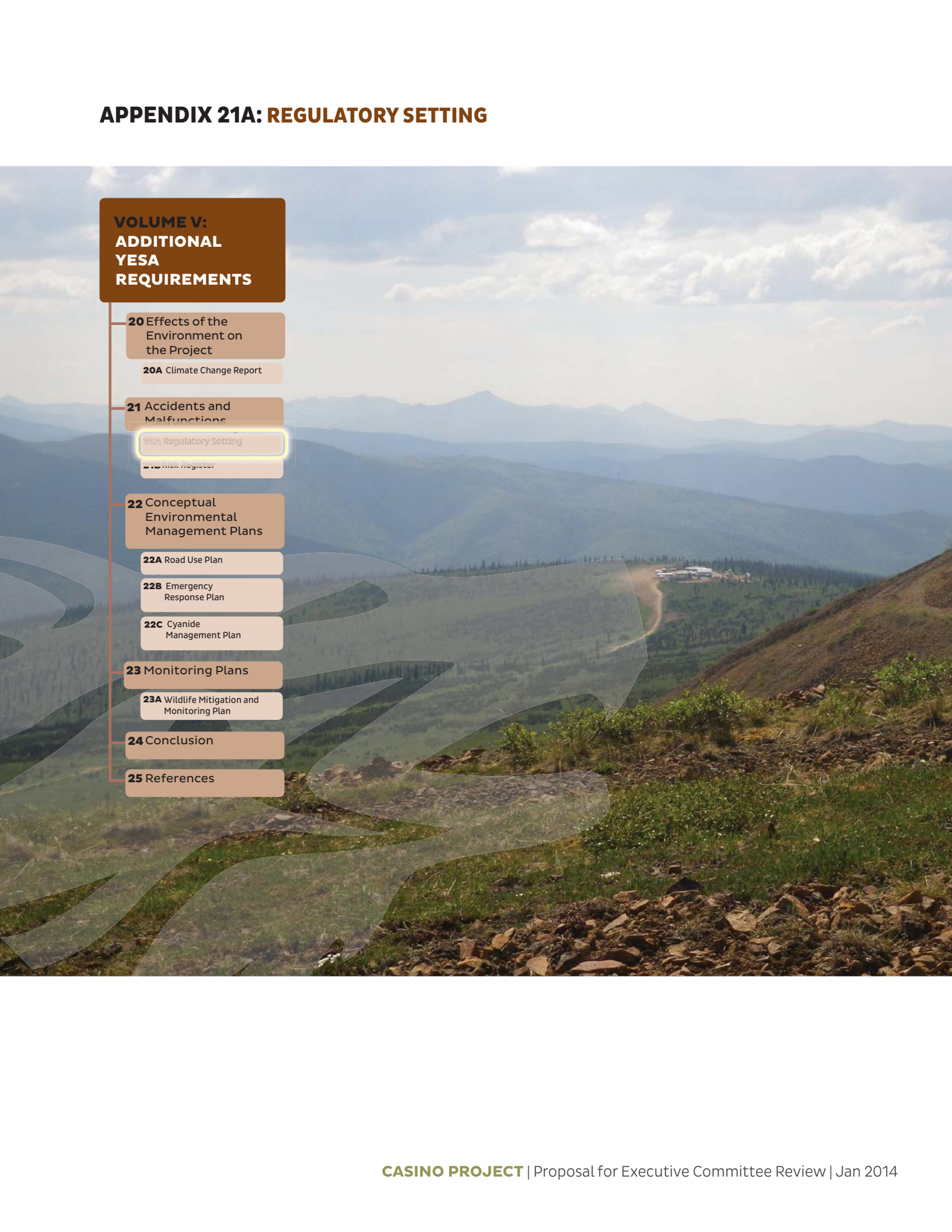


APPENDIX 21A: REGULATORY SETTING



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**APPENDIX 21-A CASINO PROJECT
ACCIDENTS AND MALFUNCTIONS REGULATORY SETTING**

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This section presents a discussion of the territorial and federal legislation that pertains to accidents and malfunctions related to the Casino Project.

