

2006

CHAPTER R-4.21

An Act respecting the Monitoring and Maintenance of Industrial Sites after Reclamation

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(Assented to May 19, 2006)

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

Short title

1 This Act may be cited as *The Reclaimed Industrial Sites Act*.

Interpretation

2 In this Act:

(a) **“closed site”** means an industrial site at which all decommissioning, remediation and reclamation measures have been carried out and transitional-phase monitoring has been completed;

(b) **“Institutional Control Monitoring and Maintenance Fund”** means the Institutional Control Monitoring and Maintenance Fund established pursuant to section 11;

(c) **“Institutional Control Program”** means the Institutional Control Program established pursuant to section 3;

(d) **“Institutional Control Registry”** means the Institutional Control Registry established pursuant to section 6;

(e) “**Institutional Control Unforeseen Events Fund**” means the Institutional Control Unforeseen Events Fund established pursuant to section 12;

(f) “**minister**” means the member of the Executive Council to whom for the time being the administration of this Act is assigned;

(g) “**prescribed**” means prescribed in the regulations;

(h) “**site holder**” means the person who is in possession of a closed site immediately before the closed site is accepted into the Institutional Control Program.

Program established

3(1) The Institutional Control Program is established.

(2) The purposes of the Institutional Control Program are:

(a) to set out the conditions by which the Government of Saskatchewan will accept responsibility for land that, in consequence of development and use, requires long-term monitoring and, in certain circumstances, maintenance;

(b) to ensure that the required monitoring and maintenance are carried out on that land;

(c) to provide a funding mechanism to cover costs associated with the monitoring and maintenance on that land; and

(d) to ensure that certain records and information are preserved with respect to that land.

Prescribing conditions to accept closed site

4 The Lieutenant Governor in Council may prescribe conditions pursuant to which the minister may accept a closed site into the Institutional Control Program.

Acceptance of closed site

5 The minister may accept a closed site into the Institutional Control Program if:

(a) the minister is satisfied that the closed site meets the prescribed conditions; and

(b) the site holder has paid to the minister:

(i) for deposit into an account of the Institutional Control Monitoring and Maintenance Fund, an amount sufficient to cover the anticipated future monitoring and maintenance costs for the closed site, determined in the prescribed manner;

(ii) for deposit into the Institutional Control Unforeseen Events Fund, an amount determined in the prescribed manner; and

(iii) the prescribed registration fee.

Institutional Control Registry

- 6(1)** The Institutional Control Registry is established for the purposes of:
- (a) registering closed sites that have been accepted into the Institutional Control Program; and
 - (b) accepting prescribed records and information.
- (2) When the minister accepts a closed site into the Institutional Control Program, the minister shall cause a description sufficient to identify the closed site to be entered into the Institutional Control Registry.
- (3) The Institutional Control Registry shall contain:
- (a) the prescribed information; and
 - (b) any other information that the minister permits to be included in the registry.
- (4) If the minister considers it to be in the public interest to do so, the minister may register prescribed information or material respecting a closed site in any other prescribed registry.
- (5) The records and information contained in the Institutional Control Registry are open for inspection by the public.

Minister to monitor a closed site

- 7(1)** Subject to subsection (2), the minister shall monitor a closed site in accordance with the monitoring requirements that were accepted by the minister when the closed site was accepted into the Institutional Control Program.
- (2) The minister may amend the monitoring requirements mentioned in subsection (1) if the minister believes that circumstances at the closed site warrant changes to the monitoring requirements.
- (3) In making changes to the monitoring requirements pursuant to subsection (2), the minister may consult with other persons or agencies.

Minister to maintain site

- 8** The minister shall undertake maintenance at a closed site that has been accepted into the Institutional Control Program:
- (a) in accordance with the prescribed requirements; or
 - (b) in the absence of any prescribed requirements, in accordance with any requirements that the minister considers necessary and appropriate for the closed site.

Carrying out responsibilities

- 9(1)** The minister may:
- (a) retain the services of qualified persons to carry out the responsibilities imposed on the minister pursuant to sections 7 and 8;
 - (b) request qualified employees of the Government of Saskatchewan to carry out those responsibilities; and

(c) enter into any agreement, engage the services of or retain any technical, professional or other adviser, specialist or consultant or do any other thing that the minister considers necessary to:

- (i) carry out the monitoring and maintenance of a closed site that has been accepted into the Institutional Control Program;
- (ii) manage the Institutional Control Monitoring and Maintenance Fund and its accounts; or
- (iii) manage the Institutional Control Unforeseen Events Fund.

