

This Act is current to 30 November 2016.

This Act has "Not in Force" sections. See the [Table of Legislative Changes](#).

## **OIL AND GAS ACTIVITIES ACT**

[SBC 2008] CHAPTER 36

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## Definitions

1 (1) Words and expressions used but not defined in this Act or in the regulations for the purposes of this Act, unless the context otherwise requires, have the same meanings as in the Petroleum and Natural Gas Act, other than Part 17 of that Act.

(2) In this Act:

"appeal tribunal" means the Oil and Gas Appeal Tribunal established under section 19;

"authorization" means, except in sections 34, 39 (1) and 104 and Part 10, an authorization under a specified enactment to carry out a related activity, and includes the conditions, if any, imposed on the authorization under this Act or the specified enactment;

"board" means the board of the commission continued under section 2;

"certificate of restoration" means a certificate issued by the commission under section 41;

"commission" means the Oil and Gas Commission continued under section 2;

"commissioner" means the commissioner appointed under section 2 (3);

"environmental measure" means an action a person must take or refrain from taking for the protection or effective management of the environment;

"facility" means a system of vessels, piping, valves, tanks and other equipment that is used to gather, process, measure, store or dispose of petroleum, natural gas, water or a substance referred to in paragraph (d) or (e) of the definition of "pipeline";

"flow line" means a pipeline that connects a well head with a scrubbing, processing or storage facility and that precedes the transfer of the conveyed substance to or from a transmission, distribution or transportation line;

"former permit holder" includes a person who was a director of a corporation that

(a) held a permit with respect to which there has been a cancellation, declaration or expiry referred to in section 40, and

(b) no longer exists or has amalgamated with another corporation;

"government's environmental objectives" means the prescribed objectives of the government respecting the protection and effective management of the environment;

"highway" has the same meaning as in the Transportation Act;

"land owner" means

(a) a person registered in the land title office as the registered owner of the land surface or as its purchaser under an agreement for sale, and

(b) a person to whom a disposition of Crown land has been issued under the Land Act, but does not include the government or a person referred to in paragraph (b) of the definition of "unoccupied Crown land" in section 1 of the Petroleum and Natural Gas Act;

"official", except in sections 6 and 8, means a person designated as an official under section 7 (4);

"oil and gas activity" means

(a) geophysical exploration,

(b) the exploration for and development of petroleum, natural gas or both,

(c) the production, gathering, processing, storage or disposal of petroleum, natural gas or both,

(d) the operation or use of a storage reservoir,

(e) the construction or operation of a pipeline,

(f) the construction or maintenance of a prescribed road, and

(g) the activities prescribed by regulation;

"operating area" means an area, identified in a permit, within which a permit holder is permitted to carry out an oil and gas activity;

"permit" means a permit issued under section 25 and includes any conditions imposed on a permit;

"permit holder" means

(a) a person who holds a permit, and

(b) a person, if any, who is the holder of a location with respect to that permit;

"pipeline" means, except in section 9, piping through which any of the following is conveyed:

- (a) petroleum or natural gas;
  - (b) water produced in relation to the production of petroleum or natural gas or conveyed to or from a facility for disposal into a pool or storage reservoir;
  - (c) solids;
  - (d) substances prescribed under section 133 (2) (v) of the Petroleum and Natural Gas Act;
  - (e) other prescribed substances,
- and includes installations and facilities associated with the piping, but does not include
- (f) piping used to transmit natural gas at less than 700 kPa to consumers by a gas utility as defined in the Gas Utility Act,
  - (g) a well head, or
  - (h) anything else that is prescribed;

"pipeline permit" means a permit that includes a permission to construct, maintain or operate a pipeline;

"pipeline permit holder" means a permit holder of a pipeline permit;

"related activity" means an activity

- (a) that, under a specified enactment, must not be carried out except as authorized under the specified enactment or that must be carried out in accordance with the specified enactment, and
  - (b) the carrying out of which is required for or facilitates the carrying out of an oil and gas activity;
- "specified enactment" means any of the following Acts:

- (a) Environmental Management Act ;
- (b) Forest Act ;
- (c) Heritage Conservation Act ;
- (d) Land Act ;
- (e) Water Sustainability Act ;

"specified provision" means the following provisions:

- (a) any of the following provisions of the Environmental Management Act:
    - (i) section 9 [hazardous waste storage and disposal];
    - (ii) section 14 [permits];
    - (iii) section 15 [approvals];
  - (b) section 47.4 [licence to cut for persons occupying land or for oil and gas purposes] of the Forest Act, but only in relation to a master licence to cut, and section 117 [road use permits for industrial use] of that Act;
  - (c) section 12 [permit authorizing certain actions] of the Heritage Conservation Act;
  - (d) any of the following provisions of the Land Act:
    - (i) section 11, but only in relation to a lease or grant described in section 11 (2) (b) to (d) [disposing of Crown land];
    - (ii) section 14 [temporary occupation of Crown land];
    - (iii) section 38 [lease of Crown land], but not to the extent that it relates to the granting of an option to purchase land;
    - (iv) section 39 [licence of occupation];
    - (v) section 40 [right of way and easement];
    - (vi) section 96 (1) [occupational rental];
  - (e) any of the following provisions of the Water Sustainability Act, but only in relation to a use approval or a change approval as those terms are defined in section 1 (1) of that Act:
    - (i) section 10 [use approvals];
    - (ii) section 11 [changes in and about a stream], in respect of a person other than the government of British Columbia or Canada or a municipality;
    - (iii) section 24 [permits over Crown land];
  - (f) a prescribed regulation under a specified enactment;
- "spillage" means petroleum, natural gas, oil, solids or other substances escaping, leaking or spilling from

- (a) a pipeline, well, shot hole, flow line, or facility, or
- (b) any source apparently associated with any of those substances.

## Part 2 — Administration

### Division 1 — Oil and Gas Commission

#### Corporation continued

2 (1) A corporation known as the Oil and Gas Commission is continued, consisting of a board with 3 directors.

(2) The deputy minister is a director and is the chair of the board.

(3) The Lieutenant Governor in Council may appoint 2 directors, for a term not longer than 5 years, one of whom is both the commissioner and vice chair of the board.

(4) A person appointed as a director under subsection (3) may be reappointed for additional terms.

(5) A vacancy in the membership of the board or the incapacity of one of the directors does not impair the power of the remaining directors to act.

(6) A majority of the directors holding office constitutes a quorum at meetings of the board.

(7) If there is a tie vote, the chair of the board, or in the absence of the chair the vice chair, has the deciding vote.

(8) If a director dies or is unable to act or if a director's position is otherwise vacant, the minister, by order, may appoint an acting director for a period not longer than 6 months.

(9) If the commissioner dies or is unable to act or if the commissioner's position is otherwise vacant, the minister, by order, may appoint a director or an acting director appointed under subsection (8) to be an acting commissioner for a period not longer than 6 months.

(10) The board may appoint a deputy commissioner.

(11) A deputy commissioner has the powers of the commissioner, unless the board otherwise directs, but does not have a vote in meetings or decisions of the board and is subject to any directions given to him or her by the commissioner.

(12) The commission may pay to a person appointed under subsection (3), (8), (9) or (10) remuneration and expense allowances at rates set by the minister.

Commission is an agent of the government

3 The commission is an agent of the government.

#### Purposes

4 The purposes of the commission include the following:

(a) to regulate oil and gas activities in British Columbia in a manner that

(i) provides for the sound development of the oil and gas sector, by fostering a healthy environment, a sound economy and social well-being,

(ii) conserves petroleum and natural gas resources,

(iii) ensures safe and efficient practices, and

(iv) assists owners of petroleum and natural gas resources to participate equitably in the production of shared pools of petroleum and natural gas;

(b) to provide for effective and efficient processes for the review of applications for permits and to ensure that applications that are approved are in the public interest having regard to environmental, economic and social effects;

(c) to encourage the participation of First Nations and aboriginal peoples in processes affecting them;

(d) to participate in planning processes;

(e) to undertake programs of education and communication in order to advance safe and efficient practices and the other purposes of the commission.

#### Direction and management of commission

5 (1) The board may pass resolutions it considers necessary or advisable to direct its affairs, exercise its powers and perform its duties, including resolutions for one or more of the following:

(a) calling and holding meetings of the board and the procedures to be followed at meetings;

- (b) making regulations of the board;
- (c) approving the commission's annual service plan under the Budget Transparency and Accountability Act, as well as the commission's annual budget estimate detailing the expected revenues and planned expenditures of the commission for the next fiscal year;
- (d) establishing a plan of organization to carry out the powers of the commission.

(2) The board must

(a) establish, in accordance with the regulations, if any, a conflict of interest policy for the directors that includes provisions respecting

- (i) the disclosure of interests in contracts or transactions with the commission,
- (ii) the duty to account for profits,
- (iii) the validity of contracts and transactions in which a director has an interest, and
- (iv) the disclosure of any property owned or office held by a director that may create a conflict of interest or duty,

(b) submit the policy referred to in paragraph (a) to the minister, and

(c) establish a code of conduct, including conflict of interest provisions, that governs the conduct of employees of the commission.

(3) On receipt of a conflict of interest policy under subsection (2) (b) or on the minister's own initiative, the minister may order the board to amend its conflict of interest policy and resubmit that policy to the minister in accordance with the order.

(4) A resolution of the board that is approved by directors, whether present in person or approving by telephone, facsimile transmission, electronic mail or any other similar means of communication, confirmed in writing or other graphic communication, is as valid as if it had been passed at a meeting of the board properly called and constituted.

Capacity and powers of commission

6 (1) For the purposes of this Act, the commission may do any or all of the following:

- (a) subject to subsection (2), acquire, hold and dispose of property;
- (b) invest money, and, subject to the prior approval of the Lieutenant Governor in Council, borrow money;
- (c) subject to subsection (2), negotiate and enter into agreements with any person, including the government of British Columbia, the government of Canada, the government of another province or of a territory, a local government, a First Nation or with an official or agency of any of them;
- (d) subject to subsection (2), expend money for the purposes of administering the Act;
- (e) do other things that the Lieutenant Governor in Council may authorize.

(2) In the prescribed circumstances, the commission may exercise the power referred to in subsection (1) (a), (c) or (d) only with the approval of the Lieutenant Governor in Council.

(3) With the prior approval of the Lieutenant Governor in Council, the commission may in any year pay to a municipality in which it has property a grant not greater than the amount that would be payable as taxes on the property in that year if the property were not exempt from taxation by the municipality.

(4) If directed to do so by the Lieutenant Governor in Council, the commission must pay to a municipality in which it has property a grant not greater than the amount that would be payable as taxes on the property in that year if the property were not exempt from taxation by the municipality.

Powers of commissioner

7 (1) Subject to the direction of the board, the commissioner must manage the operations of the commission or supervise the management of those operations.

(2) The commissioner has the powers and duties of an official and of the commission under this Act, other than those powers and duties expressly given to the board under this Act.