1.1 YUKON TERRITORY

1.1.1 Environment Act

Sections of the *Environment Act* that concern release of contaminants are relevant to the accidents and malfunctions discussion. Under the *Environment Act*, “release” means “to spread, discharge, spray, inject, inoculate, abandon, deposit, leak, seep, pour, emit, empty, throw, dump, place, exhaust, or any combination of these, whether intentional or accidental”. The *Environment Act* also dictates that anyone who releases a contaminant in excess of the amount allowed by regulation or a permit must report the release to an environmental protection officer (Part 9, Section 113). Part 10, Section 118 classifies hazardous substances as follows:

- Class 1: Explosives, including explosives within the meaning of the *Explosives Act* (Canada);
- Class 2: Gases that are compressed, deeply refrigerated, liquefied, or dissolved under pressure;
- Class 3: Flammable and combustible liquids, including but not restricted to petroleum products such as gasoline, diesel fuel, airplane fuel, kerosene, naphtha, lubricant, fuel oil, engine oil, and propane;
- Class 4: Flammable solids; substances liable to spontaneous combustion; substances that on contact with water emit flammable gases;
- Class 5: Oxidizing substances and organic peroxides;
- Class 6: Toxic and infectious substances;
- Class 7: Radioactive materials;
- Class 8: Corrosives; and
- Class 9: Miscellaneous products, substances or organisms considered by the Commissioner in Executive Council to be dangerous to life, health, property, or the natural environment.

Section 121 of the *Environment Act* dictates that a person may be required to, as ordered by an environmental protection officer, undertake investigations, tests, or surveys to determine the magnitude of a risk and prepare a contingency plan, and take reasonable measures to prevent a spill. Spill is defined in the *Environment Act* as the release of a hazardous substance, pesticide, contaminant, or special waste, into the natural environment from a structure, vehicle or container in excess of the amount specified in regulations. Section 135 of the *Environment Act* also dictates the requirement for the implementation of reasonable mitigation measures in the event of a spill, which includes not only removing the substance but restoring or rehabilitating the natural environment.

The Special Waste Regulations of the *Environment Act* concern dangerous goods as defined in the *Dangerous Goods Transportation Act* (Yukon) and Transportation of Dangerous Goods Regulations (Canada). Part V, Section 14 of the Regulation dictates the requirements for responding to a spill, including reporting the release to the Yukon Spills Report Centre and notifying members of the public who may be affected.

The Spill thresholds of the Spills Regulations of the Environment Act are reproduced in Table 1.1.1-1
Schedule A of the Environment Act Spills Regulation

Table 1.1-1 Schedule A of the *Environment Act* Spills Regulation

| Item | Column 1 - Substance Spilled | Column 2 - Specified Amount |
|------|--|--|
| 1 | Explosives of Class 1 as defined in section 3.9 of the Federal Regulations | any amount |
| 2 | Flammable gases, of Division 1 of Class 2 as defined in section 3.11(a) of the Federal Regulations | Any amount of gas from a container larger than 100 L, or where the spill results from equipment failure, error or deliberate action or inaction |
| 3 | Non-flammable gases of Division 2 of Class 2 as defined in section 3.11(d) of the Federal Regulations | Any amount of gas from a container larger than 100 L, or where the spill results from equipment failure, error or deliberate action or inaction 100 L, or where the spill results from equipment failure, error or deliberate action or inaction |
| 4 | Poisonous gases of Division 3 of Class 2 as defined in section 3.11(b) of the Federal Regulations | any amount |
| 5 | Corrosive gases of Division 4 of Class 2 as defined in section 3.11(c) of the Federal Regulations | any amount |
| 6 | Flammable liquids of Class 3 as defined in section 3.12 of the Federal Regulations | 200 L |
| 7 | Flammable solids of Class 4 as defined in section 3.15 of the Federal Regulations | 25 kg |
| 8 | Products or substances that are oxidizing substances of Division 1 of Class 5 as defined in sections 3.17(a) and 3.18(a) of the Federal Regulations | 50 kg or 50 L |
| 9 | Products or substances that are organic compounds that contain the bivalent “-O-O-” structure of Division 2 of Class 5 as defined in sections 3.17(b) and 3.18(b) of the Federal Regulations | 1 kg or 1 L |
| 10 | Products or substances that are poisons of Division 1 of Class 6 as defined in sections 3.19(a) to (e) and 3.20(a) of the Federal Regulations | 5 kg or 5 L |
| 11 | Organisms that are infectious or that are reasonably believed to be infectious and the toxins of these organisms as defined in sections | any amount |

| Item | Column 1 - Substance Spilled | Column 2 - Specified Amount |
|------|--|--|
| | 3.19(f) and 3.20(b) of the Federal Regulations | |
| 12 | Radioactive materials of Class 7 as defined by section 3.24 of the Federal Regulations | any discharge or a radiation level exceeding 10 mSv/h at the package surface and 200 mSv/h at 1 m from the package surface |
| 13 | Products or substances of Class 8 as defined by section 3.24 of the Federal Regulation | 5 kg or 5 L |
| 14 | Miscellaneous products or substances of Division 1 of Class 9 as defined by sections 3.27(1) and 2(a) of the Federal Regulations | 50 kg or 50 L |
| 15 | Miscellaneous products or substances of Division 2 of Class 9 as defined in section 3.27(1) and 2(b) of the Federal Regulations | 1 kg or 1 L |
| 16 | Miscellaneous products or substances of Division 3 of Class 9 as defined in section 3.27(1) and 2(c) of the Federal Regulations | 5 kg or 5 L |
| 17 | Special waste as defined in section 1 of the Special Waste Regulations | amounts specified in s. 3(1)(b) of Special Waste Regulations |