(2) The minister may charge the appropriate account of the Institutional Control Monitoring and Maintenance Fund or, as the case requires, the Institutional Control Unforeseen Events Fund for any services performed by persons retained in accordance with clause (1)(a) or by employees of the Government of Saskatchewan in accordance with clause (1)(b) or for any matter authorized by clause (1)(c).

Controlling access to closed sites

10(1) The minister may restrict or prohibit access to a closed site that has been accepted into the Institutional Control Program if the minister considers it to be in the public interest to do so.

(2) No person who has knowledge of a restriction or prohibition imposed by the minister pursuant to subsection (1) shall fail to comply with that restriction or prohibition.

Institutional Control Monitoring and Maintenance Fund established

11(1) The Institutional Control Monitoring and Maintenance Fund is established.

(2) The amount paid by each site holder to the minister in accordance with subclause 5(b)(i) is to be deposited into a separate account of the Institutional Control Monitoring and Maintenance Fund.

(3) Each account of the Institutional Control Monitoring and Maintenance Fund consists of:

- (a) the amount deposited into the account pursuant to subsection (2); and
- (b) all earnings on investments of the account.

(4) The minister shall administer the Institutional Control Monitoring and Maintenance Fund and its accounts in accordance with this Act.

(5) Subject to subsections (6) and (7), each account of the Institutional Control Monitoring and Maintenance Fund shall only be used for monitoring and maintenance of the closed site that has been accepted into the Institutional Control Program and to which that account is associated.

(6) The minister may use the account of the Institutional Control Monitoring and Maintenance Fund that is associated with a closed site to conduct the monitoring required of that closed site in accordance with section 7.

- (7) The minister may use the account of the Institutional Control Monitoring and Maintenance Fund that is associated with a closed site for:
- (a) maintenance costs anticipated at the time the closed site is accepted into the Institutional Control Program and for any other general costs that should have reasonably been anticipated at the time the closed site was accepted into the Institutional Control Program; and
 - (b) costs incurred for the purpose of determining the required monitoring and maintenance of the closed site.
- (8) The minister may invest any moneys in an account of the Institutional Control Monitoring and Maintenance Fund that are not presently required for the purposes of that account in any security or class of securities authorized for investment pursuant to *The Pension Benefits Act, 1992*.
- (9) The minister may dispose of any investment made pursuant to subsection (8), subject to the terms of the investment, in any manner and on any terms that the minister considers advisable.
- (10) The fiscal year of the Institutional Control Monitoring and Maintenance Fund and of each of its accounts is the period commencing on April 1 in one year and ending on March 31 in the following year.

Institutional Control Unforeseen Events Fund established

- 12(1) The Institutional Control Unforeseen Events Fund is established.
- (2) The amount paid by each site holder to the minister in accordance with subclause 5(b)(ii) is to be deposited into the Institutional Control Unforeseen Events Fund.
- (3) The Institutional Control Unforeseen Events Fund consists of:
- (a) the amounts deposited into the fund pursuant to subsection (2); and
 - (b) all earnings on investments of the fund.
- (4) The minister shall administer the Institutional Control Unforeseen Events Fund in accordance with this Act.
- (5) The Institutional Control Unforeseen Events Fund shall only be used for:
- (a) maintenance obligations that are not covered by the Institutional Control Monitoring and Maintenance Fund for a closed site that has been accepted into the Institutional Control Program; and
 - (b) costs incurred for the purpose of determining the maintenance obligations mentioned in clause (a).
- (6) The minister may invest any moneys in the Institutional Control Unforeseen Events Fund that are not presently required for the purposes of that fund in any security or class of securities authorized for investment pursuant to *The Pension Benefits Act, 1992*.
- (7) The minister may dispose of any investment made pursuant to subsection (6), subject to the terms of the investment, in any manner and on any terms that the minister considers advisable.

(8) The fiscal year of the Institutional Control Unforeseen Events Fund is the period commencing on April 1 in one year and ending on March 31 in the following year.

