspections to ensure all parties understand and are conforming to the requirements.

Compliance Performance Reviews

Reviews are assessments of compulsory monitoring reports, registrations, records and other required submissions to verify compliance and assess performance against the requirements of the various pieces of legislation, regulations, authorizations, and codes of practice. Approvals and Compliance staff carry out these reviews. They include the following:

- **Industrial Facilities**

We assess monthly and annual reports documenting air and wastewater emissions, operating and performance results, industrial waste practices and soil and groundwater monitoring.

The movement of hazardous waste and hazardous recyclables requires a manifest and a recycle docket respectively. Typically, these documents are reviewed during inspections or when there is a concern about possible mishandling, improper labelling, or an approval limit that has been exceeded.

- **Municipal Facilities**

We assess annual and monthly facility reports that document monitoring and operational requirements of potable water systems and wastewater facilities.

- **Water Diversions**

We assess water use reports that provide information on how much water the operation actually consumed.

- **Conservation and Reclamation**

We assess annual conservation and reclamation reports, activity plans, documents related to industrial activities taking place on “specified lands” and other information submitted in support of Reclamation Certificate applications.

- **Code of Practice Requirements**

Information supporting registrations and notifications associated with codes of practice may be requested for review.

- **Forest Operations Monitoring Program**

Annual performance monitoring is undertaken for timber and reforestation operations. The program is currently registered to the ISO 9001:2008 standard.

If contraventions are discovered during the course of a review, the matter is evaluated to determine the appropriate compliance response.

3.3.4 Voluntary Environmental Audits

A voluntary environmental audit represents a systematic, documented, proactive and objective evaluation undertaken by, or on behalf of, a regulated entity with the intention of:

- determining environmental risks associated with the operation and related practices;
- assessing compliance with regulatory requirements; and
- assessing the facility's performance and effectiveness against an environmental management system or standard of practice.

Voluntary Environmental Audits (VEA) are an important mechanism for regulated parties to ensure their activities and operations meet all regulatory requirements and performance expectations. VEAs demonstrate a growing culture of stewardship within the regulated community. The Department supports and encourages the adoption and greater use of VEAs, while not compromising environmental or resource management protection.

3.3.5 Environmental Orders

The various pieces of legislation provide for the issuance of orders to prevent and/or correct adverse effects on the environment, natural resources, human health, property, and/or public safety. These orders can be issued to regulated parties undertaking activities subject to authorizations or they can be issued in relation to non-authorized activities. It is important to note that the orders described here are remedial in nature and are not intended to be punitive. These orders include:

- *Water Act*
 - Water Management Orders (WMO)
- *Environmental Protection and Enhancement Act (EPEA)*
 - Environmental Protection Orders (EPO)
 - Emergency Environmental Protection Orders (EEPO), and Directions of an Inspector
- *Public Lands Act*
 - Stop Order
 - Enforcement Order
- *Forests Act*
 - Order

Non-compliance with any of these orders is an offence and may result in an enforcement response. In addition, once an order is issued, an enforcement response may still occur should additional evidence uncover a contravention of the legislation. If an order is not complied with, we may apply for a court order directing compliance with the order. We may, in some circumstances, also arrange for remedial measures required under the order to be undertaken and recover costs from the responsible party.

Water Management Orders (Water Act)

Under the *Water Act*, a Water Management Order (WMO) can be issued to:

- administer priority;
- address failure to maintain, repair, improve, alter or replace authorized works;
- address works, permanent and temporary diversions, and activities not requiring an authorization;
- suspend diversions of water;
- address flooded land problems;
- address problem water wells and water well drilling;
- address activities, diversions, or operation of works that cause or may cause a significant adverse effect on human health, property or public safety;
- stop or change licensed or approved diversions of water which caused, are causing, or may cause a significant adverse effect on the aquatic environment, human health, property, or public safety; or
- cause the conservation of water, or stop the wastage of water.

Environmental Protection Orders (EPEA)

An Environmental Protection Order (EPO) is a mechanism used to compel a “person” (including an individual, group or company) to prevent environmental damage that may occur, is occurring, or has occurred.

Under *EPEA*, an EPO can be issued for:

- the release of a substance that may cause an adverse effect;
- the conservation or reclamation of “specified land”;
- an improperly operated waterworks system;
- the clean-up of unsightly property;
- the manufacture, use, handling, storage, sale, disposal or application of a pesticide or hazardous substance that may cause an adverse effect;
- the improvement or repair of a waterworks system and the protection or restoration of potable water quality;
- the taking of action to prevent, eliminate or remedy the effects of offensive odours; or
- the clean-up of a contaminated site.

An EPO may order a “person” to take any measures considered necessary, including:

- investigating the situation;
- taking action to prevent a substance release or an offensive odour;
- measuring the rate of release or ambient concentration of a substance;
- minimizing or remedying the effects of a substance release on the environment or an offensive odour;
- restoring an area affected by a release or restoring a contaminated site;
- conserving and reclaiming “specified land”;

- installing equipment to control or eliminate a substance release or eliminate an offensive odour;
- constructing or improving a waterworks system;
- protecting or restoring the quality of potable water;
- prohibiting the sale, handling, use or distribution of and ordering the destruction of any matter contaminated by a hazardous substance;
- prohibiting the release of any hazardous substance or pesticide and complying with clean-up and restoration directions;
- cleaning up unsightly property by demolishing or removing waste; and
- reporting on any matter that was ordered to be done.

Emergency Environmental Protection Orders (EPEA)

An Emergency Environmental Protection Order (EEPO) can be used to rectify emergency situations where there is an immediate and significant adverse or potential adverse effect on the environment or human health. This includes emergency situations related to:

- the release of a substance;
- the handling, transportation, application or disposal of hazardous substances or pesticides;
- the supplying of potable water by a waterworks system; and
- the conservation and reclamation of "specified land."