(3) The commissioner may hire employees of the commission necessary to carry on the business and operations of the commission and may define their duties and determine their remuneration.

(4) The commissioner may designate a person as an official for the purposes of provisions, specified by the commissioner in the designation, of this Act or the regulations made under this Act.

(5) The commissioner may

(a) delegate the exercise of any power or performance of any duty conferred or imposed on the commission under this Act, other than those powers and duties expressly given to the board under this Act, to an employee or official of the commission or another public officer, and

(b) in making a delegation, provide directions that are binding on the delegate respecting the exercise of the power or the performance of the duty.

(6) A delegation under subsection (5) may be made by name or by designation of the office.

Commission's responsibilities under specified enactments

8 (1) For the regulation of oil and gas activities, the commission, instead of the official named in a specified provision,

(a) has all the powers relating to a discretion, function or duty referred to in the specified provision, including, without limiting this, the powers in the specified enactment relating to the administration and enforcement of an authorization, and

(b) is charged with all the responsibilities pertaining to that discretion, function or duty.

(2) Despite subsection (1), both the commission and the director, as the latter is defined in section 1 of the Environmental Management Act, have all the powers referred to in section 14 of that Act and are charged with all the responsibilities pertaining to those powers.

(3) Subject to this Act, the exercise of the powers conferred on the commission by subsection (1), the carrying out of each discretion, function and duty referred to in a specified enactment and the responsibilities with which the commission is charged under this section remain subject to the specified enactment and that specified enactment continues to apply.

(4) Despite subsections (1) and (3), the commission and the appropriate officials under the various specified enactments are each responsible for enforcing the specified enactments in relation to the matters described in the specified provisions.

Application of section 8 to pipelines under jurisdiction of Canada

9 (1) In this section:

"approval" means an approval, with any conditions imposed, under a specified enactment to carry out an activity

(a) that, under the specified enactment, must not be carried out except as approved under the specified enactment, and

(b) that is required to be carried out in order to operate or construct a pipeline;

"pipeline" has the same meaning as in the National Energy Board Act (Canada).

(2) The commission's powers under section 8 do not include the power to issue an approval with respect to a pipeline that is subject to the National Energy Board Act (Canada).

(3) Despite subsection (2), the Lieutenant Governor in Council may, by regulation, extend the commission's powers under section 8 to include the power to issue an approval under one or more specified enactments with respect to a pipeline referred to in subsection (2).

(4) If the commission's powers are extended as described in subsection (3) in relation to an approval under one or more specified enactments,

(a) section 8 applies respecting the applicable specified enactments in relation to the pipeline, whether or not the commission issued the approval,

(b) section 24 (3) does not apply to the granting of the approval, and

(c) the carrying out of the activity under the approval must be considered the carrying out of a related activity for the purposes of this Act.

Minister may order independent audit

10 (1) The minister may order an independent audit of the performance of the commission in fulfilling its purposes or exercising its powers and performing its functions and duties under this Act.

(2) The minister responsible for the Wildlife Act may order an independent audit of the performance of the commission in fulfilling its purposes or exercising its powers and performing its functions and duties under this Act in relation to the protection and effective management of the environment.

(3) An order under subsection (1) or (2) must include terms of reference for the audit.

(4) If requested by an auditor appointed for the purposes of subsection (1) or (2), the commission must submit records in its possession that the auditor determines are relevant to the audit.

(5) Before an audit report is finalized, the auditor must provide to the board

(a) a copy of the draft audit report, and

(b) a reasonable opportunity to review and comment on the report.

(6) As soon as practicable after completing an audit, the auditor must submit the final audit report and any comments of the board to

(a) the minister who issued the order under subsection (1) or (2), and

(b) the board.

#### Advisory committee

11 (1) The board may establish and appoint an advisory committee to consider or inquire into any matter and to report its findings and provide its advice to the board.

(2) The commission may pay to a person appointed as a member of an advisory committee remuneration and expense allowances at rates set by the minister.

#### Inquiries and recommendations

12 (1) At the request of the Lieutenant Governor in Council, the commission must, at the places and times and in a manner the Lieutenant Governor in Council considers advisable,

(a) make inquiries, conduct investigations and prepare studies and reports on any matter within the scope of this Act, and

(b) recommend to the Lieutenant Governor in Council any measures the commission considers necessary or advisable in the public interest related to oil and gas activities.

(2) Subsection (1) does not apply to a matter that is before the commission.

#### Public Service Act and Public Service Labour Relations Act

13 (1) The Public Service Act and the Public Service Labour Relations Act do not apply to the commission or to its employees.

(2) Despite subsection (1), the Public Service Pension Plan, continued under the Public Sector Pension Plans Act, continues to apply to the commission and to its employees.

#### Financial administration

14 (1) The commission must establish and maintain an accounting system satisfactory to the Minister of Finance.

(2) The commission must prepare financial statements in accordance with generally accepted accounting principles.

(3) Whenever required by the Minister of Finance, the commission must provide detailed accounts of its revenues and expenditures for the period or to the date the Minister of Finance designates.

(4) All books or records of account, documents and other financial records of the commission are at all times open for inspection by the Minister of Finance or a person designated by the Minister of Finance.

(5) The Minister of Finance may direct the Comptroller General to examine and report to Treasury Board on any or all of the financial and accounting operations of the commission.

(6) The commission, with the approval of the Minister of Finance, may budget for a deficit in a fiscal year.

(7) The Minister of Finance, for the purposes of subsection (6), may grant an approval for one fiscal year or for any other number of fiscal years.

(8) The fiscal year of the commission is a period of 12 months beginning on April 1 in each year and ending on March 31 in the next year.

(9) The Minister of Finance is the fiscal agent of the commission.

#### Audit

15 Unless the Auditor General is appointed in accordance with the Auditor General Act as the auditor of the commission, an auditor appointed by the commission must, at least once for each fiscal year, audit and report on the accounts of the commission to the Executive Council through the minister and to the board, and the costs of the audit must be paid by the commission.

#### Application of Business Corporations Act

16 (1) Subject to subsection (2), the Business Corporations Act does not apply to the commission.

(2) The Lieutenant Governor in Council, by order, may declare that certain provisions of the Business Corporations Act and Societies Act apply to the commission.

#### Repealed

17 [Repealed 2015-27-52.]

#### Appropriation

18 (1) In this section, "revenue" includes interest but does not include penalties.

(2) The Minister of Finance, out of the consolidated revenue fund, must pay to the commission

- (a) the gross revenue received from the levies authorized under section 110,
- (b) the gross revenue received from the tax under section 47, and
- (c) the gross revenue received from fees in relation to
  - (i) applications for and issuance of permits and the prescribed authorizations issued by the commission under this Act, and
  - (ii) fees prescribed under section 112 (1) (c).

(3) With the approval of Treasury Board, the minister may pay out of the consolidated revenue fund, on application by the commission, money required for the purposes of sections 12, 52 and 53.

#### Division 2 — Oil and Gas Appeal Tribunal

##### Establishment of Oil and Gas Appeal Tribunal

19 (1) The Oil and Gas Appeal Tribunal is established.

(2) The appeal tribunal is to hear appeals under section 72.

(3) The appeal tribunal consists of the following members appointed by the Lieutenant Governor in Council after a merit-based process:

- (a) a member designated as the chair;
- (b) one or more members designated as vice chairs after consultation with the chair;
- (c) other members appointed after consultation with the chair.

##### Application of Administrative Tribunals Act

20 The following provisions of the Administrative Tribunals Act apply to the appeal tribunal:

- (a) Part 1 [Interpretation and Application];
- (b) Part 2 [Appointments];
- (c) Part 3 [Clustering];
- (d) Part 4 [Practice and Procedure], except the following:
  - (i) section 23 [notice of appeal (exclusive of prescribed fee)];
  - (ii) section 25 [appeal does not operate as stay];
  - (iii) section 34 (1) and (2) [party power to compel witnesses and require disclosure];
- (e) section 44 [tribunal without jurisdiction over constitutional questions];
- (f) section 46.3 [tribunal without jurisdiction to apply the Human Rights Code];
- (g) Part 6 [Costs and Sanctions], except section 47.2 (1) (a) and (c) [government and agents of government];
- (h) Part 7 [Decisions];
- (i) Part 8 [Immunities];
- (j) section 57 [time limit for judicial review];
- (k) section 59 [standard of review without privative clause];
- (l) section 59.1 [surveys];
- (m) section 59.2 [reporting];
- (n) Part 10 [Miscellaneous], except section 62 [application of Act to BC Review Board].

#### Part 3 — Oil and Gas Activities

##### Division 1 — Permits

##### Permit required

21 Subject to section 23, a person must not carry out an oil and gas activity unless

- (a) either
  - (i) the person holds a permit that gives the person permission to carry out that oil and gas activity, or
  - (ii) the person is required to carry out that oil and gas activity by an order issued under section 49, and
- (b) the person carries out the oil and gas activity in compliance with

- (i) this Act and the regulations,
- (ii) a permit issued to the person, if any, and
- (iii) an order issued to the person, if any.

#### Consultation and notification

22 (1) In subsection (3), "prescribed applicant" means a person who intends to submit an application under section 24 and who is in a prescribed class of persons.

(2) Before submitting an application under section 24, a person must notify the land owner of the land on which the person intends to carry out an oil and gas activity of the person's intention to submit the application, and the notice must advise the land owner that he or she may make a submission to the commission under subsection (5) of this section with respect to the application or proposed application.

(3) Subject to subsection (4), before submitting an application under section 24, a prescribed applicant must carry out the prescribed consultations or provide the prescribed notices, or both, as applicable, with respect to the oil and gas activities and related activities, if any, that will be the subject of the prescribed applicant's application.

(4) The commission, on written request, may exempt a person from one or more of the applicable consultation or notification requirements under subsection (3) and, on making an exemption, substitute other consultation or notification requirements than those prescribed for the purposes of subsection (3).

(5) A person, other than the applicant, may make a written submission to the commission with respect to an application or a proposed application under section 24.

(6) If a person makes a submission under subsection (5), the commission must send a copy of the submission to the applicant or to the person intending to apply for a permit, as the case may be.

#### Preliminary plan

23 (1) Before submitting an application under section 24 for a pipeline permit, a person may submit to the commission a preliminary plan of the proposed route of the pipeline.

(2) Subject to subsection (3), a person may enter on land as necessary for making surveys, examinations or other arrangements for the purpose of fixing the site of the pipeline referred to in subsection (1), if the person

(a) has submitted a preliminary plan under subsection (1), and

(b) has either

(i) provided the prescribed security to the commission to compensate the land owner or the Crown for any damage or disturbance that may be caused by the entry on the land by the person, or

(ii) entered into an agreement with the land owner regarding entry on the land.

(3) A person who has not entered into an agreement referred to in subsection (2) (b) (ii) must notify, in accordance with the regulations, the owner of the land of the person's intention to enter on that land.