The Storage Tank Regulations of the *Environment Act* outline the requirement to obtain a permit to store petroleum products and hazardous substances in underground or aboveground storage tanks; for removal of the tanks; and for monitoring of inventory. Any connecting piping, pumps, dyking, and spill containment and collection apparatus are included as part of underground or aboveground storage tanks. The regulations reference the following codes:

- Environmental Code of Practice for Aboveground Storage Tank Systems Containing Petroleum Products, 1994, Canadian Council of Ministers of the Environment; and
- Environmental Code of Practice for Underground Storage Tank Systems Containing Petroleum Products and Allied Petroleum Products, 1993, Canadian Council of Ministers of the Environment.

The Solid Waste Regulations of the *Environment Act* outline operating standards for dumps, which are defined as any site used for the handling or disposal of solid waste other than a waste disposal facility. The operating standards include:

- Conducting any incineration or open burning of solid waste in accordance with the Air Emissions Regulations, the *Forest Protection Act*, and the Yukon Forest Protection Regulations (Canada);
- Separately storing any substances that that may when combined cause a fire, an explosion, the release of gaseous emissions or other dangerous conditions; and
- Storing substances in a manner that will not cause spills, leakage, leaching or other discharges or releases of the substances.

1.1.2 Dangerous Goods Transportation Act

Sections of the *Dangerous Goods Transportation Act* relevant to the accidents and malfunctions assessment and the Proponent include:

- Section 8(1) requires that the person in charge of any dangerous goods discharged from any container or vehicle report the discharge; and
- Section 8(2) dictates that every person required to make a report under subsection (1) take all reasonable emergency measures to repair, remedy, reduce or mitigate any danger to life, health, property or the environment.

1.1.3 Waters Act

Section 7 of the *Waters Act* prohibits the deposit of waste in any waters in a management area unless permitted to do so in accordance with the conditions of a licence or as authorized by regulations. If waste is deposited in contravention of this section an inspector designated under the *Waters Act* must be informed of the deposit.

The Waters Regulation of the *Water Act* requires that any project or undertaking involving the handling or storage of petroleum products or hazardous materials have a plan for the safe handling, storage, and disposal, as well as a contingency plan for their containment and for cleaning them up in the event of a spill.

1.1.4 Quartz Mining Act

The Quartz Mining Land Use Regulation of the *Quartz Mining Act* outlines requirements for spills and spill contingency plans and for the storage of petroleum fuel and hazardous substances.

1.1.5 Forest Protection Act

Section 8 of the *Forest Protection Act* is relevant to the accidents and malfunction assessment, as it dictates the requirements for working with open fire in or near a forest area. Section 13 states that no person operating an engine or burner in or within one kilometre of a forest area during the fire season must have a prescribed fire prevention device for arresting sparks and for preventing the escape of fire. Section 13 also requires that industrial activities have available and in good operating condition any tools, pumps, hoses, and other fire-fighting equipment prescribed by the forest supervisor.

The Regulations in Respect of Forest Protection (C.O. 1959/034) apply to camps and industrial operations and outline the requirements for the management of inflammable material, including location of closed containers for flammable fuels and liquids; fire measures for all stove pipes, chimneys and flues in a camp; maintenance of necessary equipment (barrels of water and pails, or, handpumps with tanks filled with water) in a location where a fire hazard is most likely; and a fire prevention and action plan.

The Forest Protection Regulation (2003) (O.I.C. 2003/57) of the *Forest Protection Act* also contains provisions for fire prevention and control. Permits are required to start an open fire during the fire season and operate an engine in a forest area during the fire season. Terms and conditions of the permits could include those relating to the storage, use, handling, and disposal of flammable material and fire emergency plans.

1.2 FEDERAL

1.2.1 Transportation of Dangerous Goods Act

Under the federal *Transportation of Dangerous Goods Act* “release” means, in relation to dangerous goods, any discharge, including “escape” from a container used for handling or transport. An Emergency Response Assistance Plan is required under this Act prior to handling or transporting the dangerous goods. The plan must outline measures to be taken in response to an actual or anticipated release of the dangerous goods during handling or transport.