Inspectors, investigators or Directors may issue Emergency Environmental Protection Orders. EEPOs for the conservation and reclamation of "specified land" cannot be issued for a period of more than seven days. EEPOs cannot be appealed to the Environmental Appeals Board. Non-compliance with an EEPO may result in further enforcement responses being taken, such as the issuance of an Enforcement Order or the initiation of a prosecution.

Directions of an Inspector (EPEA)

When an inspector conducts an inspection in respect of "specified land," the inspector may identify deficiencies in the operator's conservation and reclamation efforts. The inspector or the Director may issue *Directions of an Inspector* to the operator. The *Directions* identify the activities or conditions whereby the operator failed to conserve or reclaim "specified land." The operator is directed to undertake conservation and reclamation measures by a specified date. Non-compliance could result in the issuance of an Environmental Protection Order, an Emergency Environmental Protection Order, an Enforcement Order, or the initiation of a prosecution. This tool is used only for conservation and reclamation matters (not substance release).

3.3.6 Emergency Measures

The Water Act

The *Water Act* includes provisions for emergency measures that an inspector, investigator or Director can take if necessary to prevent an immediate and significant adverse effect on the environment, the health of the aquatic environment, property, or

public safety. Similarly *EPEA* provides for a Director or inspector to undertake emergency measures where a release of a substance may cause, is causing or has caused an immediate and significant adverse effect, or where potable water provided by a waterworks system may cause, is causing or has caused an immediate and significant adverse effect on human life or health. Under these provisions, the government can recover its costs of carrying out the emergency measures from the person, government of another jurisdiction, or local authority that is responsible for causing the conditions that required emergency measures to be taken.

Under the *Water Act*, if the Lieutenant Governor in Council is satisfied that an emergency related to water exists or may exist, he/she can declare an emergency relating to all or part of Alberta. When the Lieutenant Governor in Council has declared an emergency, the Director can issue to any person a Water Management Order suspending authorizations, suspending water diversions, setting out the purposes for which water diversions can occur, and ordering measures as provided for under the Act. The Lieutenant Governor in Council may provide for compensation for losses incurred by licensees and registrants affected by the declaration.

Public Lands Act – Stop Order

A stop order provides for an immediate response where cutting, clearing or any disturbance on Crown land is occurring in contravention of any Act or Regulation. Stop orders will be used in extreme cases to prevent or halt damage to public land. Stop orders can be issued for incidents such as when:

- the operations are in contravention of the conditions of the approval;
- the land-disturbing activity is being conducted without an approved plan;
- sedimentation has severely degraded a watercourse or degradation is imminent.

Public Lands Act – Enforcement Order

The Department may issue an enforcement order under this Act to a person responsible for a contravention and require the person to:

- remedy the effects of the contravention;
- suspend activities on the use of the public land;
- provide an accounting and remit to the Crown any benefits and proceeds derived from the contravention.

Forests Act – Orders

The Department may order a person responsible for a contravention under this Act to do or discontinue doing any activity to compel compliance with the provisions of the Act.

3.3.7 Partnerships for Prevention and Education

Opportunities to partner with other government and non-government agencies, the academic community, special interest groups and the public are key to promoting prevention and education activities. Some examples of partnerships in place are:

- Crime Stoppers Program;
- cooperative work with inspectors from local authorities;
- cooperative work with other provincial government departments, such as Alberta Infrastructure and Transportation and Alberta Health and Wellness, on activities also regulated or funded by them;
- an administrative agreement under the federal *Fisheries Act* for the control of deposits of deleterious substances. This agreement enables the federal and provincial governments to co-ordinate their inspection and investigation activities and to share information. It also enables co-operative monitoring programs to evaluate and detect trends in environmental quality and the effectiveness of pollution control programs.

3.4 ENFORCEMENT - Compelling Compliance

Enforcement is one response from the various tools that may be used to achieve compliance with regulatory requirements. Enforcement includes warnings, administrative penalties, orders and prosecutions.

Enforcement may be necessary to compel compliance when voluntary compliance cannot be achieved. By requiring parties to address non-compliance, enforcement responses can be effective in:

- creating a level playing field, i.e. ensuring that no party benefits from not complying;
- creating a deterrence effect for other potential violators.

Objectives

All regulatory systems must have an effective enforcement component that serves as the “backstop” for the system. Education and prevention approaches are preferred, but it must also be clear that “the rules” must be respected and that they will be enforced when necessary. The objectives of the enforcement component of compliance assurance are to:

- provide firm but fair enforcement of all our mandated legislation;
- provide enforcement in a timely and consistent manner;
- base enforcement actions on a “polluter pays”/“resource restitution” philosophy.

“Firm and fair” means that:

- the severity of the enforcement response is related to the severity of the offence;
- the rules of environmental compliance are clearly spelled out.

“Timely and consistent” means that:

- the priority of the enforcement response will be related to the severity of the environmental impact;
- problems related to a specific industrial activity will be dealt with on an industry-wide basis;
- taking into consideration the fact that environmental impact may differ between facilities, the enforcement response will be comparable regardless of the source, size, location or ownership of the facility.

“Polluter pays/ resource restitution” philosophy means that:

- parties who cause damage to the environment or natural resources should pay for the costs of their actions.

Non-compliance with the provisions of an act is called a contravention or an offence. Offences under the *Water Act*, *EPEA*, *Forests Act*, *Public Lands Act*, *Alberta Land Stewardship Act* and *Forest and Prairie Protection Act*, are identified in the legislation.