(4) The right of entry under subsection (2) does not extend to any of the following:

(a) land occupied by a building;

(b) the curtilage of a dwelling house;

(c) protected heritage property, unless the person is authorized by the local government or the minister responsible for the protection of the protected heritage property.

(5) In subsection (4) (c), "protected heritage property" means land or an object that is

(a) protected under section 13 of the Heritage Conservation Act,

(b) designated under section 611 of the Local Government Act or section 593 of the Vancouver Charter, or

(c) included under section 614 (3) (b) of the Local Government Act in a schedule to an official community plan.

#### Application for permit and authorization

24 (1) Subject to subsection (4), a person may apply to the commission for a permit by submitting, in the form and manner the commission requires,

(a) a description of the proposed site of the oil and gas activity,

(b) the information, plans, application form and records required by the commission,

(c) a written report, satisfactory to the commission, regarding the results of the consultations carried out or notification provided under section 22, if any,

(d) the prescribed information,

(e) the prescribed records, and

(f) the security required under section 30.

(2) An application for a permit under subsection (1) may be consolidated with an application for an authorization.

(3) Despite anything in a specified enactment, the commission may not grant an authorization to a person for a related activity unless the person holds, or has applied for, a permit for the oil and gas activity related to that related activity.

(4) A person may not submit an application for a permit to drill or operate a well, other than a water source well, unless

(a) the person is the owner of the petroleum and natural gas rights or is the holder of the location in respect of the well,

(b) the person has an agreement with the owner or the holder of the location referred to in paragraph (a) authorizing the drilling or operation, as applicable,

(c) the person is the holder of a storage reservoir lease issued under section 130 of the Petroleum and Natural Gas Act, or

(d) the minister has approved the submission under subsection (5).

(5) For the purposes of subsection (4) (d), the minister may

(a) approve the submission by a person of an application for a permit to drill a well if the well is to be drilled for exploratory or research purposes only, and

(b) in approving a submission under paragraph (a), declare that, if a permit is issued to the person on the basis of the submission, the person is not required to be an owner or holder referred to in subsection (4) or have the agreement referred to in that subsection in order to drill or operate the well for the purposes referred to in paragraph (a).

Permits and authorizations issued by commission

25 (1) Subject to subsection (1.1), on application by a person under section 24 and after considering

(a) written submissions made under section 22 (5), if any, and

(b) the government's environmental objectives, if any have been prescribed for the purposes of this section, the commission may issue a permit to the person if the person meets the requirements prescribed for the purposes of this section.

(1.1) The Lieutenant Governor in Council, by regulation, may issue a direction to the commission with respect to the exercise of the commission's power under subsection (1), and the commission must comply with the direction despite any other provision of this Act, the regulations or an order made under this Act.

(2) In issuing a permit under subsection (1), the commission

(a) must specify the oil and gas activities the person is permitted to carry out, and

(b) may impose any conditions on the permit that the commission considers necessary.

(3) A permit and any authorizations granted to the applicant for the permit may be issued as a single document.

(4) If the commission issues a permit under subsection (1), the commission must provide notice, in accordance with subsection (5), to the land owner of the land on which an operating area is located.

(5) A notice under subsection (4) must

(a) advise the land owner of the issuance of the permit and of the location of the proposed site of an oil and gas activity on the land owner's land, and

(b) state that the land owner may appeal under section 72 the decision to issue the permit, and include an address to which an appeal may be sent.

(6) A permit holder must not begin an oil and gas activity on a land owner's land before the expiry of 15 days from the day the permit was issued, unless the land owner consents in writing to the activity beginning before the expiry of that period.

Actions by commission respecting permit

26 (1) The commission may

(a) refuse to issue a permit,

(b) suspend a permit or a permission specified in a permit,

(c) cancel a permit or a permission specified in a permit, or

(d) amend a permit.

(2) Without limiting the authority of the commission under subsection (1), the commission may make a decision under subsection (1) if the applicant or permit holder does any of the following:

- (a) contravenes or has contravened
  - (i) this Act, the regulations, a permit, an authorization or an order issued under this Act, or
  - (ii) the Petroleum and Natural Gas Act or regulations made under that Act;
- (b) fails to meet or no longer meets any of the conditions of section 24 (4);
- (c) fails to meet or no longer meets the requirements prescribed for the purposes of section 25 (1), if any;
- (d) begins an oil and gas activity permitted by a permit but then fails to carry out or continue that oil and gas activity;
- (e) engages in or has engaged in a pattern of conduct that shows, in the commissioner's opinion, that the person is unfit to have a permit;
- (f) is or has been convicted of an offence under
  - (i) this Act or any other enactment, or
  - (ii) a law enacted by the government of Canada, another province of Canada or a foreign jurisdiction for conduct that shows, in the commissioner's opinion, that the person is unfit to have a permit.
- (3) Without limiting the authority of the commission under subsection (1), the commission may make a decision under subsection (1) with respect to an applicant or permit holder if the applicant or permit holder is an employer, employee, officer, director or agent of a
  - (a) permit holder against whom the commission has made a decision under subsection (1), or
  - (b) permit holder that has an employee, officer, director or agent against whom the commission has made a decision under subsection (1).
- (4) Without limiting the authority of the commission under subsection (1), the commission may make a decision under subsection (1) with respect to a permit holder who holds more than one permit for any contravention by the permit holder of
  - (a) any of the permit holder's permits, or
  - (b) any order issued to the permit holder with respect to oil and gas activities permitted under any of the permit holder's permits.
- (5) If the commission suspends or cancels a permit or a permission under subsection (1) (b) or (c), the commission may also suspend or cancel an authorization issued to the permit holder for a related activity of an oil and gas activity permitted by the permit, whether or not a specified enactment prohibits the suspension or cancellation of the authorization or requires the commission to make a finding other than the suspension or cancellation of a permit before suspending or cancelling an authorization.
- (6) The commission must give a permit holder an opportunity to be heard before making a decision under subsection (1) (b), (c) or (d) or (5) and must notify the permit holder of its decision under any of those provisions.
- (7) If the commission refuses under subsection (1) to issue a permit, the commission must provide notice, in accordance with subsection (8), to the land owner of the land notified by the applicant under section 22 (2).
- (8) A notice under subsection (7) must advise the land owner
  - (a) that the commission has refused to issue a permit,
  - (b) that the applicant for the permit may, in relation to the refusal, request a review under section 70 or appeal under section 72, and
  - (c) that the land owner may, on request, be a party to an appeal referred to in paragraph (b).

#### Spent permit or permission

27 (1) The commission, on its own initiative or on application by a permit holder, may declare to be spent

- (a) a permit, if the commission considers that the permit holder no longer requires the permit,
- (b) a permission specified in a permit, if the commission considers that the permit holder no longer requires the permission, and
- (c) despite anything in a specified enactment prohibiting the declaration, an authorization held by the permit holder, if the commission considers that the permit holder no longer requires the authorization.

(2) Before the commission makes a declaration under subsection (1) on its own initiative, the commission must give the permit holder an opportunity to be heard.

(3) If the commission declares a permit or permission or an authorization to be spent under subsection (1), the commission must provide written notice of that declaration to the permit holder or former permit holder.

#### Permitted activity under pipeline permits

28 (1) In this section:

"applicable Act" means the Forest Act, the Forest and Range Practices Act, the Railway Act and the Railway Safety Act;

"regulator" means a person authorized to grant an approval under an applicable Act.

(2) Despite anything in an applicable Act but subject to subsection (3),

(a) the commission, in a pipeline permit, may give permission to the pipeline permit holder to construct or operate a pipeline across, along, over or under any highway, road, public place, railway, underground communication or power line or another pipeline, and

(b) the pipeline permit holder may carry out the activities referred to in paragraph (a) in accordance with the pipeline permit and this Act.

(3) If, but for subsection (2), a permit holder would not be entitled to carry out the activities referred to in subsection (2) (a) without obtaining an approval under an applicable Act, the regulator, on application made by the pipeline permit holder in accordance with the applicable Act, must grant the approval to the pipeline permit holder, but may impose, with respect to the carrying out of those activities, any conditions that the regulator is authorized to impose on the approval under the applicable Act.

Transfer of permit and authorizations

29 (1) On application in writing signed by both a permit holder and a person to whom the permit holder wants the permit to be transferred, the commission

(a) may transfer the permit to that person, subject to any conditions the commission considers necessary, and  
(b) if the commission transfers the permit under paragraph (a), must transfer, despite anything in a specified enactment prohibiting the transfer, all authorizations issued to the permit holder for related activities of an oil and gas activity permitted by the permit.

(2) In deciding whether to grant an application under subsection (1), the commission may consider

(a) any of the matters referred to in section 26 (2) to (4), and

(b) any other matter that may be considered under a specified enactment,

as though the person to whom the permit holder wants the permit to be transferred were an applicant for the permit and an authorization referred to in subsection (1) (b) of this section.

(3) A person to whom a permit is transferred under subsection (1)

(a) has the same rights and obligations as if the permit had been issued to that person, and

(b) if an authorization is transferred to that person, has the same rights and obligations as if the authorization had been issued to that person.

Required security

30 The commission, by order or by imposition of a condition under section 25 (2) (b), may require a permit holder, an applicant for a permit or a transferee of a permit to provide security to the commission, in the amount the commission requires and in accordance with the regulations, to ensure the performance of an obligation under this Act, a permit or an authorization.

Amendment of permit

31 (1) Before submitting an application under subsection (4) for an amendment to a permit, a permit holder must provide notice to the land owner of the land on which an operating area is located, and the notice must

(a) provide a description of the proposed amendment, and

(b) advise the land owner that he or she may make a submission to the commission under subsection (2).

(1.1) The commission may exempt a person or a class of persons from the requirement to provide notice under subsection (1) to a land owner or a class of land owners if the commission is satisfied that

(a) the activity respecting the proposed amendment would not be carried out on the land of the land owner or class of land owners, and

(b) the proposed amendment would not change the effect of the permit on the land of the land owner or class of land owners.

(2) A land owner who receives a notice under subsection (1) may make a written submission to the commission regarding the proposed amendment within 15 days of receiving the notice.

(3) If a land owner makes a submission under subsection (2), the commission must send a copy of the submission to the permit holder.

