I. STATUTORY

A. Federal

1. Bill C-46, the Pipeline Safety Act, passed second reading in the Senate and was referred to the Standing Senate Committee on Energy, the Environment and Natural Resources on May 14, 2015.

2. Bill C-52, the Safe and Accountable Rail Act, which was introduced on February 20, 2015, was reported by the Standing Committee on Transport, Infrastructure and Communities on May 4, 2015. The Bill is intended to “strengthen the liability and compensation regime for federally regulated railway companies by establishing minimum insurance levels for railway companies and a supplementary, shipper-financed compensation fund to cover damages resulting from railway accidents involving the transportation of certain dangerous goods.”

3. Bill S-3, the Port State Measures Agreement Implementation Act, or An Act to Amend the Coastal Fisheries Protection Act, first introduced in the Senate and passed by it in December 2013, was reported with amendments by the House of Commons Standing Committee on Fisheries and Oceans on April 29, 2014. The Bill implements the United Nations Food and Agriculture Organization’s 2009 Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing. It also extends Canadian controls over foreign fishing vessels seeking access to Canadian ports, adds prohibitions concerning illegally acquired fish and marine plants, and clarifies some administration and enforcement proceedings.
B. Alberta

1. The newly elected government took office on May 26, 2015. Cabinet appointments that may be of interest include

   - Shannon Phillips, Minister of Environment and Parks (formerly Alberta Environment and Sustainable Resource Development). The forestry function of the Department was moved to Alberta Agriculture, Food and Rural Development to form the new Alberta Agriculture and Forestry.
   - Oneil Carlier, Minister of Agriculture, and Forestry.
   - Marg McCuaig-Boyd, Minister of Energy.


C. British Columbia

1. Bill 18, the Administrative Tribunals Statutes Amendment Act, 2015, received Royal Assent on May 14, 2015. Sections of the Act are in force but the majority will be brought into force by regulation.


D. Manitoba

1. Bill 24, The Wildlife Amendment and Fisheries Amendment Act, was introduced on May 14, 2015. The amendments include enhanced enforcement measures, Ministerial authority to enter into agreements to share information about those convicted of wildlife offences with other jurisdictions, and the ability to issue licences and permits over the Internet. The amendment Bill is available on the website http://web2.gov.mb.ca/bills/40-4/pdf/b024.pdf.

E. Northwest Territories

1. The fifth session of the Legislative Assembly is scheduled to reconvene on May 27, 2015.

F. Nunavut

1. The Spring Sitting of the Legislative Assembly is scheduled to begin on May 26, 2015.

G. Saskatchewan

1. The Legislative Assembly adjourned on May 14, 2015.


H. Yukon

1. The Legislative Assembly is sitting but there are no new bill developments to report at this time.
II. REGULATORY

A. Federal

1. The Minister of the Environment released the following Orders/Notices:

a) Order 2015-87-03-02 Amending the Non-domestic Substances List. (Canada Gazette Part I, May 16, 2015, p. 1017.)

b) Order 2015-87-03-01 Amending the Domestic Substances List: (Canada Gazette Part II, May 20, 2015, pp. 1381-1390.)

2. The Department of the Environment is proposing Regulations Amending the Metal Mining Effluent Regulations pursuant to the Fisheries Act. The proposed amendment will add a portion of Trail Creek to Schedule 2 of the Regulations permitting its use for the disposal of tailings from the Red Chris Mine in northern British Columbia. Comments on the proposed amendment are requested by June 1, 2015. For additional information contact Chris Doiron, Manager, Mining Section, Industrial Sectors Directorate, Environment Canada by phone at 819-420-7688, fax 819-420-7381, or e-mail Chris.Doiron@ec.gc.ca. (Canada Gazette Part I, May 2, 2015, pp. 875-901.)

3. The Ministers of Environment and Health issued an Order Amending Schedule 1 to the Canadian Environmental Protection Act, 1999. The Order amends item 65 of the List of Toxic Substances by adding 16 compounds to the list of excluded volatile organic compounds. The intent of the amendment is “to ensure that the List of Toxic Substances includes only those VOCs that contribute to the formation of ground-level ozone.” Comments on the proposal are requested by July 1, 2015. For additional information contact Astrid Télasco, Director, Products Division, Environment Canada by fax at 819-938-4480 or e-mail products.produits@ec.gc.ca. (Canada Gazette Part I, May 2, 2015, pp. 902-906.)