An individual or company is in non-compliance when they do not follow requirements in our mandated legislation. A guideline is enforceable when it forms part of an enforceable document such as a regulation, a code of practice or an authorization. Without such a reference, failure to comply with a guideline is not a contravention or offence.

Key Steps

The enforcement process follows a series of well-defined steps.

- We become aware of **potential non-compliance (incidents)** through information provided by the public, regulated parties, and other government agencies, and through other compliance assurance activities.
- Based on the facts of each incident, an **investigation** may be conducted.
- If the investigation determines that a contravention or offence did not occur, or if there is insufficient evidence to warrant an enforcement action, or there is a defence of due diligence, the file will be closed with a **file closure letter**. Although the file has been closed, recommendations to fix the problem and/or to take preventive action may be made.
- If the investigation determines a contravention or offence has occurred, an appropriate **enforcement response** is selected and used. Enforcement responses include: enforcement orders; court orders; warning letters; tickets; prosecutions; administrative penalties; cancellation, suspension or restriction of an authorization;
- **Appeals** are available for most enforcement actions that are taken.
- If the offender does not comply with an enforcement response, further steps are taken to **compel compliance**.
- **Debt and cost recovery** is available to the Government of Alberta.
- After all enforcement steps are complete, the **enforcement file is closed**.

More detailed information on these steps can be found in subsequent sections.

3.4.1 Reporting of Non-Compliance and Emergencies

Information on non-compliance is provided through:

- anonymous reports from partner organizations such as “Crime Stoppers”;
- calls from the public to the emergency response/public complaint number or information provided to Department offices and staff;
- compulsory incident reporting as required under our regulations or authorizations;
- observations by staff and the findings from compliance assessment activities, such as facility inspections, audits or compliance and performance reviews; and
- formal requests for investigations made under our legislation.

Once reported, the incident is entered into one of our incident tracking systems and a decision can be made about what action the incident warrants.

Reporting Line

The public is encouraged to report issues, concerns, emergencies and possible incidents of non-compliance with the various pieces of legislation by calling the toll-free, 24-hour emergency response/public complaint number (1-800-222-6514). Issues and concerns reported by the public include air quality concerns (odour, dust, smoke, etc.), activities and diversions affecting surface and ground water quality, soil contamination, reclamation, water well concerns, industrial and municipal discharges, and issues regarding wastes including hazardous wastes.

Our legislation requires that any release of a substance into the environment that could cause an adverse effect be reported to our department. The *Release Reporting Regulation* under EPEA, for example, sets out what must be reported, when, how, and to whom the reports must be made.

Individual authorizations may also have requirements for reporting contraventions of the terms and conditions of an approval or code of practice. The authorization holder is required to call 780-422-4505 to report these contraventions.

Request for an Investigation

EPEA provides a formal method for the public to make an application for an investigation. This application is made to the Director and must be accompanied by a solemn declaration as specified in S. 196 of the Act.

3.4.2 Investigation Process

An “investigation” is an evidence-gathering function undertaken to substantiate or dismiss an alleged contravention. Under our legislation, investigations begin when there

are reasonable grounds to believe that an offence has occurred. The investigation will substantiate or dismiss an alleged contravention based on evidence admissible for enforcement responses. This includes evaluating evidence of a “due diligence” defence. The defence of “due diligence” means that no person can be convicted of an offence if that person establishes on a balance of probabilities that the person took all reasonable steps to prevent its commission.

The Department’s investigations are conducted, completed and documented in a thorough and timely manner that preserves the availability of all potential enforcement responses and ensures the investigation’s integrity. If necessary, we will use court mechanisms to ensure investigations can be properly concluded in a timely manner (for example, court orders to allow access and/or prohibit interference with an investigation). Where appropriate, we will co-ordinate our investigations with other provincial and federal agencies.

Powers of the Investigator

The powers and duties of investigators are designated under the various pieces of legislation. In general terms, investigators have the power to conduct the following activities without a search warrant or order:

- enter and inspect any place (facilities, activities, operations, etc. and places where documents may be found);
- stop and inspect vehicles, aircraft and vessels that are, or may be, operated in contravention of our legislation;
- require a person who has charge, management or control to detain any thing that may have released a substance which may have caused an adverse effect; and
- require the production of documents.

Investigators may in the course of exercising these powers:

- require machinery or equipment to be operated, or set in motion under specific conditions;
- use any machine, structure, material or equipment in the place of the investigation to carry out the inspection;
- take samples;
- conduct tests or take measurements;
- take extracts of documents;
- record or copy information, outputs and records (including by using copying equipment);
- take photographs; and
- make reasonable inquiries of any person.

Upon entering a facility or place, investigators will identify themselves and, where appropriate or if requested, explain the nature of the powers or duties the investigator wishes to carry out, including an outline of the nature and purpose of the investigation. Investigators may not enter a private dwelling place or part of a dwelling place except

with consent of the occupant of the place or under the authority of an order to enter and inspect or a search warrant. Investigators may apply for a court order to enter and inspect, including where the facilities are locked, access has been denied, or if someone has prevented the investigator from carrying out their duties.

Investigators have the power, without a search warrant, to seize any thing that is produced to them or that is in plain view if they have reasonable grounds to believe that there has been an offence committed under our legislation and that the thing is evidence of the offence. The owner and every person found in the facility or area being investigated must give the investigator all reasonable assistance to enable the investigator to carry out his or her duties. They must also provide to the investigator all information that the investigator reasonably requires that is relative to the carrying out of his or her duties. Failure to do so is an offence.

Investigators may request statements from the complainant and from people where the source of the potential contravention arose (for example, employees). When investigators are carrying out their duties under the Acts, they may exclude all persons from being in attendance except legal counsel for the individual being questioned.

