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Our File: 33

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**RE: Draft Industrial Release Limits Policy**

The Environmental Law Centre is a non-profit organization that has operated in Alberta since 1982. The Environmental Law Centre provides services in environmental law education and assistance, environmental law reform and environmental law research to achieve its objective of making the law work to protect the environment. Accordingly, we have prepared comments on the Draft Industrial Release Limits Policy (the "Policy").

The Policy is intended to provide guidance regarding the approach used to develop industrial release limits for approvals under the *Environmental Protection and Enhancement Act*, S.A. 1994, c. E-13.3 (the "EPEA"). According to the Policy, its principles are based on pollution prevention, continuous improvement, application of the most effective pollution control technology and the use of science based ambient environmental quality guidelines.

**General Comments**

The Policy states that industrial limits are required to ensure that the environment and human health are protected. We do not disagree. However, it is our recommendation that the Policy also state that industrial limits are required to protect the environment as habitat for plant and animal species. In addition, it should be stated that industrial limits are required to protect the health of all species including, but not limited to, humans.

The Policy does not clearly distinguish between pollution prevention and pollution control technologies. The distinction between pollution prevention and pollution control technologies is important and should be made by the Policy. In addition, it is our view that the Policy should state that the use of pollution prevention technologies is a more effective and sustainable practice than the use of pollution control technologies.

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Finally, the prospect of public participation is mentioned only in the discussion of technology limits (at page 4). The policy indicates that comments from industrial representatives and the general public will be solicited during the development of sector-specific technology based limits. It is our recommendation that Alberta Environment solicit comments from all stakeholders. This includes environmental groups, aboriginal groups, local community groups and others. We also recommend that public participation be encouraged in developing *all* industrial release limits.

### **Principles for Setting Industrial Release Limits**

There are four principles that provide guidance on setting industrial release limits. We have comments on all of these principles.

The first principle states that the industrial release limits may be based on the more stringent of the most effective pollution prevention or control technologies, and the ambient environmental quality guidelines. It is our recommendation that the more stringent of these should *always* be the basis of the industrial release limits. That is, if an ambient environmental quality based limit is not technically attainable, then the activity should not be approved.

This principle provides guidance about the development of sector-specific technology based limits. It provides that sector-specific technology based limits will be “amongst the most stringent when compared with those in other jurisdictions”. It is our recommendation that *the* most stringent industrial release limits be adopted in Alberta.

This principle also indicates that sector-specific industrial limits are periodically reviewed to ensure they keep pace with advancing technology. However, there is no indication of the frequency of such review. It is our recommendation that these limits be reviewed annually, at the very least. Further, these limits should be immediately reviewed in the event that the availability of new technology comes to the attention of Alberta Environment.

Finally, this principle states that sector-specific technology limits are to be applied uniformly across an industrial sector. It is our view that this is not always appropriate. While sector-specific technology limits may provide a minimum standard, more stringent standards may be required for a particular facility. For example, higher standards will be required if a particular facility is located in an environmentally sensitive area. As another example, higher standards may be required for a particular facility located in an area with high industrial activity where the potential for negative cumulative effects is a concern.

Other aspects of the Policy, namely pages 4 to 5, relate to this principle. The Policy states that varying economic capacities associated with the age and type of facility will be considered in developing sector-specific technological limits. It is our view that pollution above minimum sector-specific technological limits or ambient environmental quality limits should not be tolerated from any facility. That is, a facility should not be allowed to pollute more simply because of its age or type. Rather, the varying capacities of facilities can be recognized by imposing different schedules for implementation of new technologies, providing tax benefits for upgrading and so forth.

The third principle described in the Policy guides the development of case-specific technology based limits. This principle states that in developing a case-specific technology limit, the capabilities of the control technologies that are relevant to the plant will be assessed. It is our recommendation that the capabilities of pollution prevention technologies also be considered.

This principle also lists the circumstances in which the development of a case-specific technology limit is necessary. We recommend that the development of such a limit be considered necessary where a particular facility is to be located in an area that is subject to unique environmental concerns. This might include the use of an environmentally sensitive or unique area. It might also include an area with high industrial activity where the potential for negative cumulative effects is a concern.

Finally, the fourth principle guides the development of ambient environmental quality based limits. It is our recommendation that this principle expressly mention that cumulative effects of an activity will be considered. That is, the development of ambient environmental quality based limits should consider the particular industrial activity and its releases in the context of surrounding activities and releases. The particular industrial activity and releases should not be considered in isolation.

On behalf of the Environmental Law Centre, I thank you for considering our comments on the draft Industrial Release Limits Policy. Please feel free to contact me at (780) 424-5099 if you have any questions regarding our comments.

Sincerely,

Brenda Heelan Powell  
Staff Counsel