- (4) After complying with subsection (1), a permit holder may apply to the commission for an amendment to the permit holder's permit by submitting an application in writing.
- (5) On receipt of an application under subsection (4), the commission may require the permit holder to carry out one or more of the prescribed consultations or provide one or more of the prescribed notices, as applicable, with respect to the proposed amendment.
- (6) A permit holder required to carry out consultations or provide notice under subsection (5) must submit a written report to the commission regarding the results of the consultations or notice.
- (7) On receipt of an application under subsection (4) and after considering a submission made under subsection (2), if any, and the results of consultations carried out or notices provided under subsection (5), if any, the commission may amend the permit holder's permit or refuse to amend the permit.
- (8) An amendment made under subsection (7) is effective on and after the day it is made, unless the amendment changes the effect of the permit on the land of the land owner referred to in subsection (1), in which case the amendment is effective on and after the earlier of the following:
- (a) the 15th day following the day it is made;
  - (b) the day the permit holder obtains written consent from the land owner to treat the amendment as being in effect on and after the date the consent is given.
- (9) If the commission amends a permit under subsection (7), the commission must provide notice to the land owner referred to in subsection (1) in accordance with subsection (10), unless notice was not required under subsection (1.1).
- (10) A notice under subsection (9) must
- (a) advise the land owner of the amendment,
  - (b) state that the land owner may appeal under section 72 the decision to amend the permit if the amendment changes the effect of the permit on the land of the land owner, and
  - (c) provide an address to which an appeal may be sent.
- (11) If the commission refuses to amend a permit under subsection (7), the commission must provide to the land owner referred to in subsection (1) notice in accordance with subsection (12).
- (12) A notice under subsection (11) must advise the land owner
- (a) that the applicant for the amendment may, in relation to the refusal, request a review under section 70 or appeal under section 72, and
  - (b) that the land owner may, on request, be a party to an appeal referred to in paragraph (a).

#### Expiration of permit and authorizations

32 (1) Subject to subsection (8), a permit and, despite anything in a specified enactment, any authorization issued to the permit holder for a related activity of an oil and gas activity permitted by the permit expire on the day after the prescribed period has elapsed if the permit holder has not by that day begun an oil and gas activity permitted by the permit.

- (2) A permit holder, before the expiry of the permit holder's permit under subsection (1), may apply to the commission for an extension of the prescribed period with respect to the permit holder's permit and authorizations by submitting to the commission the information, application form and records required by the commission.
- (3) On receipt of an application under subsection (2), the commission may require the permit holder to carry out one or more of the prescribed consultations or provide one or more of the prescribed notices with respect to the extension for which the application is made.
- (4) A permit holder required to carry out consultations or provide notice under subsection (3) must submit a written report to the commission regarding the results of the consultations or notice.
- (5) On application under subsection (2), the commission may
- (a) extend by not more than one year the prescribed period with respect to the applicant's permit, and
  - (b) in granting an extension, impose additional conditions on the permit and the authorizations.
- (6) Despite anything in a specified enactment, if the commission grants an extension under subsection (5) for a period of time, the commission may also extend the term of an authorization referred to in subsection (1), other than an authorization under section 10 [use approvals] of the Water Sustainability Act.
- (7) An extension with respect to a permit holder's permit and authorizations may be granted under this section only once, unless the commission is satisfied there are special circumstances to justify one or more further extensions.

(8) Despite subsection (1), a permit or an authorization does not expire under that subsection if the commission grants an extension under subsection (5) with respect to the permit or the term of the authorization is extended under subsection (6).

#### Surrender of permit or permission

33 (1) A permit holder may send a notice to the commission advising the commission of the permit holder's intention to surrender the permit or a permission specified in a permit.

(2) On receipt of a notice under subsection (1), the commission may

(a) cancel the permit holder's permit or permission, as the case may be, and  
(b) despite anything in a specified enactment prohibiting the cancellation, cancel an authorization issued to the permit holder for a related activity of the oil and gas activity with respect to which the notice was submitted.

(3) A cancellation under subsection (2) is effective on the date specified by the commission.

#### Division 2 — Rights and Obligations

#### Required ownership, interest or authorization

34 (1) In this section:

"entry agreement" means an agreement

(a) that is between

(i) a specified permit holder, and

(ii) a land owner of an area of land, and

(b) that authorizes the specified permit holder to enter, occupy or use the land owner's area of land for the purposes of constructing and operating a pipeline other than a flow line;

"specified permit holder" means a pipeline permit holder who holds a permit respecting a pipeline other than a flow line.

(2) Subject to sections 23 and 39 and subsection (3) of this section, a permit holder must not begin or carry out an oil and gas activity on or under an area of land unless the permit holder,

(a) if the area of land is not a highway, either is the owner in fee simple of the area of land or has acquired the area of land or the necessary interests in the area of land in accordance with

(i) the Land Act,

(ii) Part 16 or 17 of the Petroleum and Natural Gas Act, or

(iii) subsection (3) of this section, or

(b) if the area of land is a highway, has obtained an authorization required under an enactment to enter, occupy or use the area of land.

(3) Subject to subsection (4), if a specified permit holder has failed to obtain an entry agreement, the specified permit holder may expropriate, in accordance with the Expropriation Act, as much of the land or interests in it of any person as may be necessary for constructing and operating the pipeline authorized by the permit.

(4) The land that may be expropriated under subsection (3) must not exceed 18 m in breadth.

(5) On application by a specified permit holder, the commission may authorize, on any conditions the commission considers appropriate, an expropriation, in accordance with the Expropriation Act, that exceeds the breadth specified in subsection (4).

#### Obligations in carrying out oil and gas activities

35 (1) In carrying out oil and gas activities and related activities, a permit holder or a person entering land under section 23 must minimize

(a) damage and disturbance to the sites of those activities, and

(b) waste.

(2) A pipeline permit holder must make reasonable efforts to ensure that its oil and gas activities do not prevent access to or use of a highway, road, railway or public place.

(3) A pipeline permit holder, as soon as reasonably possible after constructing a pipeline, must restore, in accordance with the regulations, if any, the land and surface disturbed by the construction.

#### Environmental protection and management

36 (1) A permit holder and a person carrying out an oil and gas activity must comply with environmental measures established under the authority of a regulation made under section 104.

(2) Subject to regulations made under section 98, the commission, by order, may exempt, on any conditions the commission considers necessary, a permit holder or a person carrying out an oil and gas activity from a requirement imposed by regulation under section 103.

#### Spillage

37 (1) A permit holder and a person carrying out an oil and gas activity must

(a) prevent spillage, and

(b) promptly report to the commission any damage or malfunction likely to cause spillage that could be a risk to public safety or the environment.

(2) If spillage occurs, a permit holder or person carrying out an oil and gas activity must promptly do all of the following:

(a) remedy the cause or source of the spillage;

(b) contain and eliminate the spillage;

(c) remediate any land or body of water affected by the spillage;

(d) if the spillage is a risk to public safety or the environment, report to the commission

(i) the location and severity of the spillage, and

(ii) any damage or malfunction causing or contributing to the spillage.

(3) A person who is aware that spillage is occurring or likely to occur must make reasonable efforts to prevent or assist in containing or preventing the spillage.

#### Records, reports and plans

38 (1) A permit holder must do all of the following:

(a) prepare and maintain the prescribed records, reports and plans;

(b) prepare and maintain an emergency response program and a response contingency plan satisfactory to the commission or as prescribed by regulation, if any;

(c) prepare and maintain the records, reports and plans the commission orders the permit holder to maintain;

(d) at the request of the commission, produce the records, reports and plans referred to in paragraph (a), (b) or (c) for inspection and copying;

(e) at the request of the commission or as prescribed by regulation, submit to the commission, in the form and manner the commission requires, the records, reports and plans referred to in paragraph (a), (b) or (c).

(2) The commission must disclose records, reports and plans to the public in accordance with the regulations.

#### Suspension of activity

39 (1) If a permit holder begins an oil and gas activity but ceases to have the interests in land or authorization referred to in section 34 necessary to carry out that activity, the permit holder must immediately suspend all oil and gas activities and related activities being carried out on that land, unless the commission approves the continuation of those activities under subsection (2).

(2) The commission, on application by a permit holder referred to in subsection (1), may

(a) approve the continuation of the permit holder's oil and gas activities and related activities, and

(b) on granting an approval under paragraph (a), impose additional conditions on the permit holder's permit and authorizations, if any.

(3) A permit holder with permission to drill or operate a well must immediately suspend its drilling and operations if

(a) the permit holder ceases

(i) to be the owner of the petroleum and natural gas rights or the holder of the location in respect of the well,

(ii) to have a valid agreement with the owner of the rights or the holder of the location referred to in subparagraph (i) authorizing the drilling or operation, as applicable, or

(iii) to hold a storage reservoir lease issued under section 130 of the Petroleum and Natural Gas Act, or

(b) the minister rescinds a declaration made under section 24 (5) with respect to the permit holder and those activities.

(4) A permit holder who suspends activities under subsection (1) or (3) must

(a) immediately notify the commission of the suspension,

(b) comply with the prescribed requirements, and

(c) carry out any actions as directed by the commission.

Obligations when permit, permission or authorization expires or is cancelled or spent

40 If a permit, a permission specified in a permit or an authorization

(a) is cancelled under section 26 or 33,

(b) is declared to be spent under section 27, or

(c) expires under section 32,

the permit holder or former permit holder, as the case may be, must

(d) unless otherwise ordered by the commission, perform each obligation imposed

(i) in relation to the permit, permission or authorization under this Act or a specified enactment, and

(ii) under the permit or authorization

that has not been performed by the date of the cancellation, declaration or expiry,

(e) comply with the prescribed requirements, and

(f) carry out any other actions for the purposes of restoration or the protection of public safety that the commission orders the permit holder or former holder to carry out.

Certificate of restoration

41 (1) A person, other than a person in a prescribed class of persons, to whom

(a) section 40 (a) or (b) applies, or

(b) an order has been issued under section 49

may apply to the commission for a certificate of restoration by submitting, in the form and manner the commission requires, the information and other records required by the commission.

(2) On application by a person under subsection (1), the commission, subject to section 43, may issue to the person a certificate of restoration certifying, on the basis of the information known to the commission at the time of certification, that the commission is satisfied

(a) in the case of an application by a person referred to in subsection (1) (a), that the person has complied with section 40 (d) to (f), or

(b) in the case of an application by a person referred to in subsection (1) (b), that the person has complied with the order referred to in that subsection.

(3) The issuance of a certificate of restoration does not relieve a person from any obligations under section 40 or under an order referred to in subsection (1) (b) of this section in respect of any matter that was not known to the commission at the time the certificate of restoration was issued.

Continuing liability

42 A cancellation, declaration or expiry referred to in section 40 or the issuance of a certificate of restoration under section 41 does not affect or relieve the permit holder or former permit holder from

(a) the consequences of any contravention or offence or any related fine, imprisonment, fee, charge or penalty, if the contravention or offence occurred before the cancellation, declaration or expiry, or

(b) any liability imposed on the permit holder or former permit holder under a specified enactment.

Environmental Management Act requirements must be met

43 (1) This section applies to an application for a certificate of restoration under section 41.