5. The Ministers of Environment and Health released two publication after screening assessment notices pertaining to living organisms. The Notices are:

- **Publication after screening assessment of a living organism** — Candida utilis (C. utilis) strain ATCC 9950 — specified on the Domestic Substances List (subsection 77(1) of the Canadian Environmental Protection Act, 1999).
- **Publication after screening assessment of a living organism** — Pseudomonas sp. ATCC 13867 — specified on the Domestic Substances List (subsection 77(1) of the Canadian Environmental Protection Act, 1999).

For each of the Notices, a draft Screening Assessment has been conducted, and as it is proposed to conclude that the living organism does not meet any of the criteria set out in section 64 of the Canadian Environmental Protection Act, 1999, the Ministers of Environment and Health propose to take no further action of the living organism at this time. Relevant draft Screening Assessments are available on the website www.chemicalsubstances.gc.ca. Comments on either of these Notices are requested by July 22, 2015. (Canada Gazette Part I, May 23, 2015, pp. 1041-1045, respectively.)

6. Regulations Amending the Pacific Aquaculture Regulations are in force as of May 1, 2015. The Regulations are pursuant to the Fisheries Act. The amendment addresses licence fees. (Canada Gazette Part II, May 20, 2015, pp. 1306-1319.)

7. Regulations Amending the Transportation of Dangerous Goods Regulations (TC 117 Tank Cars) pursuant to the Transportation of Dangerous Goods Act, 1992, are in effect as of May 20, 2015. The Regulations provide for a new class of tank car for flammable liquid dangerous goods service and require that all rail tank cars for flammable liquid service be built according to these specifications. The specifications require thicker steel, full head shield protection, a jacket with thermal protection, top-fitting protection and new bottom outlet requirements. (Canada Gazette Part II, May 20, 2015, pp. 1344-1378.)
B. Alberta

1. The Rules of Practice of the Natural Resources Conservation Board Regulation, AR 77/2005, are amended by AR 80/2015 to extend the date of expiry to ensure a review from May 31, 2015, to May 31, 2018. (The Alberta Gazette Part II, May 15, 2015, p. 212.)


C. British Columbia

1. The Ministry of Environment announced that it will be updating its guidelines for the preparation of regional solid waste management plans which have not been updated since 1994. According to the announcement, an intentions paper outlining proposed changes will be released for public input later in the summer with a final guideline expected to be implemented in 2016.

D. Manitoba


E. Northwest Territories

(No changes to report.)

F. Nunavut

(No changes to report.)

G. Saskatchewan


H. Yukon

II. CONSULTATIONS

1. The National Energy Board is considering the following applications for authorization to export electricity:

   - Manitoba Hydro applied for authorization to export up to a maximum of 20 kW of power and 60,000 kWh of firm energy in any consecutive 12-month period to Roseau Electric Cooperative, Inc. of the U.S. for the period of August 1, 2015 to July 31, 2020.
   - Roctop Investments Inc. applied for authorization to export to the U.S. up to 7 000 000 MWh of combined firm and interruptible energy annually for a period of 10 years.

The Board is seeking the views of interested parties before issuing a permit or recommending that a public hearing be held. Written submissions on either application are requested by June 8, 2015. Information governing the Board’s examination are included in the Notice with additional information available from the Board Secretary, Sheri Young, by phone at 403-292-4800 or fax 403-292-5503. (Canada Gazette Part I, May 9, 2015, p. 1002, and 1003, respectively.)

IV. CASES

A. Alberta Environment and Parks

1. The Forest Management Branch had no new contraventions to disclose up to the departmental restructuring.

2. The Public Lands Appeal Board released a Decision in JH Drilling Inc. v. Alberta (Environment and Sustainable Resource Development). This concerns three separate appeals considered together as they all had the same appellant and other similarities. The appeals were all dismissed as the Board determined them to be “frivolous or vexatious or without merit” and that the Appellant did not provide the further information requested by the Board.

   The Board also issued a Discontinuance of Proceeding in Dunphy v. Alberta (Environment and Sustainable Resource Development). The appeal was filed over a denied application for a License of Occupation. The License was denied due to a Protective Notation. An agreement was reached at mediation and the appeal subsequently withdrawn.

3. The Compliance Assurance, Operations Division released its quarterly report of enforcement actions for the quarter January 1, 2015 through March 31, 2015. The report provides summary information on enforcement actions by Alberta Environment and Sustainable Resource Development. The report documents the following which were not reported in previous issues of The Regulatory Review:

   Administrative Penalties:

   - $844,778. to Alberta Reclaim and Recycling Company Inc. and Johnny Ha of Andrew, AB related to transporting and accepting beverage containers for an unauthorized bottle depot, obtaining refunds for the beverage containers, and failing to comply with an issued permit for the Andrew Bottle Depot. The penalty was assessed pursuant to sections 14(2), 13(1), 11(2), and 11(1) of the Beverage Container Recycling Regulation. A Notice of Appeal and a request for a stay has been filed with the Environmental Appeals Board. (See also the Enforcement Order below.)
   - $2,500 to Highpoint Estates Ltd. of Chestermere, AB for contravening its registration to operate a water treatment plant for 30 houses by failing to have the operation performed by, or under the supervision of, an operator with Small Water System Certification, and failing to report a contravention of the Code of Practice. The penalty, assessed pursuant to s. 227(e) of the Environmental Protection and Enhancement Act, has been paid.
- $6,000 to Lafarge Canada Inc. operating in the M.D. of Bighorn, for unauthorized clearing of public lands within the required undisturbed buffer zone between its disposition area and the top of the bank of the Bow River. The penalty was assessed pursuant to ss. 56(1)(n) of the Public Lands Act and has been paid.

Amended Orders:

- Amendment No. 3 was issued to Samco Developments Ltd. & Russell and Cindy Dolanz of Parkland County concerning a further revised Geotechnical Assessment signed by an independent third party qualified professional. The Order was issued pursuant to ss. 36(1) of the Water Act in 2012.
- The Order issued pursuant to the Water Act to Five Pillar Holdings Ltd. and Mohinder Singh Gill of Strathmore, AB (reported in the April issue of The Regulatory Review, IV.A.2.) was withdrawn.

Enforcement Orders:

- An Order was issued pursuant to the Public Lands Act to Larry Wayne Bradley of Saddle Hills County concerning Unauthorized Structures and Property which appeared to be used as a hunting camp on Crown Lands. The Order required an immediate stop to use of the Structures and Property as well as their complete removal, no later than February 28, 2015. The Director of Compliance is to be notified within 15 days of completion of the work.
- An Order pursuant to sections 13(1), 11(1), and 11(2) of the Beverage Container Recycling Regulation, pursuant to the Environmental Protection and Enhancement Act, was issued to Alberta Reclaim and Recycling Company Inc. of Andrew concerning a non-permitted bottle depot. The Company has a permit to operate the Andrew Bottle Depot. The Director is of the opinion that the Company transported and accepted out of province beverage containers for which it was paid deposit refunds and handling fees. The Order requires the Company to retrieve all of the seized beverage containers and make arrangements with the Alberta Beverage Container Recycling Corporation to take the contents to a designated facility for recycling and dispose of any containers not accepted for recycling at a waste management facility authorized under the Environmental Protection and Enhancement Act.
- An Order pursuant to the Environmental Protection and Enhancement Act was issued to Leduc County concerning the “Kavanagh Landfill” and its reclamation. The Order requires the County to prepare and submit a report to assess and delineate the landfill, obtain a qualified third party consultant to assess solid and groundwater contamination, and to prepare and submit a remediation plan for the surface area and soil and groundwater contamination. The Order also requires the submission and approval of an implementation plan for the remediation as well as a final report within 30 days of the work being completed. A Notice of Appeal has been filed with the Environmental Appeals Board.

B. Alberta Environmental Appeals Board Decisions

1. The Board issued the following:

Discontinuances of Proceedings:

- **Five Pillar Holdings Ltd. and Mohinder Singh Gill v. Alberta Environment and Sustainable Resource Development.** This appeal of an Enforcement Order issued pursuant to the Water Act was withdrawn by the Department.
- **Municipal District of Acadia No. 34 v. Alberta Environment and Sustainable Resource Development, re: Meridian Agriculture Co. Ltd.** This appeal of a Licence issued pursuant to the Water Act authorizing the diversion of water was withdrawn following an agreement reached with Meridian Agriculture.
- **Palmer Ranch (1984) Ltd. v. Alberta Environment and Sustainable Resource Development.** This appeal of a Preliminary Certificate issued pursuant to the Water Act was dismissed after the Appellant failed to meet various deadlines set by the Board.
- **Lone Pine Hutterian Brethren v. Alberta Environment and Sustainable Resource Development.** These appeals concern Licences issued pursuant to the Water Act for agricultural and municipal purposes. An agreement was reached at mediation following which a Ministerial Order was issued varying the Licences.
Decisions:

- **Sakowicz v. Director, Red Deer-North Saskatchewan Region, Alberta Environment and Sustainable Resource Development.** The Notice of Appeal was filed concerning the clean-up of an abandoned gas station site in Edmonton. The appeal was dismissed after the Appellant failed to respond to the Board’s request for additional information.

- **Tomlinson and Jackson v. Director, Red Deer-North Saskatchewan Region, Alberta Environment and Sustainable Resource Development, re: County of St. Paul.** The appeals concern an Approval issued pursuant to the Water Act authorizing the infilling of wetlands to accommodate municipal road improvements. While the appeals were both filed after the prescribed time limit, on consideration the Board determined that the municipality had not posted notice of the decision to issue the Approval and consequently accepted the appeals.