Individuals appointed as a “Forest Officer” under the *Forests Act* or as a “Public Lands Officer” under the *Public Lands Act* have authority under this legislation as both the inspector and investigator.

Collection of Evidence

During an investigation, information is gathered to determine if a contravention has occurred and to assist in determining the appropriate enforcement response. Among other things, evidence will be gathered to determine:

- the nature of the incident and the degree of adverse or potential adverse effect on public safety, the environment and natural resources, human health, and property;
- the compliance history of the party under investigation;
- the extent and duration of the non-compliance;
- the intent of the party under investigation;
- steps taken by the party under investigation to rectify the situation;
- steps taken to avoid the incident and prevent its recurrence;
- the degree of care associated with the activity;
- whether sufficient evidence exists to proceed with an enforcement response; and
- whether there are defences to the allegation (for example, due diligence).

In most cases, investigators will gather their own evidence to substantiate an allegation. However, data supplied by regulated parties and by complainants as evidence will also be used in proving contraventions. Data supplied by regulated parties is presumed to be accurate. In some circumstances, it is an offence to provide false or misleading information.

The investigator will, where appropriate, contact Alberta Justice and/or Justice Canada at a sufficiently early stage of an investigation to ensure that the prosecutor's evidentiary and other prosecutorial needs are met.

Conduct and Outcome of Investigations

Investigators are expected to conduct themselves in an appropriate and professional manner. This includes being courteous, neutral and objective. Early in an investigation, the investigator will generally send the party a Notice of Investigation that outlines the alleged contravention. The parties will not be informed of the outcome of the investigation and potential enforcement response until a formal review and an enforcement determination has been made.

Generally, one of two outcomes may occur upon the completion of an investigation:

- If the investigation determines that a contravention or offence did not occur, or if there is insufficient evidence to warrant an enforcement action, or there is a due diligence defence, the file will be closed with a File Closure Letter. Although the file has been closed, recommendations to fix the problem and/or to take preventive action may be made.
- If evidence of a contravention exists, the investigator will recommend to the statutory decision maker that enforcement action be taken. The statutory decision maker will then make a determination on the appropriate enforcement response.

3.4.3 Applying Enforcement Responses

The following enforcement tools are available under the various pieces of legislation to respond to contraventions:

- enforcement orders;
- court orders;
- warning letters;
- tickets;
- administrative penalties;
- cancellation, suspension, or restriction of authorizations; and
- prosecution.

Of these tools, enforcement orders and court orders are primarily remedial in nature. Warning letters, tickets, administrative penalties, and prosecutions are primarily punitive in nature. Cancellation, suspension, or restriction of authorizations are both remedial and punitive.

We will only use one punitive enforcement tool under the various pieces of legislation for a particular contravention or offence as a result of a single occurrence. However, punitive enforcement tools may be used in conjunction with any remedial tool.

Enforcement File Review Joint Enforcement Review

A joint enforcement review process has been established to ensure consistency in the assessment of investigation case files. The review process includes the statutory decision maker, the lead investigator and legal counsel from the Environmental Law Section of Alberta Justice. The statutory decision maker and legal counsel review the findings of the investigator, and discuss the available enforcement responses.

The outcome of the review is provided as advice to the responsible statutory decision maker. The statutory decision maker then makes the decision on the appropriate enforcement response. There are no automatic enforcement responses. All available and appropriate tools are considered when deciding on the appropriate enforcement response.

The following factors are considered in determining the appropriate enforcement response:

- **The nature of the contravention and the seriousness of the adverse or potential adverse effect on public safety, the environment or natural resources, human health, or property**
The more serious the effect or potential effect, the more likely the enforcement response will be severe.
- **Compliance history under the legislation**
While compliance history is particularly relevant to a court-imposed penalty, it also plays a role in the selection of an enforcement response. A history of similar offences may indicate a need to ensure that the enforcement response has a clear deterrent effect. Repeat offences may also indicate an ongoing problem that requires a more severe enforcement response.
- **Consistency with enforcement responses to similar past events and circumstances of non-compliance**
To ensure consistency and to be fair to all parties, the decision maker will consider previous responses to similar situations when choosing the appropriate enforcement response. This will include considering the enforcement action that has been taken under the legislation.
- **Duration of Non-Compliance**
Where those responsible for a contravention respond immediately to correct the situation, the enforcement response may be less severe than if no remedial action was taken.
- **Intent of alleged offender**
Contraventions that result from intentional and negligent behaviour are dealt with more seriously than contraventions that result from something that was unforeseeable. For example, intentional offences can be punishable by a large

fine and a jail term. However, the fact that something was unforeseeable is not necessarily a defence or grounds for avoiding an enforcement response. Parties that fail to take action after being notified of a contravention will be treated more severely.

▪ **Importance of the contravened provision within the Department's overall regulatory system**

The severity of various types of offences is indicated by the penalties assigned to them in the various pieces of legislation and the regulations. Offences are treated very seriously if they relate to the provision of false information or the failure to report a substance release. Such offences are considered serious obstacles to the objective of environmental protection.

It is particularly important to uphold the cornerstones of the regulatory system – obtaining an approval prior to commencing an activity, complying with the approval and reporting non-compliance and substance releases.

▪ **Likelihood that a particular enforcement response will have the desired effect**

Each enforcement response will cause a different effect, and therefore the response must be appropriate to cause the desired effect in the regulated party, and send the appropriate message to other regulated parties.

▪ **Co-operation of the Party**

The following situations are considered serious. A more severe enforcement response may be pursued when:

- pertinent information is concealed by the regulated party;
- the party demonstrates a negative attitude toward environmental protection;
- the party disregards the Department's prior correspondence or communications;
- the party hinders the investigation.