(2) The commission may not approve an application referred to in subsection (1) with respect to a site where a site profile is required under section 40 of the Environmental Management Act unless at least one of the following is satisfied:

(a) the commission has received a site profile required under section 40 of the Environmental Management Act with respect to the site and the commission is not required to forward a copy of the site profile to a director under section 40 (4) (b) of that Act;

(b) the commission has received a site profile under section 40 of the Environmental Management Act with respect to the site, has forwarded a copy of the site profile to a director under section 40 (4) (b) of that Act and has received notice from the director that a site investigation under section 41 of that Act will not be required by the director;

(c) the commission has received a final determination under section 44 of the Environmental Management Act that the site is not a contaminated site;

- (d) the commission has received notice from a director under the Environmental Management Act that the commission may approve an application under this section because, in the opinion of the director, the site would not present a significant threat or risk if the application were approved;
- (e) the commission has received notice from a director under the Environmental Management Act that the director has received and accepted a notice of independent remediation with respect to the site;
- (f) the commission has received notice from a director under the Environmental Management Act that the director has entered into a voluntary remediation agreement with respect to the site;
- (g) the commission has received a valid and subsisting approval in principle or certificate of compliance under section 53 of the Environmental Management Act with respect to the site.

#### Part 4 — Orphan Sites

##### Definitions

44 In this Part:

"former Act" means the Oil and Gas Commission Act, S.B.C. 1998, c. 39, as it was immediately before its repeal;

"former permit holder" means a person who held a permit that

- (a) was cancelled under section 26 or 33,
- (b) was declared spent under section 27, or
- (c) expired under section 32;

"fund" means the fund continued under section 45 (3);

"interest holder", in relation to a permit, means a person who is the owner of the petroleum and natural gas rights or is the holder of the location;

"marketable gas" means natural gas that is available for sale for direct consumption as a domestic, commercial or industrial fuel, or as an industrial raw material, or that is delivered to a storage facility, whether it occurs naturally or results from the processing of natural gas;

"orphan site" means a site designated under section 45 (2);

"parties" means a permit holder, a former permit holder and an interest holder;

"restore" includes the requirements under section 40;

"surface lease" means

- (a) a surface lease as defined in section 141 of the Petroleum and Natural Gas Act, and
- (b) an order of the Surface Rights Board under the Petroleum and Natural Gas Act.

##### Reclamation of orphan sites

45 (1) The commission may restore orphan sites.

(2) The commission may designate as an orphan site

(a) a well, facility, pipeline, or oil and gas road if

(i) the permit holder or former permit holder with respect to the well, facility, pipeline, or oil and gas road is insolvent, or

(ii) the commission has not been able to identify the permit holder or former permit holder in respect to the well, facility, pipeline, or oil and gas road, or

(b) an area, if the commission is satisfied that the area requires restoration as a direct or indirect result of the carrying out of an oil and gas activity by a person the commission has not been able to identify or by a person who is insolvent.

(3) The fund held by the commission under section 6.2 of the former Act is continued, and the purposes of the fund are to provide money as follows:

(a) to pay the costs of restoration in respect of orphan sites;

- (b) to pay costs incurred in pursuing reimbursement for the costs referred to in paragraph (a) from the person responsible for paying them;
- (c) to pay any other costs directly related to the operations of the commission in respect of the fund;
- (d) to pay compensation for the purposes of section 46.
- (4) The following must be deposited to the credit of the fund:
  - (a) money paid to the commission under section 18 (2) (b);
  - (b) money borrowed to meet any deficit in the fund;
  - (c) money recovered or received by the commission under subsection (7) of this section and section 46 (4);
  - (d) any interest or other income of the fund.
- (5) The commission may do one or more of the following:
  - (a) pay money from the fund for any of the purposes referred to in subsection (3) in accordance with any regulations made for the purposes of this section and section 46;
  - (b) from the fund, repay any money borrowed by the commission for the purposes of the fund;
  - (c) determine the date on which an orphan site has been satisfactorily restored.
- (6) For the purposes of subsection (2), a permit holder or former permit holder must be considered to be insolvent if the permit holder or former permit holder files for protection under the Companies' Creditors Arrangement Act (Canada) or is a bankrupt or an insolvent person under the Bankruptcy and Insolvency Act (Canada).
- (7) If the commission restores an orphan site, the costs paid out of the fund in respect of that orphan site are a debt payable by the parties, jointly and severally, to the commission and the commission has a right of action against the parties for the recovery of that debt.
- (8) For the purpose of restoring an orphan site, the commission has the same powers as it has under sections 53 and 57.

#### Compensation for land owners respecting orphan sites

46 (1) On application by a land owner on whose land the commission expends money in accordance with section 45, the commission may make payments from the fund to compensate the land owner for the loss of use of his or her land as a result of the failure by the permit holder or former permit holder referred to in section 45 (2) to restore the land, subject to the maximums, conditions and limitations prescribed by regulation.

- (2) In determining the amount of compensation to be paid to a land owner under subsection (1), the commission may consider any payments due to the land owner or a previous land owner under a surface lease with respect to the site.
- (3) Before it compensates a land owner under subsection (1), the commission may require as a condition of compensation that the land owner assign to the commission the land owner's rights, if any, to overdue payments under a surface lease.
- (4) If the commission provides compensation to a land owner, the compensation is a debt payable by the parties, jointly and severally, to the commission and the commission has a right of action against the parties for the recovery of that debt.

#### Orphan site restoration tax

47 (1) For the raising of revenue for the purposes of the fund, a producer must pay to the government a tax as determined under subsection (2), unless the operation of the tax is suspended by a regulation made under section 100 (2) (d).

- (2) The tax under subsection (1) must be paid by a producer at the following rates:
  - (a) \$0.03 per 1 000 cubic metres of marketable gas produced by the producer in a production month;
  - (b) \$0.06 per cubic metre of petroleum produced by the producer in a production month.
- (3) Subject to subsection (4), sections 73 (4) and 74 to 77 of the Petroleum and Natural Gas Act apply to the tax under this section as if it were a royalty under those sections of that Act.
- (4) If there is a conflict between a regulation made under section 100 of this Act and sections 73 (4) and 74 to 77 of the Petroleum and Natural Gas Act or the regulations made under those sections of that Act, the regulation made under this Act prevails.
- (5) The commission must provide to a producer a notice of the tax payable by that producer under this section.

(6) A notice required under subsection (5) may be provided to a producer by including the notice in an invoice sent to the producer in respect of a levy payable under regulations made under section 110 (a) of this Act.

(7) A producer must pay the tax by the date specified under the regulations.

(8) A producer who fails to pay the tax by the date specified under the regulations must pay to the government penalties set by regulation.

## Part 5 — Compliance and Enforcement

### Division 1 — Reference and Application

#### Reference and application

48 (1) In this Part:

(a) a reference to "the Act" is to be read as a reference to both this Act and the specified enactments, other than the Environmental Management Act and the Water Sustainability Act;

(b) a reference to "the regulations" is to be read as a reference to both the regulations made under this Act and to the regulations made under the specified enactments, other than the Environmental Management Act and the Water Sustainability Act;

(c) a reference to an authorization does not include the following:

(i) an authorization under the Environmental Management Act or the Water Sustainability Act issued by the commission under section 8 of this Act;

(ii) an approval, as defined in section 9 of this Act and as issued by the commission under that section, under the Environmental Management Act or the Water Sustainability Act;

(d) a reference to a related activity does not include a related activity under the Environmental Management Act or the Water Sustainability Act.

(2) Despite anything in a specified enactment,

(a) an order may be issued under Division 2 with respect to an authorization or a related activity,

(b) the powers granted under Division 3 to an official or peace officer may be exercised with respect to an authorization or a related activity, and

(c) a finding may be made under section 62 and an administrative penalty may be imposed under section 63 with respect to an authorization or a related activity.

### Division 2 — Orders

#### Order issued by official

49 (1) An official may, in writing, issue to a person carrying out an oil and gas activity or a related activity an order under this section with respect to those activities or any of the person's obligations under the Act or the regulations or the person's permit or authorization, if any, if, in the opinion of the official,

(a) the person fails to comply with the Act, the regulations, a previous order made under the Act, or the person's permit or authorization, or

(b) the order is necessary

(i) to mitigate a risk to public safety,

(ii) to protect the environment, or

(iii) to promote the conservation of petroleum and natural gas resources.

(2) An official may issue an order to a person under subsection (1) with respect to an act or omission by the person whether or not the commission has made a finding under section 62 with respect to that act or omission.

(3) An order under subsection (1) must

(a) name the person to whom the order is addressed,

(b) specify the action to be taken, stopped or modified,

(c) state the date by which the person must comply with the order,

(d) state the reasons for the order,

(e) state that the person may request a review of the order under section 70 or appeal the decision under section 72, and include an address to which a request for a review or an appeal may be sent,

(f) be dated the day the order is made, and

(g) be served on the person to whom it is addressed.

(h) [Repealed 2010-9-31.]

(3.1) If an order under subsection (1) is addressed to an employee, agent or contractor of a permit holder, the official who served the order must serve a copy of the order on the permit holder.

(4) Without limiting subsection (3) (b), an order under subsection (1) may specify any of the following requirements:

(a) that a person must apply to obtain or amend a permit or an authorization in accordance with the Act and the regulations;

(b) that a person remedy a failure referred to in subsection (1) (a);

(c) that a person repair damage to the environment;

(d) that a person suspend or resume an oil and gas activity or any aspect of an oil and gas activity;

(e) that a person use a specified method to carry out an oil and gas activity;

(f) that a person conduct tests, take samples, conduct analyses and submit records and information to the commission;

(g) that a person control or prevent the escape of petroleum, natural gas, water, waste or other substances from a well, pipeline or facility;

(h) that a person repressure, recycle or carry out pressure maintenance of any pool or portion of it, or use any other enhanced recovery technique, including the introduction or injection of natural gas, water or other substances into any pool or part of it;

(i) with respect to water produced in relation to the production of petroleum or natural gas, that a person dispose of the water into an underground formation or as otherwise specified;

(j) that a person deepen a well beyond the formation from which production is being taken or has been taken;

(k) that a person recomplete a well;

(l) that a person restrict or cease production of petroleum, natural gas or water;

(m) that natural gas be gathered, and processed if necessary, and that the natural gas or liquid hydrocarbons extracted be marketed or injected into an underground reservoir for storage or for any other purpose;

(n) that a pipeline permit holder alter or divert its pipeline;

(o) that a permit holder prepare and implement, in a form and manner satisfactory to the official, a program of measures to contain and eliminate spillage;

(p) that a permit holder arrange for an independent audit of the permit holder's operations and activities and have the auditor's report submitted to the official.

(5) Despite subsection (3), if the official referred to in subsection (1) is of the opinion that a person's actions or omissions are of such nature that they are causing, or may imminently cause, serious damage to the environment or that they are a risk to public safety, the order under subsection (1) may be issued orally.

(6) If, under subsection (5), an official issues an order orally, an official, within 48 hours, must confirm the order in writing as required under subsection (3) or the order ceases to be effective.

(7) An official may amend an order issued under subsection (1), and subsection (3) applies to the amendment.

(8) If satisfied that the circumstances that gave rise to an order under subsection (1) are no longer present or have been affected by other circumstances, an official may terminate the order by providing the person to whom the order was addressed with written notice of the termination.

(9) An order under subsection (1) may specify a requirement that is different from a requirement in a provision of a regulation under this Act, if the regulation expressly states that the provision is subject to this section.