Report and Recommendations:

- **Gravely and Lone Pine Hutterian Brethren v. Director, Red Deer-North Saskatchewan Region, Alberta Environment and Sustainable Resource Development.** This is an appeal of two licences issued pursuant to the Water Act for agricultural purposes. The appeals were of the issuance of the licences as well as of the amount of water that can be withdrawn. Resolution of the matter was reached at mediation meetings and the licences were varied by the Minister.

C. **Alberta Energy Regulator Decisions**

(None to report.)

D. **Natural Resources Conservation Board Decisions**

(None to report.)

E. **Alberta Court Decisions**

(None to report.)

F. **Other Jurisdictions**

1. Ronald Leslie Martin, an outfitter from Alaska, was sentenced in Yukon Territorial Court to fines totally $20,000 after pleading guilty to illegally importing and exporting wildlife in violation of the Wild Animal and Plant Protection and Regulation of International and Interprovincial Trade Act. The sentence includes a ten year prohibition from carrying a firearm and accompanying anyone hunting in the Yukon as well as the forfeiture of three hunting trophies. The fine will be allocated to the Environmental Damages Fund.

2. A Provincial Court Judge in Fort St. John, B.C., sentenced Progress Energy Canada Ltd. to penalties totaling $250,000 related to an offence pursuant to the Migratory Birds Convention Act, 1994. A number of ducks were found dead in an aboveground holding tank which did not have deterrence measures in place. The penalty consists of a $5,000 fine, the allocation of $112,500 to the Environmental Damages Fund, and the allocation of $112,500 to three charities.

3. A Provincial Court Judge in British Columbia ordered All Seasons Mushrooms Inc. to pay a penalty of $90,000 after the Company pled guilty to the deposit of a deleterious substance into water frequented by fish in violation of the federal Fisheries Act. The penalty consists of a $1,000 fine and the allocation of $89,000 to the Environmental Damages Fund.

4. The B.C. Minister of Environment ordered the remediation of an orphan site in Langley which was home to an illegal drug lab. Ministry staff determined the site to be a high-risk contaminated site as well as identified three adjacent properties with potential contamination.

5. A Provincial Court Judge in Saskatchewan sentenced Custom Environmental Services Ltd. and Aevitas Inc. to fines totaling $87,000 after the Companies pled guilty to violating the Canadian Environmental Protection Act, 1999 through a spill of oil containing PCBs. The spill was detected at a weigh scale near Saskatoon. The penalties will be allocated to the Environmental Damages Fund.
6. Potzus Paving and Road Maintenance Ltd. of Yor­kton, SK was fined $18,900 pertaining to the unlawful disposal of waste after a rock crushing crew hired by the Company buried garbage (oil, oil filters, batteries, etc.) in a pit located within 700 metres of a fish-bearing creek. Charges were pursuant to The Municipal Refuse Management Regulations of The Environmental Management and Protection Act. The Company is also required to clean up the garbage and dispose of it properly, estimated to cost approximately $65,000.

7. A British Columbia Provincial Court Judge ruled that the private prosecution launched following the spill into Lemon Creek when a fuel truck overturned can proceed. Approximately 30,000 litres of fuel spilled. To date, the Public Prosecution Service has not taken over the file. Related to this, appeals of a cost recovery certificate issued pursuant to the provincial Environmental Management Act were filed by the Company and the driver with the Environmental Appeal Board. The appeals also requested a stay of the Certificate. The Board granted the stay applications pending a final decision on the merits of the appeal.

8. A member of the Shady Lane Hutterite Colony in the Portage la Prairie area in Manitoba was fined $10,000 and banned from hunting for two years after pleading guilty to five counts of violating the province’s Wildlife Act related to the illegal purchase and sale of elk meat.

G. Other Cases of Interest

1. The Supreme Court of Canada granted Jessica Ernst leave to appeal an Alberta Court of Appeal decision. The Court of Appeal had upheld a prohibition on the ability of an individual to bring a claim against a regulator. Among other issues in the action, Ernst sued the Energy Resources Conservation Board for negligent administration of a regulatory regime.

V. MISCELLANEOUS

1. The Government of Canada announced plans to reduce greenhouse gas emissions by 30% below 2005 levels by 2030.


3. The Government of Saskatchewan announced the release of an online Asbestos Registry at the site www.saskatchewan.ca/asbestos. The Registry lists public buildings in the province that contain asbestos.


The information in this publication is not intended as legal advice. Please contact your legal counsel to determine how this information may affect you or your business.