The following factors are not considered relevant when determining enforcement responses:

- start-ups, shut-downs, repairs and maintenance are not acceptable reasons for non-compliance;
- financial constraints are not an acceptable reason for non-compliance, although the courts may also consider financial constraints when setting a fine.

We work with other departments and jurisdictions in an effort to provide a cross-government approach to enforcement when legislation under the responsibility of different agencies is involved.

3.4.4 Enforcement Responses

The following provides some information on the various enforcement responses that are provided for under the legislation.

Warning Letters

Warning letters generally indicate the section of the Act or the regulations that have been contravened and provide a description of the contravention. The warning letter also advises that it will be considered as part of the compliance history of that company or individual and will be taken into consideration should any future contraventions occur.

Tickets

Certain offences may be prosecuted using a ticket. The regulations under the *Provincial Offences and Procedures Act* outline the offences for which tickets may be issued and specifies the penalty for each offence.

Upon being issued a ticket and within the time limit stated in the ticket, the accused may:

- plead guilty and pay the fine to the appropriate court without making a court appearance;
- plead guilty with an explanation and appear in court to request a lesser fine or additional time to pay;
- submit a not guilty plea. This will result in court appearances and a trial in court.

Administrative Penalties

Administrative penalties are issued in order to penalize the offender and deter future non-compliance. They are primarily educational in nature, with a monetary penalty to reinforce the appropriate change in behaviour. The type of contraventions for which administrative penalties are available, the factors to be considered in assessing the penalty, and the penalty amounts are set out in the various pieces of legislation.

Under statutory limitations of various pieces of legislation, an administrative penalty may not be issued more than two years after the later of either the date when the contravention occurred or when evidence of the contravention came to the attention of the Director.

An appeal to the Environmental Appeals Board or Public Lands Appeals Board is available whenever an administrative penalty has been issued under *EPEA*, the *Water Act* or *Public Lands Act*. The processes for appealing administrative penalties will be consistent and clearly conveyed to potential appellants.

A prosecution cannot be undertaken in situations where an administrative penalty has been paid. If the penalty is not paid, the Department may recover the amount through the civil courts.

Enforcement Orders

Enforcement orders may be issued to remedy problems where there is a contravention of a piece of legislation, the regulations, or a term and condition of an authorization. The

intent of an enforcement order is to compel compliance through remedial actions and, as appropriate, to require actions to prevent future contraventions. The enforcement order also educates potential offenders about inappropriate activities and advises the public of our responses to environmental concerns. Even if parties voluntarily take or commit to take remedial action, an enforcement order may be issued to ensure that the commitment is carried out.

An enforcement order can be combined with additional enforcement responses (for example, an administrative penalty or a prosecution). However, a prosecution cannot be combined with an enforcement order dealing with waste or littering, if the enforcement order is complied with.

To ensure consistency, legal counsel drafts the enforcement order on the instructions of the statutory decision maker. The statutory decision maker generally gives the party an opportunity to meet prior to issuing the order. This is not a formal hearing and there is no negotiation of the terms and conditions of the order. However, the statutory decision maker may consider comments from the party on some of the conditions of the order to ensure that they are realistic (for example, deadlines included in the order). The intent of the meeting is to:

- provide the subject with a description of the circumstances surrounding the contravention;
- provide the subject with the opportunity to present any relevant information; and
- discuss the terms and conditions of the order with the subject to ensure that they are understood.

A subsequent site visit is conducted to assess compliance with the order. Non-compliance of an order is considered a serious matter and may result in additional enforcement responses, including application for a court order or a prosecution. In some situations, the Department may take the necessary steps to carry out the requirements of the enforcement order. In such cases, costs can be claimed against the parties named in the order.

Court Orders

Court orders are sought when the Department's investigative powers or the Director's remedial powers are unsuccessful or insufficient. Court orders may be obtained for the following reasons:

- to compel compliance with an enforcement order, environmental protection order, or water management order;
- for an injunction to prevent the commission of an offence or prevent serious environmental damage;
- to prohibit interference with an investigation; or
- for contempt of court.

A court order may be sought even if a prosecution has been commenced. Failure to comply with a court order may result in contempt of court proceedings being initiated.

Prosecution

A prosecution may be pursued when the magnitude or seriousness of an offence warrants this action. A prosecution is considered to be punitive in nature.

If the statutory decision maker decides that a prosecution is the most appropriate enforcement response to a contravention, the statutory decision maker forwards the matter to Alberta Justice. The file is reviewed by Alberta Justice to ensure that there are no legal barriers to prosecution and an Alberta Justice prosecutor becomes the decision maker on whether and how the case proceeds. The Department provides support to the Crown prosecutor, as required. Prosecutions must be initiated no more than two years after the later of the date when the offence occurred or when evidence of the offence came to our attention.

Upon conviction of an offender, the court may impose the following, or any combination of the following penalties, on the offender:

- a fine;
- imprisonment; and/or
- a court order, which may or may not include a creative sentence.

The Crown prosecutor has the sole responsibility for making submissions to the Court on behalf of the Alberta Government as to the appropriate sentence for the offender. The Department's enforcement officials assist the Crown prosecutors in this task by providing background information on the matter and on the statutory decision maker's decision to recommend a prosecution. Enforcement officials may also suggest a penalty to the prosecutor.

Creative Sentencing

The Crown prosecutor may recommend to the Court that it issue a creative sentencing order to an offender. A creative sentence is a type of deterrent sentence which the court is empowered to impose under various pieces of our legislation. Some examples of what creative sentencing orders may compel the person to do include:

- remedying harm or preventing harm to the environment; such as by requiring habitat restoration or by requiring the diversion of penalty funds to educational institutions to conduct research into pollution prevention programs;
- publishing the facts relating to the conviction;
- performing community service, such as educating others through training programs for industry on how to prevent harm to the environment; and
- complying with any other conditions that the court considers appropriate to ensure future compliance.