(10) Subject to subsection (9), if a regulation is made concerning a matter with respect to which an order has been made under this section, the order, if it has not been terminated under subsection (8), is no longer valid to the extent of any inconsistency between the order and the regulation.

#### Technical orders

49.1 (1) The commission may, by order related to a specific location, well or area, do any or all of the following:

(a) designate a field by describing its surface area;

(b) designate a pool by describing the surface area vertically above the pool and by naming the geological formation and the zone in which the pool occurs;

(c) control and regulate the production of petroleum, natural gas and water by restriction, proration or prohibition.

(2) After an order is made under subsection (1), the commission must publish notice of the order as prescribed.

(3) An order under subsection (1) (c) may specify a requirement that is different from a requirement in a provision of a regulation under this Act, if the regulation expressly states that the provision is subject to this section.

(4) Subject to subsection (3), if a regulation is made concerning a matter with respect to which an order has been made under subsection (1) (c), the order, if it has not been rescinded, is no longer valid to the extent of any inconsistency between the order and the regulation.

Commission may carry out action

50 (1) If an official issues an order under section 49 (1) and the person to whom the order was issued has not complied with the order by the date specified in the order under section 49 (3) (c), the commission may do one or more of the following:

(a) by order in writing, restrict or prohibit the person from carrying out an action referred to in the order;

(b) after giving the person an opportunity to be heard, carry out an action referred to in the order;

(c) by order in writing, require the person to pay to the commission the amount of all direct and indirect costs the commission determines were reasonably incurred in carrying out the action referred to in paragraph (b).

(2) An order referred to in subsection (1) (c) must provide the person to whom it is issued with an accounting of the expenditures relating to the action referred to in subsection (1) (b).

Access restricted or prohibited

51 (1) An official, by order, may restrict or prohibit, in a manner prescribed by regulation, access to a public area, including a highway, road, resource road, and railway, if the official is of the opinion that the restriction or prohibition is necessary because of hazardous conditions resulting from an oil and gas activity.

(2) If an official issues an order under subsection (1), the commission must confirm the order in writing within 24 hours or the order ceases to be effective.

Emergency measures regarding spillage

52 (1) An official may, in the case of an emergency,

(a) enter on any land or body of water and do the things the official considers necessary to implement and carry out measures to contain and eliminate spillage, and

(b) order

(i) any permit holder, and

(ii) the use of any person's equipment and the operator of that equipment, to assist in the implementation or carrying out of measures to contain and eliminate spillage.

(2) The commission may reimburse a permit holder or person referred to in subsection (1) (b) for costs or expenses incurred as a result of an order issued under that subsection if the permit holder or person is not, in the commission's opinion, responsible for the spillage or for the likely source or cause of the spillage.

(3) If costs or expenses are incurred by the commission in implementing or carrying out measures to contain and eliminate spillage or making a reimbursement under subsection (2), the commission may do one or more of the following:

(a) take, deal with and dispose of the spillage, subject to section 55;

(b) order

(i) the permit holder, or

(ii) the person

who the commission believes is responsible for the spillage or for the likely source or cause of the spillage to pay the costs and expenses, or a part of them;

(c) order the permit holder or person referred to in paragraph (b) to indemnify the commission for costs or expenses paid by the commission;

(d) for the purpose of paragraph (b) or (c), direct the manner of payment or indemnification.

Control of oil and gas activities

53 (1) If, in the commissioner's opinion,

(a) a permit holder has engaged in a pattern of conduct that shows that the person is unfit to carry out the oil and gas activities permitted by the permit holder's permit, and

(b) there is a risk to public safety, the environment or petroleum and natural gas resources,

the commission may

(c) enter, seize and take control of any well, pipeline, facility or storage reservoir together with any associated chattel and fixture and any pertinent records,

(d) either discontinue all activity or take over the management and control of the well, pipeline, facility or storage reservoir,

(e) take the steps the commission considers necessary

(i) to prevent the flow or release of petroleum, natural gas or other substances from any stratum that a well enters, including plugging a well at any depth, or

(ii) for public safety or to protect the environment, and

(f) carry out any other prescribed actions.

(2) If the commission takes control of a well, pipeline, facility or storage reservoir,

(a) the commission may issue orders concerning the well, pipeline, facility or storage reservoir to

(i) the permit holder, and

(ii) an officer, employee, agent and contractor of the permit holder operating the well, pipeline, facility or storage reservoir,

and, if the commission issues an order to a person referred to in either subparagraph (i) or (ii), the order applies to both the person referred to in subparagraph (i) and the persons referred to in subparagraph (ii), and

(b) subject to section 55, the commission may take, deal with and dispose of all petroleum, natural gas or other substances from the well, pipeline, facility or storage reservoir.

(3) The commissioner may order by whom and to what extent costs and expenses incurred as a result of proceedings taken under this section are to be paid.

Use of proceeds

54 From the proceeds of spillage disposed of under section 52 (3) (a) or of petroleum, natural gas or other substances disposed of under section 53 (2) (b), the commission

(a) must pay royalties owed with respect to the petroleum or natural gas under Part 10 of the Petroleum and Natural Gas Act, and

(b) after making the payments referred to in paragraph (a), may pay

(i) costs and expenses incurred as a result of proceedings taken under section 52 or 53, as applicable, and

(ii) costs and expenses of carrying out investigations and conservation measures that the commission considers necessary in connection with the exercise of its powers under section 52 or 53.

Payment into court

55 The net proceeds of spillage disposed of under section 52 (3) (a) or of petroleum, natural gas or other substances disposed of under section 53 (2) (b) remaining after payment of the costs and expenses under section 54 must be paid by the commission into the Supreme Court, and must be paid out to the persons and in the amounts as may be determined by the court on application of a person claiming to be entitled to any of the proceeds.

Statutory immunity

56 (1) Subject to subsection (3), no legal proceeding for damages lies or may be commenced or maintained against the commissioner, an official or the commission's directors or employees because of anything done or omitted

(a) in the exercise or intended exercise of any power under this Act, or

(b) in the performance or intended performance of any duty or function under this Act.

(2) Subject to subsection (3), no legal proceeding for damages lies or may be commenced or maintained against the government or the commission because of anything done or omitted

(a) in the exercise or intended exercise of a power under sections 50 to 53, or

(b) in the performance or intended performance of a duty under sections 50 to 53.

(3) Subsections (1) and (2) do not apply to a person referred to in subsection (1), the government or the commission in relation to anything done or omitted in bad faith.

Division 3 — Inspections and Audits

Entry and inspection or audit

57 (1) In subsection (2), "dwelling" means

- (a) a structure occupied as a private residence, and
- (b) if only part of a structure is occupied as a private residence, that part of the structure.
- (2) For any purpose related to the administration or enforcement of the Act, the regulations, a permit or an authorization, an official may enter, at any reasonable time, on land or premises, other than a dwelling, if the official has reasonable grounds to believe that
  - (a) the land or premises is the site of an oil and gas activity or a related activity that is regulated under the Act or the regulations or is carried on by a person who is required under this Act to hold a permit or an authorization to carry out that activity, or
  - (b) records concerning the activities referred to in paragraph (a) are kept on the land or premises.
- (2.1) A person must admit onto land or premises referred to in subsection (2) an official entering the land or premises under that subsection, and must provide the official with the means and assistance necessary for the purpose of the entry.
- (3) In order to obtain access under subsection (2), an official may enter land owned by a person other than a permit holder if the entry is reasonably necessary to obtain the access.
- (4) An official who enters on land or premises under this section may
  - (a) inspect or audit anything or any activity that is reasonably related to the purpose of the inspection or audit,
  - (b) take samples and carry out tests and examinations,
  - (c) require production for the purposes of inspection or audit or copying of
    - (i) a permit or authorization that is required for the activity, and
    - (ii) a record required to be kept under the Act or the regulations, and
  - (d) make inquiries the official considers necessary.
- (5) A peace officer has the powers and duties of an official under this section with respect to the enforcement of the provisions of the Act and the regulations.

#### Inspection of vehicle

58 For any purpose related to the administration and enforcement of the Act, the regulations, a permit or an authorization, an official or peace officer may

- (a) require a person operating a vehicle to stop the vehicle, and
- (b) carry out an inspection of a vehicle and its contents.

#### Obligation of an official

59 An official who under this Part enters onto land or premises for the purposes of administering or enforcing the Act or the regulations, stops a vehicle, requests records or plans or seizes records or plans must provide proof of identity, on the request of the person who

- (a) is in possession or apparent possession of the land or premises,
- (b) has apparent custody or control of the records or plans being inspected or audited,
- (c) is in charge of the activity being inspected or audited, or
- (d) is operating a vehicle stopped under section 58.

#### Obligation of person inspected or audited

60 (1) The operator of a vehicle must stop the vehicle when required to do so by

- (a) an official referred to in section 58, or
  - (b) a peace officer
- who
- (c) is in uniform,
  - (d) displays his or her official identification card or badge, or
  - (e) is in or near a vehicle that is either a vehicle of a peace officer or readily identifiable as a commission or other government vehicle.
- (2) A person who is described in paragraphs (a) to (d) of section 59 must produce, if and as required by the official or peace officer,
- (a) proof of identity,
  - (b) a permit or an authorization held by the person under the Act, and
  - (c) a record or plan required to be maintained under section 38.

#### Requirement to submit to inspection or audit

61 A person must not

- (a) obstruct or interfere with an official or peace officer acting under the authority of this Division to administer or enforce the Act or the regulations, or
- (b) withhold, destroy, tamper with, alter, conceal or refuse to produce any information, record, plan, report, substance, sample or thing that is required to be produced by an official or peace officer administering or enforcing the Act or the regulations.

#### Division 4 — Contraventions and Administrative Penalties

##### Contraventions

62 (1) After giving an opportunity to be heard to a person who is alleged to have contravened a provision of the Act, the regulations, a permit, an authorization or an order, the commission may find that the person has contravened the provision.

(2) If a corporation contravenes a provision referred to in subsection (1), a director, agent or officer of the corporation who authorized, permitted or acquiesced in the contravention also contravenes the provision.

(3) If an employee, contractor or agent of a permit holder contravenes a provision referred to in subsection (1) in the course of carrying out the employment, contract or agency, the permit holder also contravenes the provision.

(4) If a person contravenes a provision referred to in subsection (1), any other person who

(a) is directly or indirectly responsible for the act or omission that constitutes the contravention, and

(b) is a contractor, employee or agent of the person or of an other person described in paragraph (a) also contravenes the provision.

(5) The commission may not find that a person has contravened a provision referred to in subsection (1) if the person demonstrates to the satisfaction of the commission that

(a) the person exercised due diligence to prevent the contravention, or

(b) [Repealed 2012-27-10.]

(c) the person's actions relevant to the provision were the result of an officially induced error.