Section 5.4 of the Transportation of Dangerous Goods Regulations outlines the requirements for the loading and securing of dangerous goods to prevent, under normal conditions of transport, damage to the container or to the means of transport that could lead to an accidental release.

Sections 8 of the Regulations pertain to accidental release or imminent accidental release reporting requirements; a release must be reported immediately if the quantity released exceeds the amounts stated in the Regulation, reproduced in Table 1.2.1-1.

Table 1.2-1 Transportation of Dangerous Goods Regulation Reporting Requirements

| Class | Material | Quantity/ Emission Level |
|-------|---|---|
| 1 | Explosives, including explosives within the meaning of the <i>Explosives Act</i> | Any quantity that a. could pose a danger to public safety or is greater than 50 kg; or b. is included in Class 1.1, 1.2, 1.3 or 1.5 and is (i) not subject to special provision 85 or 86 but exceeds 10 kg net explosives quantity, or (ii) subject to special provision 85 or 86 and the number of articles exceeds 1 000. SOR/2008-34 |
| 2 | Gases: compressed, deeply refrigerated, liquefied or dissolved under pressure | Any quantity that could pose a danger to public safety or any sustained release of 10 minutes or more |
| 3 | Flammable and combustible liquids | 200 L |
| 4 | Flammable solids; substances liable to spontaneous combustion; substances that on contact with water emit flammable gases | 25 kg |
| 5.1 | Oxidizing substances | 50 kg or 50 L |

| | | |
|-----|---|--|
| 5.2 | Organic peroxides | 1 kg or 1 L |
| 6.1 | Poisonous (toxic) substance | 5 kg or 5 L |
| 6.2 | Infectious substances | Any quantity <i>SOR/2008-34</i> |
| 7 | Nuclear substances, within the meaning of the <i>Nuclear Safety and Control Act</i> , that are radioactive | Any quantity that could pose a danger to public safety An emission level greater than the emission level established in section 20 of the "Packaging and Transport of Nuclear Substances Regulations" |
| 8 | Corrosives | 5 kg or 5 L |
| 9 | Miscellaneous products, substances or organisms considered by the Governor in Council to be dangerous to life, health, property or the environment when handled, offered for transport or transported and prescribed to be included in this class | 25 kg or 25 L |

In the event of accidental release or an imminent accidental release of dangerous goods, a report must be made immediately to the Canadian Transport Emergency Centre (CANUTEC) at 613-996-6666, or on a cellular phone at *666, as well as:

- For a ship:
 - Vessel Traffic Services Centre; or
 - Canadian Coast Guard radio station.
- For an aircraft, an aerodrome or an air cargo facility:
 - The nearest Regional Civil Aviation Office of the Department of Transport and, if the aerodrome is an airport, and
 - The operator of the airport.

In the Yukon Territory, report must also be made to the appropriate authorities at (867) 667-7244.

1.2.2 Fisheries Act

The *Fisheries Act* requires that an inspector, a fishery officer or an authority prescribed by the regulations be notified in the event of a harmful alteration or disruption or a destruction of fish habitat or deposit of a deleterious substance in water frequented by fish. Under the *Fisheries Act*, "deleterious substance" is defined as "any substance that, if added to any water, would degrade or alter or form part of a process of degradation or alteration of the quality of that water so that it is rendered or is likely to be rendered

deleterious to fish or fish habitat or to the use by man of fish that frequent that water". Deposit includes spills, leaks, and seeps.

Regulations made under the *Fisheries Act* relevant to the accidents and malfunctions assessment include:

- Deposit Out of the Normal Course of Events Notification Regulations (SOR/2011-91): Any person required by subsection 38(4) of the *Fisheries Act* to report the occurrence or imminent occurrence of a deposit of a deleterious substance out of the normal course of events must notify the relevant authorities. For the Yukon the Yukon Department of Environment must be contacted at 867-667-7244.
- Metal Mining Effluent Regulations Section 29 - Part 3 Deposits Out of the Normal Course of Events: The owner or operator of a mine must prepare an emergency response plan that describes the measures to be taken in respect of a deleterious substance to prevent any deposit out of the normal course of events.

1.2.3 Canadian Environmental Protection Act, 1999

The *Canadian Environmental Protection Act*, 1999 (CEPA 1999) requires that an enforcement officer or any other person designated pursuant to the regulations be notified if there is or is likely to be a release into the environment of a substance specified on the List of Toxic Substances in Schedule 1 of the Act. The Act also requires that reasonable measures be taken to prevent the release and mitigate the danger to the environment from such a release.

Part 8 of the CEPA 1999 defines "environmental emergency" as an uncontrolled, unplanned or accidental release, or release of a substance into the environment.