Department enforcement officials can assist the Crown prosecutors in reviewing and recommending creative sentencing proposals. The Department promotes the use of creative sentencing orders since the orders are enforcement responses that typically include educational and preventive components.

The Department ensures that there is follow-up and tracking of requirements that are included in creative sentencing orders. We will be collaborating with Alberta Justice in periodic evaluations of the creative sentencing process in serving compliance assurance and environmental performance objectives. An annual report on the progress of creative sentencing projects is published on the department's external website.

Cancellation, Suspension, Restriction of Authorizations

Legislation may empower statutory decision makers appointed under the various pieces of legislation to cancel an authorization when appropriate. Cancellations are considered one of the most serious enforcement responses because they remove the regulated party's legal ability to conduct their activity, operation or diversion of water. This results in the requirement for the authorization holder to reapply for their authorization and be subject to the full application review process.

3.4.5 Procedural Fairness

All enforcement responses are required to meet standards of procedural fairness. We will ensure procedural fairness is achieved when administrative enforcement responses (remedial orders, warning letter, administrative penalty, cancellation, suspension or removal of authorization) are used.

General procedural fairness principles listed below:

- apply to all administrative enforcement responses;
- apply to a degree proportionate to the significance of the enforcement response; and
- do not apply to prosecutions. (The Court, not the department, is the decision-maker in the prosecution process. The Rules of Court, criminal law principles, and precedents govern the prosecution process.)

When making an administrative enforcement response decision, the statutory decision maker will ensure the subject is provided with a procedurally fair process according to the nature and consequences of the enforcement response. This will be done by ensuring the following occurs prior to making a decision:

- the subject knows the case against them. To achieve this, we will provide the subject with a description of the circumstances surrounding the contravention and the factors, criteria and information relevant to the enforcement response under consideration. The method of providing this will vary with the enforcement response chosen.
- the statutory decision maker has heard the evidence and submissions from investigation staff and from the subject of the enforcement response;

- the subject has had an opportunity to review and challenge all evidence (including making corrections) and make submissions to the statutory decision maker. This ensures that the statutory decision maker has all relevant information;
- the statutory decision maker has been satisfied of the facts surrounding the non-compliance;
- the statutory decision maker will ensure that he has jurisdiction over the matter under the principles of administrative law. To do this, the statutory decision maker must meet the following conditions:
 - has all relevant information;
 - considers only relevant (as stated in legislation or guidelines) information;
 - does not have any existing or potential conflict of interest;
 - his decision will have no appearance of bias; and
 - his decision making is “unfettered” (i.e. the statutory decision maker considers the circumstances of each particular case and is not bound by guidelines or any other influences, although guidelines can be consulted for assistance in making the decision)
 - the enforcement response decision is made in a timely manner (without undue delay);
 - after the enforcement response decision is made, the subject will be notified in writing of the enforcement response.

The standard for procedural fairness becomes higher as the enforcement response moves from a warning letter to an administrative penalty or a cancellation/suspension/restriction of an authorization.

The *Water Act*, *EPEA* and the *Public Lands Act* provide for an independent appeal process through the Environmental Appeals Board and the Public Lands Appeals Board for administrative penalties, some orders and the cancellation, suspension or restriction of some authorizations. There are no appeal provisions included in the legislation for warning letters. Appeals for prosecutions and tickets are governed by the Rules of Court and criminal law precedents.

3.4.6 Closure of a File

Once all the enforcement steps have been completed and the Director is satisfied that all enforcement responses have been concluded, the enforcement file will be formally closed. If a report of potential non-compliance results in an investigation where no enforcement response is required, the file will be closed or referred for preventive action (for example, an Environmental Protection Order or Water Management Order). In all cases, the party under investigation will be advised of the outcome.

3.4.7 Partnerships for Investigations and Enforcement Responses

The Department works cooperatively with other provincial, municipal, and federal government agencies to co-ordinate investigations and enforcement responses where it is appropriate to do so. Intergovernmental and inter-agency agreements are an approach

that is used to support coordination and to reduce duplication of efforts. The following are examples of agreements our department has entered into:

- **Federal/ Provincial Agreements**
Canada and Alberta have entered into an administrative agreement under the federal *Fisheries Act* for the control of deposits of deleterious substances. The objective of the agreement is to streamline and co-ordinate the regulatory activities of the federal and provincial governments in relation to the protection of fisheries, fish habitat and to reduce duplication of regulatory requirements for regulated parties.
- **Provincial Government Agreements**
Government departments and agencies have reciprocal agreements to notify each other of any incidents relating to their legislation when reports of potential non-compliance are received. As well, joint investigations and possibly joint enforcement actions may be undertaken when non-compliances fall under multiple mandates.
- **Provincial/ Municipal Agreements**
The Department notifies local fire departments, municipalities and health units of incidents relating to their jurisdiction.

Another approach is the delegation of the powers under a piece of legislation. For example, *EPEA* allows for the delegation of specified provisions to others. Some of the waste provisions have been delegated to municipalities.

3.5 Managing performance

Regular measurement of compliance assurance performance is required to assess the effectiveness of the Compliance Assurance Program.

Managing performance involves tracking and analyzing compliance information in order to identify results and achievements and to determine whether adjustments need to be made to program activities.

Assessing the compliance assurance program function involves using two main types of performance data:

1. Performance measures

Performance measures are collected on an ongoing basis to measure operational results. These may range from specific program outputs - for example, tracking the number of education awareness sessions, the number of inspections or the number of investigations conducted - to broader outcomes, such as compliance rates or trends in a particular sector.