(6) If

(a) a corporation referred to in subsection (2),

(b) an employee, contractor or agent referred to in subsection (3), or

(c) a person referred to in subsection (4)

has not contravened a provision referred to in subsection (1) as a result of demonstrating to the satisfaction of the commission anything referred to in subsection (5) (a) and (c), the commission may find that any of the other persons referred to in subsections (2) to (4) has contravened the provision, unless the other person demonstrates to the satisfaction of the commission anything referred to in subsection (5) (a) and (c).

(7) Nothing in subsection (5) prevents

(a) an official from issuing an order under section 49 (1) to a person with respect to an act or omission by the person, or

(b) the commission from doing anything referred to in section 50.

(8) A person does not contravene a provision referred to in subsection (1) by doing or omitting to do something if that act or omission is reasonably necessary to conform with the requirements of the Workers Compensation Act or any regulations under that Act.

##### Administrative penalties

63 (1) If the commission finds that a person has contravened a provision referred to in section 62 (1), the commission may impose an administrative penalty on the person in an amount that does not exceed the prescribed amount.

(2) Before the commission imposes an administrative penalty on a person, the commission must consider the following:

(a) previous contraventions by, administrative penalties imposed on or orders issued to

(i) the person,

(ii) if the person is an individual, a corporation for which the individual is or was an officer, director or agent, and

(iii) if the person is a corporation, an individual who is or was an officer, director or agent of the corporation;

(b) the gravity and magnitude of the contravention;

(c) the extent of the harm to others resulting from the contravention;

- (d) whether the contravention was repeated or continuous;
- (e) whether the contravention was deliberate;
- (f) any economic benefit derived by the person from the contravention;
- (g) the person's efforts to prevent and correct the contravention;
- (h) any other matters prescribed by the Lieutenant Governor in Council.

(3) If a person is charged with an offence under this Act, an administrative penalty may not be imposed on the person in respect of the same circumstances that gave rise to the charge.

#### Notice of contravention or penalty

64 If the commission finds that a person has contravened a provision referred to in section 62 (1) or imposes an administrative penalty on a person, the commission must give to the person a notice of the finding or administrative penalty and the notice must specify the following:

- (a) the contravention;
- (b) the amount of the penalty, if any;
- (c) the date by which the penalty, if any, must be paid;
- (d) the person's right to request a review of the decision under section 70 or to appeal the decision under section 72;
- (e) an address to which a request for a review or an appeal may be sent.

#### Due date of penalty

65 The person on whom an administrative penalty is imposed must pay the administrative penalty

(a) if paragraph (b) does not apply, within 30 days after the date on which the notice referred to in section 64 is served on the person, or

(b) by the later of the following:

- (i) if the person requests a review of the administrative penalty under section 70, 30 days after the date on which the notice referred to in section 71 (1) (b) is served on the person, unless the penalty is rescinded under section 71 (1) (a);
- (ii) if the person appeals the administrative penalty under section 72 and the appeal tribunal does not make an order under section 72 (4) with respect to that appeal, 30 days after the date on which the decision of the appeal tribunal is served on the person, unless the penalty is rescinded under section 72 (6) (a) or dealt with as described in section 72 (6) (b).

#### Enforcement of administrative penalty

66 (1) An administrative penalty constitutes a debt payable to the government by the person on whom the penalty is imposed.

(2) If a person fails to pay an administrative penalty as required under section 65,

(a) the government may file with the Supreme Court or Provincial Court a certified copy of the notice imposing the administrative penalty and, on being filed, the notice has the same force and effect, and all proceedings may be taken on the notice, as if it were a judgment of that court, and

(b) the commission may refuse to consider applications made by the person under section 24.

#### Revenue from administrative penalties

67 The commission must pay all amounts derived from administrative penalties into the consolidated revenue fund.

#### Time limit for imposing an administrative penalty

68 (1) The time limit for making a finding under section 62 and giving a notice under section 64 is

(a) 3 years after the date on which the act or omission that is alleged to constitute the contravention occurred, or

(b) if the commissioner issues a certificate described in subsection (2) of this section, 3 years after the date on which the commissioner learned of the act or omission referred to in paragraph (a).

(2) A certificate purporting to have been issued by the commissioner certifying the date referred to in subsection (1) (b) is proof of that date.

#### Part 6 — Reviews and Appeals

#### Definitions and application

69 (1) In this Part:

"determination" means

- (a) with respect to an eligible person other than a land owner referred to in paragraph (b),
    - (i) a decision made by the commission under section 25 or 26,
    - (ii) a declaration made by the commission on its own initiative under section 27,
    - (iii) an order made by the commission under section 40 (f),
    - (iv) an order issued by an official or the commission under Division 2 of Part 5,
    - (v) a finding made by the commission under section 62,
    - (vi) an administrative penalty imposed by the commission under section 63, and
    - (vii) a prescribed decision made under this Act, and
  - (b) with respect to a land owner of land on which an operating area is located,
    - (i) a decision made by the commission
      - (A) under section 25 to issue a permit to carry out an oil and gas activity on the land of the land owner, and
      - (B) under section 31 to amend a permit, if the amendment changes the effect of the permit on the land of the land owner, and
    - (ii) a decision made by a review official under section 71 to vary a determination referred to in paragraph (a)
      - (i) of this definition so that
        - (A) a permit is amended, if the amendment changes the effect of the permit on the land of the land owner, or
        - (B) a permit is issued to carry out oil and gas activities on the land of a land owner;
- "eligible person" means

- (a) an applicant for a permit,
  - (b) a permit holder or former permit holder,
  - (c) a land owner of land on which an operating area is located,
  - (d) a person to whom an order under section 49 (1) has been issued, and
  - (e) a person with respect to whom the commission has made a finding of a contravention under section 62;
- "review official" means, in relation to a determination, a person who did not make the determination but who is designated in writing by the commission to review the determination for the purposes of sections 70 and 71.

(2) Despite anything in a specified enactment, a determination may not be appealed, reviewed or otherwise reconsidered except as provided in this Part.

Review by review official

70 (1) Subject to subsection (2), an eligible person, other than a land owner of land on which an operating area is located, may request, in accordance with this section, a review of a determination.

- (2) An eligible person may not request a review of a determination under subsection (1) if the eligible person has appealed the determination under section 72.
- (3) A request for a review under subsection (1) must be made within 30 days of receiving the later of
  - (a) the determination, and
  - (b) any written reasons respecting the determination.
- (4) Despite subsection (3), a review official may extend the time to request a review, even if the time to make the request has expired, if satisfied that
  - (a) special circumstances existed which precluded making the request within the time period required under subsection (3), and
  - (b) an injustice would otherwise result.
- (5) The eligible person must make the request in writing and must identify the error the eligible person believes was made or the other grounds on which a review is requested.
- (6) On receipt by the review official of a request under subsection (1), the determination to be reviewed as a result of the request
  - (a) is stayed, if the determination is an administrative penalty imposed under section 63, and
  - (b) is not stayed, if the determination is not an administrative penalty referred to in paragraph (a), unless the review official orders that the determination is stayed.

(7) The review official may conduct a written, electronic or oral review, or any combination of them, as the review official, in his or her sole discretion, considers appropriate.

#### Powers of review official

71 (1) As soon as practicable after receiving a request under section 70 (1), the review official must

- (a) confirm, vary or rescind the determination, and
- (b) notify, in writing, the eligible person of the following:
  - (i) the review official's decision;
  - (ii) the reasons for the decision;
  - (iii) the eligible person's right to appeal the decision under section 72.
- (2) If the review official varies a determination under subsection (1) so that
  - (a) a permit is amended and the amendment changes the effect of the permit on the land of the land owner, or
  - (b) a permit is issued that locates an operating area on the land of a land owner,the review official must notify the land owner of the amendment or issuance in accordance with section 25
- (4) or 31 (9), as applicable.

#### Appeal

72 (1) Subject to subsection (2), an eligible person may appeal to the appeal tribunal

- (a) a decision made under section 71, if the eligible person was a party to the review under that section, and
- (b) a determination, if the eligible person has not, by the date the person commences the appeal, applied under section 70 (1) for a review of the determination.
- (2) A land owner of land on which an operating area is located may appeal a determination under this section only on the basis that the determination was made without due regard to
  - (a) a submission previously made by the land owner under section 22 (5) or 31 (2) of this Act, or
  - (b) a written report submitted under section 24 (1) (c) or 31 (6).
- (3) Subject to subsection (4), the commencement of an appeal does not operate as a stay or suspend the operation of the determination or decision being appealed, unless the appeal tribunal orders otherwise.
- (4) The commencement of an appeal with respect to an administrative penalty operates as a stay of the determination that imposed the penalty or the decision that did not rescind the penalty, unless the appeal tribunal orders otherwise.
- (5) The appellant and the commission are parties to an appeal, and
  - (a) if a person to whom an order under section 49 (1) has been issued files an appeal and the person is not a permit holder with respect to the oil and gas activity that is the subject of the order, the permit holder is also a party to the appeal,
  - (b) if a land owner of land on which an operating area is located files an appeal, the permit holder with respect to the oil and gas activity is also a party to the appeal,
  - (c) if an applicant for a permit appeals a refusal to issue a permit, a land owner notified by the applicant under section 22 (2) is, on request, also a party to the appeal, and
  - (d) if a permit holder appeals a refusal to amend a permit, the land owner of the land on which an operating area is located is, on request, also a party to the appeal.
- (6) On an appeal under subsection (1), the appeal tribunal may
  - (a) confirm, vary, or rescind the decision made under section 71 or the determination, or
  - (b) send the matter back, with directions, to the review official who made the decision or to the person who made the determination, as applicable.
- (7) Despite the application of section 24 (1) of the Administrative Tribunals Act to the appeal tribunal, a land owner must file a notice of appeal within 15 days of the day the determination being appealed was made.

#### Publication

73 The commission may direct a person to publish, at the person's own cost, the facts relating to the imposition of an administrative penalty or to an order issued under Division 2 of Part 5, if the person's rights of review and appeal have elapsed without the penalty or order being rescinded or dealt with as described in section 72 (6) (b).

## Part 7 — General

Lieutenant Governor in Council may order extension of pipeline

74 (1) If the Lieutenant Governor in Council considers it necessary or in the public interest, the Lieutenant Governor in Council may order a pipeline permit holder to do any or all of the following:

- (a) to extend or improve its pipeline for the junction with a pipeline of a person or local authority distributing or authorized to distribute gas to the public;
- (b) to sell gas to the person or local authority referred to in paragraph (a), if to do so would not impair the pipeline permit holder's ability to render adequate service to its existing customers;
- (c) for the purposes in paragraph (a), to construct pipelines to communities immediately adjacent to its pipeline, if the Lieutenant Governor in Council considers that the construction would not place an undue burden on the pipeline permit holder.

(2) The Lieutenant Governor in Council, in an order under subsection (1),

(a) may order that a person other than a pipeline permit holder referred to in that subsection must pay the costs, or a portion of the costs, incurred in carrying out the order, or

(b) may approve the payment of any of those costs from the consolidated revenue fund.

(3) If an order is made under subsection (1), the commission must amend under section 26 (1) the pipeline permit holder's permit to the extent necessary to make the permit consistent with the order.