Audit

13 The Provincial Auditor or any other auditor or firm of auditors appointed by the Lieutenant Governor in Council shall audit the accounts and transactions of the Institutional Control Monitoring and Maintenance Fund and the Institutional Control Unforeseen Events Fund:

- (a) annually; and
- (b) at any other time that the Lieutenant Governor in Council may require.

Annual report

14(1) In each fiscal year, in accordance with *The Tabling of Documents Act, 1991*, the minister shall cause to be prepared:

- (a) a report on the business of the Institutional Control Monitoring and Maintenance Fund and the Institutional Control Unforeseen Events Fund for the preceding fiscal year; and
- (b) a financial statement showing the business of each fund for the preceding fiscal year, in any form that may be required by Treasury Board.

(2) In accordance with *The Tabling of Documents Act, 1991*, the minister shall lay before the Legislative Assembly each report and financial statement prepared by the minister pursuant to this section.

Institutional Control Report

15(1) The minister shall prepare a report every five years, to be known as the Institutional Control Report, concerning the condition of all closed sites accepted into the Institutional Control Program.

(2) Notwithstanding *The Tabling of Documents Act, 1991*, the minister shall lay the Institutional Control Report before the Legislative Assembly on or before the April 1 following the end of the five-year period to which the report relates.

(3) The first Institutional Control Report shall be laid before the Legislative Assembly on or before April 1, 2012.

(4) If the Legislature is not in session when the minister intends to lay the Institutional Control Report before the Legislative Assembly, the minister shall submit the report to the Clerk of the Legislative Assembly.

(5) When the Clerk of the Legislative Assembly receives the Institutional Control Report, the Clerk shall:

- (a) ensure that copies of the report are delivered to all members of the Legislative Assembly; and
- (b) make the report available for public inspection during normal business hours of the Clerk.

(6) If the minister submits the Institutional Control Report to the Clerk pursuant to subsection (4), the minister is deemed to have tabled the report in accordance with this Act.

Review of Act

16(1) The minister shall conduct a review of this Act within five years after this Act comes into force.

(2) In conducting the review of this Act, the minister shall consult with:

- (a) the site holders who contributed to the Institutional Control Monitoring and Maintenance Fund and the Institutional Control Unforeseen Events Fund;
- (b) the general industry of the site holders mentioned in clause (a); and
- (c) any other person or agency that the minister considers appropriate.

(3) The review of this Act shall include consideration as to whether or not the moneys in the Institutional Control Monitoring and Maintenance Fund and the Institutional Control Unforeseen Events Fund are sufficient to meet future financial needs relating to closed sites that have been accepted into the Institutional Control Program.

Offence and penalties

17(1) No person shall fail to comply with subsection 10(2).

(2) Every person who contravenes subsection 10(2) is guilty of an offence and liable on summary conviction to a fine not exceeding \$50,000.

(3) Every director, officer or agent of a corporation who directed, authorized, assented to, acquiesced in or participated in an act or omission of the corporation that would constitute an offence by the corporation is guilty of that offence and is liable on summary conviction to the penalties provided for the offence whether or not the corporation has been prosecuted or convicted.

Regulations

18(1) The Lieutenant Governor in Council may make regulations:

- (a) defining, enlarging or restricting the meaning of any word or expression used but not defined in this Act;
- (b) prescribing the conditions pursuant to which a closed site may be accepted into the Institutional Control Program;
- (c) prescribing the manner for determining the anticipated future monitoring and maintenance costs for a closed site;
- (d) prescribing the amount to be paid by a site holder to the minister for deposit into the Institutional Control Unforeseen Events Fund;
- (e) prescribing the registration fee for accepting a closed site into the Institutional Control Program;
- (f) prescribing the information that must be contained in the Institutional Control Registry;

- (g) prescribing the records and information, or the type of records and information, that may be filed with the Institutional Control Registry;
 - (h) for the purposes of subsection 6(4), prescribing information or material and other registries and, for that purpose, prescribing different information or material for different registries;
 - (i) prescribing the requirements for maintaining closed sites that have been accepted into the Institutional Control Program;
 - (j) prescribing any other matter or thing that is required or authorized by this Act to be prescribed in the regulations;
 - (k) respecting any other matter or thing that the Lieutenant Governor in Council considers necessary to carry out the intent of this Act.
- (2) A regulation made pursuant to subsection (1) may be made applicable to all closed sites, to all closed sites as at a certain time, or to a particular closed site.

Coming into force

19 This Act comes into force on proclamation.