2. Program evaluation

- Program evaluations are intended to answer specific questions about the performance of a compliance program or activity. Evaluations are conducted on an ad-hoc basis and are used to determine program effectiveness in relation to a specified outcome.

An example would be internal audits by the Department on our own performance. This would be undertaken as a means to review clarity of process, standards and competency and to determine improvement opportunities.

An annual review of the Compliance Assurance Program will be conducted to identify areas for improvement such as information and technology systems or integrated standards and conditions, and most importantly to adjust, where required, to improve delivery of this program.

Appendix 1

Legislation, Regulations and Codes of Practice

The following is a list of the Acts, Regulations and Codes of Practice enforced or used in the Compliance Assurance Program.

[The Environmental Protection and Enhancement Act](#)

Regulations

- Activities Designation Regulation
- Administrative Penalty Regulation
- Approvals and Registrations Procedure Regulation
- Beverage Container Recycling Regulation
- Conservation and Reclamation Regulation
- Designated Material Recycling and Management Regulation
- Disclosure of Information Regulation
- Electronics Designation Regulation
- Emissions Trading Regulation
- Environmental Appeal Board Regulation
- Environmental Assessment Regulation
- Environmental Assessment (Mandatory and Exempted Activities) Regulation
- Environmental Protection and Enhancement (Miscellaneous) Regulation
- Forest Resources Improvement Regulation
- Lubricating Oil Material Recycling and Management Bylaw
- Lubricating Oil Material Recycling and Management Regulation
- Lubricating Oil Material Environmental Handling Charge Bylaw
- Mercury Emissions from Coal-fired Power Plants Regulation
- Ozone-Depleting Substances and Halocarbons Regulation
- Paint and Paint Container Designation Regulation
- Pesticide (Ministerial) Regulation
- Pesticide Sales, Handling, Use and Application Regulation
- Potable Water Regulation
- Release Reporting Regulation
- Remediation Certificate Regulation
- Substance Release Regulation
- Tire Designation Regulation
- Waste Control Regulation
- Wastewater and Storm Drainage Regulation
- Wastewater and Storm Drainage (Ministerial) Regulation

Codes of Practice

[Code of Practice For Asphalt Paving Plants](#)

[Code of Practice For Compost Facilities](#)

[Code of Practice For Compressor And Pumping Stations And Sweet Gas Processing Plants](#)

[Code of Practice For Concrete Producing Plants](#)

[Code of Practice For Energy Recovery](#)

[Code of Practice For Exploration Operations](#)

[Code of Practice For Forage Drying Facilities](#)

[Code of Practice For Foundries](#)

[Code of Practice For Hydrologic Tracing Analysis Studies](#)

[Code of Practice For Landfills](#)

[Code of Practice For Land Treatment of Soils Containing Hydrocarbons](#)

[Code of Practice For Pesticides](#)

[Code of Practice For Pits](#)

[Code of Practice For Sawmill Plants](#)

[Code of Practice For Small Incinerators](#)

[Code of Practice For Tanker Truck Washing Facilities](#)

[Code of Practice For The Release Of Hydrostatic Test Water From Hydrostatic Testing Of Petroleum Liquid And Gas Pipelines](#)

[Code of Practice For Wastewater Systems Consisting Solely Of A Wastewater Collection System](#)

[Code of Practice For Wastewater Systems Using A Wastewater Lagoon](#)

[Code of Practice For Waterworks Systems Using High Quality Groundwater](#)

[Code of Practice For A Waterworks System Consisting Solely Of A Water Distribution System](#)

[The Water Act](#)

Regulations and Orders

Water (Ministerial) Regulation

Water (Offences and Penalties) Regulation

Bow, Oldman and South Saskatchewan River Basin Water Allocation Order

Oldman River Basin Water Allocation Order

Codes of Practice

[Code Of Practice For Outfall Structures On Water Bodies](#)

[Code Of Practice For Pipelines And Telecommunications Lines Crossing A Water Body](#)

[Click here](#) for the maps for the Code of Practice For Pipelines And Telecommunications Lines Crossing A Water Body (*offsite*)

[Code Of Practice For Watercourse Crossings](#)

[Click here](#) for the maps for the Code of Practice For Watercourse Crossings (*offsite*)

[Code Of Practice For The Temporary Diversion Of Water For Hydrostatic Testing Of Pipelines](#)

[*The Climate Change and Emissions Management Act*](#)

Regulations

- Specified Gas Reporting Regulation
- Specified Gas Emitters Regulation
- Administrative Penalty Regulation
- Climate Change and Emissions Management Fund Administration Regulation
- Renewable Fuels Standard Regulation

[*Alberta Land Stewardship Act*](#)

Regulations

- Alberta Land Stewardship Regulation
- Conservation Easement Registration Regulation

[*Boundary Surveys Act*](#)

[*County of Westlock Water Authorization Act*](#)

[*Crown Land Area Designation Regulation*](#) (under Municipal Government Act)

[*Drainage Districts Act*](#)

Regulations

- Drainage Districts Regulation
- Compensation Regulation

[*East Central Regional Water Authorization Act*](#)

[*Expropriation Act*](#)

Regulations

- Expropriation Act Rules of Procedure and Practice

Expropriation Act Forms Regulation

Fisheries (Alberta) Act

Regulations

- Fisheries (Ministerial) Regulation
- General Fisheries (Alberta) Regulation

Forest and Prairie Protection Act

Regulations

- Fire Control Zone Regulation
- Forest and Prairie Protection Regulations, I
- Forest and Prairie Protection Regulations, II
- Forest Protection Payment Regulation
- Forest Protection Area Regulation
- Non-Permit Areas Regulation

Forest Reserves Act

Regulation

- Forest Reserves Regulation

Forests Act

Regulations

- Exploration Regulation
- Forest Land Use and Management Regulations
- Forest Resources Improvement Regulation
- Hinton Training Centre Rates Regulation
- Metallic and Industrial Minerals Exploration Regulation
- Scaling Regulation
- Timber Management Regulation
- Timber Regulation

Government Organization Act

Regulations

- Calgary Restricted Development Area Regulations
- Edmonton Restricted Development Area Regulations
- Sherwood Park West Restricted Development Area Regulations
- Environment and Sustainable Resource Development Grant Regulation

Hunting, Fishing and Trapping Heritage Act

Mines and Minerals Act

Regulations

- Metallic and Industrial Minerals Exploration Regulation
- Exploration Regulation

[Natural Resources Conservation Board Act](#)

Regulations

- Rules of Practice of the Natural Resources Conservation Board Regulation

[North Red Deer Water Authorization Act](#)

[Public Lands Act](#)

Regulations

- Exploration Dispute Resolution Regulation
- Exploration Regulation
- Forest Land Use and Management Regulations
- Land Stewardship Fund Regulation
- Metallic and Industrial Minerals Exploration Regulation
- Public Lands Administration Regulation
- Recreational Access Regulation

[Responsible Energy Development Act](#)

Regulations

- Alberta Energy Regulator Administration Fees Rules
- Alberta Energy Regulator Rules of Practice
- Responsible Energy Development Act General Regulation
- Security Management for Critical Upstream Petroleum and Coal Infrastructure Regulation
- Specified Enactments (Jurisdiction) Regulation
- Responsible Energy Development Act Transition Regulation

[Surface Rights Act](#)

Regulation

- Surface Rights Act General Regulation

[Surveys Act](#)

Order

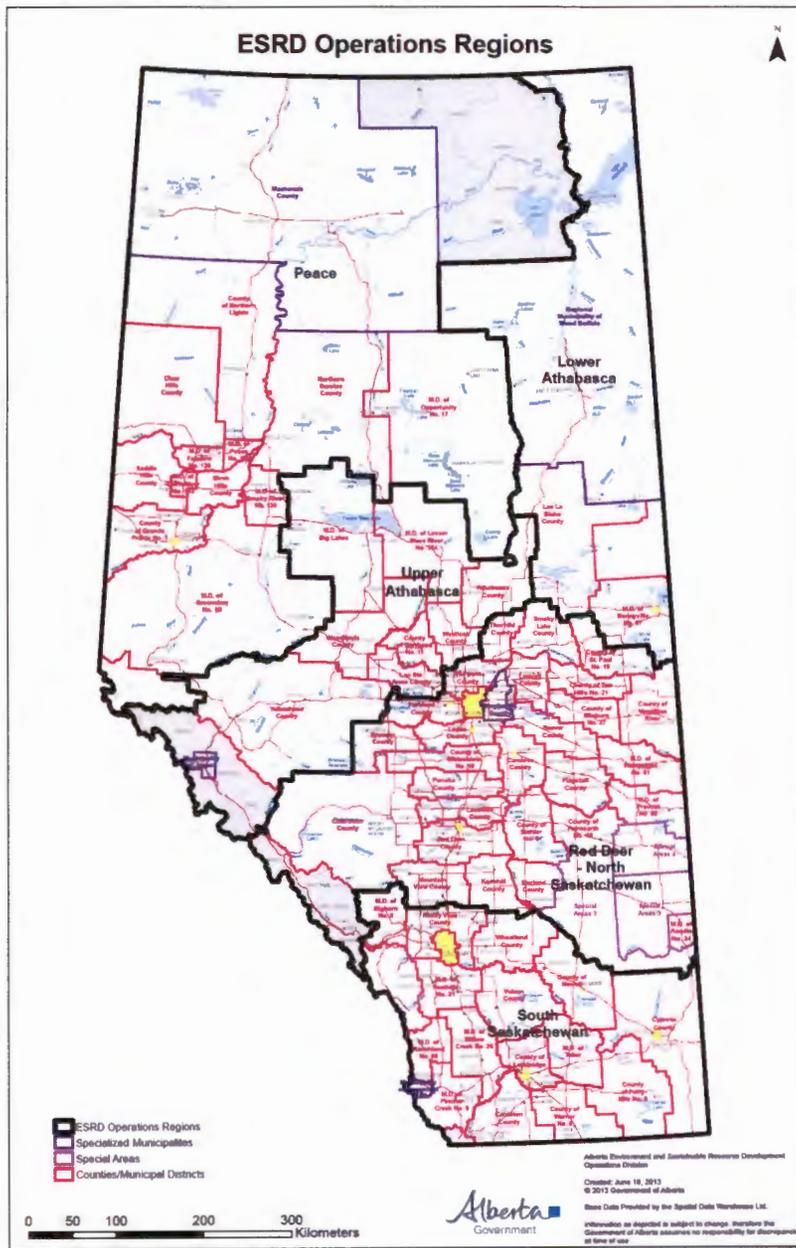
- Cadastral Mapping Fee Order

Wildlife Act

Regulation

Wildlife Regulation

Appendix 2: ESRD Regions



Information Centre
Alberta Environment and
Sustainable Resource
Development
Main Floor, Great West Life
Building
9920 108 Street
Edmonton Alberta Canada T5K
2M4

Hours of Operation:
8:15 a.m. - 4:30 p.m. Monday -
Friday
Closed: Weekends & Statutory
Holidays

Call Toll Free Alberta: 310-
ESRD (3773)
Toll Free: 1 877 944-0313
Fax: 780 427-4407
Email: [ESRD.Info-](mailto:ESRD.Info-Centre@gov.ab.ca)
[Centre@gov.ab.ca](mailto:ESRD.Info-Centre@gov.ab.ca)