#### Special projects

75 (1) The commission, on its own initiative or on application by a permit holder or an applicant for a permit, may designate, by order or in a permit, any of the following as a special project:

- (a) the development or production of petroleum, natural gas, or both, from a field or pool or portion of a field or pool, using repressuring, recycling, pressure maintenance or any other technique to enhance recovery;
- (b) the application of innovative technology, as defined by regulation;
- (c) an innovative method of carrying out oil and gas activities and related activities;
- (d) any other prescribed oil and gas activity or method of carrying out an oil and gas activity.

(2) The commission may

(a) make a designation under subsection (1) with or without conditions, and

(b) cancel or suspend a designation

(i) at the request of the permit holder to whom the designation was given, or

(ii) if it appears to the commission that there has been a contravention of this Act, the regulations, a permit, an authorization or an order respecting the designation or a condition of the designation.

(3) A permit holder with a permit for an oil and gas activity that has been designated as a special project under subsection (1) may apply to the commission for other than normal spacing under section 65.1 of the Petroleum and Natural Gas Act.

(4) For the purposes of a special project or of special projects generally, the Lieutenant Governor in Council and the board may each, in exercising a regulation-making power under this Act, make a regulation that is contrary to or inconsistent with a provision of this Act.

#### Pipeline crossings

76 (1) Subject to subsection (3), a person must not

(a) construct

(i) a highway, road or railway,

(ii) an underground communication or power line, or

(iii) any other prescribed work, or

(b) carry out a prescribed activity

along, over or under a pipeline or within a prescribed distance of a pipeline unless

(c) the pipeline permit holder agrees in writing to the construction or the carrying out of the prescribed activity, either specifically or by reference to a class of construction projects or activities,

(d) the commission, by order issued under subsection (2), approves the construction or the carrying out of the prescribed activity, either specifically or by reference to a class of construction projects or activities, or

(e) the construction or prescribed activity is carried out in accordance with the regulations.

(2) The commission, on application by a person referred to in subsection (1), may issue an order for the purposes of subsection (1) (d) and in doing so may impose any conditions that the commission considers necessary to protect the pipeline.

(3) The commission must approve

(a) the construction referred to in subsection (1) (a), and

(b) the carrying out of a prescribed activity under subsection (1) (b) by the government or a municipality, but may impose conditions referred to in subsection (2) in the order issued under that subsection.

(4) The commission, for the purposes of deciding whether to issue an order under subsection (1) or impose conditions under subsection (2), may require a pipeline permit holder to submit information regarding the pipeline permit holder's pipeline.

(5) The commission may order a pipeline permit holder whose pipeline is the subject of an order issued under subsection (2) to do one or both of the following:

(a) with the approval of the Lieutenant Governor in Council, relocate the pipeline to facilitate the construction or prescribed activity approved by the order issued under subsection (2);

(b) take the actions specified in the order that the commission considers necessary to protect the pipeline.

(6) In relation to an order of the commission referred to in subsection (5), the Lieutenant Governor in Council

(a) may order that a person other than the pipeline permit holder must pay the costs, or a portion of the costs, incurred in carrying out the commission's order, or

(b) may approve the payment of any of those costs from the consolidated revenue fund.

(7) If there is an inconsistency between an order or an approval made under subsection (6) and a regulation made under section 99 (1) (m.1), the order or approval prevails to the extent of the inconsistency.

#### Registry

77 The commission must maintain a registry containing the prescribed information about oil and gas activities.

#### Correction or clarification of a decision

78 (1) In this section, "decision" means any determination, declaration, order, finding or other decision made under this Act by the commission.

(2) If the commission makes a decision, the commission may

(a) correct a typographical, an arithmetical or another similar error in the decision, and

(b) correct an obvious error or omission in the decision.

(3) If the commission corrects a decision under this section, the commission must notify the person who is the subject of the decision and the correction does not take effect until that notification is given.

#### How to serve documents and notices

79 (1) Subject to subsections (3) and (4), all documents that are required or permitted under this Act to be given to or served on a person must be given or served in one of the following ways:

(a) by leaving a copy with the person;

(b) if the person is a permit holder or an authorization holder,

(i) by leaving a copy with an agent of that person,

(ii) by sending a copy by ordinary mail or registered mail to the address at which that person carries on business,

(iii) by sending a copy by electronic mail to the electronic mail address provided by that person,

(iv) by leaving a copy in a mail box or mail slot for the address at which that person carries on business, or

(v) by attaching a copy to a door or other conspicuous place at the address at which that person carries on business;

(c) by transmitting a copy to a facsimile number provided as an address for service by the person;

(d) by any other prescribed method of service.

(2) A document given or served in accordance with subsection (1), (3) or (4) is deemed to be received as follows:

(a) if given or served by sending a copy by ordinary or registered mail, on the 5th day after it is mailed;

(b) if given or served by sending a copy by electronic mail, on the 3rd day after it is sent;

(c) if given or served by leaving a copy in a mail box or mail slot, on the 3rd day after it is left;

(d) if given or served by attaching a copy to a door or other conspicuous place, on the 3rd day after it is attached;

(e) if given or served by transmitting a copy by facsimile, on the 3rd day after it is transmitted;

(f) if given or served by any other method of service prescribed under subsection (1) (d), as prescribed.

(3) The commission, on application by an applicant, may authorize the applicant to serve a document on a person by sending a copy of the document by registered mail to the last known address of the person if the commission is satisfied that the applicant has made a reasonable attempt to serve that person in accordance with subsection (1) but has been unable to effect the service.

(4) The commission may serve a notice, required under section 25 (4), 26 (7) or 31 (9) or (11) to be provided to a land owner, by sending a copy of the notice by registered mail to the last known address of the land owner if the commission is satisfied that service under subsection (1) of this section is impracticable in the circumstances.

#### Opportunity to be heard

80 (1) In any circumstances in which, under this Act, an opportunity to be heard is provided, the commission may conduct a written, electronic or oral hearing, or any combination of them, as the commission, in its sole discretion, considers appropriate.

(2) The commission may make rules respecting the circumstances and place in which and the process by which written, electronic or oral hearings may be conducted under subsection (1) and specifying the form and content of materials to be provided for written, electronic or oral hearings.

#### False or misleading statements

81 A person must not make a false or misleading statement in any application or other record submitted under this Act, or otherwise make a false statement to, or mislead or attempt to mislead, a person exercising a power or performing a duty or function under this Act.

#### Compliance with orders

82 A person to whom an order under this Act applies must comply with the order.

#### Application of Act to Muskwa-Kechika Management Area

83 If there is a conflict or inconsistency between this Act and the Muskwa-Kechika Management Area Act, the Muskwa-Kechika Management Area Act prevails.

#### Relationship with aboriginal and treaty rights

84 For greater certainty, the provisions of this Act are intended to respect aboriginal and treaty rights in a manner consistent with section 35 of the Constitution Act, 1982.

### Part 8 — Offences and Court Orders

#### Time limit for commencing a prosecution

85 (1) The time limit for laying an information to commence a prosecution for an offence under this Act is

(a) 3 years after the date on which the act or omission that is alleged to constitute the offence occurred, or  
(b) if the commissioner issues a certificate described in subsection (2), 3 years after the date on which the commissioner learned of the act or omission referred to in paragraph (a).

(2) A certificate purporting to have been issued by the commissioner certifying the date referred to in subsection (1) (b) is proof of that date.

#### Offences

86 (1) A person who contravenes section 21, 35 (1), 36 (1), 37 (1) or (2), 39 (3), 40, 61 or 81, or in relation to an order issued under section 49, section 82, commits an offence and is liable on conviction to a fine not exceeding \$1 500 000 or to imprisonment for not more than 3 years, or to both.

(2) A person who contravenes section 35 (3) commits an offence and is liable on conviction to a fine not exceeding \$1 000 000 or to imprisonment for not more than 2 years, or to both.

(3) A person who contravenes section 34, 38 (1) or 39 (1), or in relation to an order issued under section 53 (2) (a), section 82, commits an offence and is liable on conviction to a fine not exceeding \$500 000 or to imprisonment for not more than one year, or to both.

(4) A person who contravenes section 35 (2) or 76 (1), or in relation to an order issued under a section not referred to in subsections (1) to (3) of this section, section 82, commits an offence and is liable on conviction to a fine not exceeding \$100 000.

(5) A person who contravenes section 37 (3) or 60 (1) or (2) commits an offence and is liable on conviction to a fine not exceeding \$25 000.

(6) The Lieutenant Governor in Council may provide by regulation that

(a) a contravention of a regulation is an offence, and

(b) a person convicted of an offence for a contravention of a regulation is liable to a fine not exceeding a maximum amount, or to imprisonment not exceeding a maximum length, or to both.

(7) If the maximum fine or imprisonment provided by a regulation under subsection (6) (b) is less than that provided by a provision of this Act, the regulation prevails.

(8) If a contravention continues for more than one day, the offender is liable to a separate penalty, without notice and without a separate count being laid, for each day that the contravention occurs.

(9) In a prosecution for an offence under this Act, it is sufficient proof of the offence to establish that it was committed by the defendant's contractor, employee or agent.

(10) Subsection (9) applies even if the contractor, employee or agent has not been identified or prosecuted for the offence.

(11) If a corporation commits an offence under this Act, a director or officer of the corporation who authorized, permitted or acquiesced in the offence also commits the offence.

(12) If a person commits an offence under this Act, any other person who

(a) is directly or indirectly responsible for the act or omission that constitutes the offence, and

(b) is a contractor, employee or agent of the person or of an other person described in paragraph (a) also commits the offence.

(13) Due diligence, mistake of fact and officially induced error are defences to a prosecution under this Act.

(14) If

(a) a corporation referred to in subsection (11), or

(b) a person referred to in subsection (12),

has not committed an offence under this Act as a result of subsection (13), the other persons referred to in subsections (11) and (12) may be found guilty of an offence, subject to subsection (13).

(15) Section 5 of the Offence Act does not apply to this Act or the regulations.

Remedies preserved

87 (1) Subject to section 63 (3), a proceeding, conviction or penalty for an offence under this Part does not relieve a person from any other liability.

(2) If the commission imposes an administrative penalty on a person, a prosecution for an offence under this Act for the same contravention may not be brought against the person.

Order for compliance

88 (1) If the commission considers that a person is not complying, or has not complied, with an order issued under this Act, the commission may apply to the Supreme Court for either or both of the following:

(a) an order directing the person to comply with the order or restraining the person from violating the order;

(b) an order directing the directors and officers of the person to cause the person to comply with or to stop violating the order.

(2) On application by the commission under this section, the Supreme Court may make an order it considers appropriate.

Court order to comply

89 If a person is convicted of an offence under this Act, then, in addition to any punishment the court may impose, the court may order the person to comply with the provision.

Restitution

90 If a person is convicted of an offence under this Act, then, in addition to any other penalty, the court may order the person to pay compensation or make restitution.

Court orders

91 If a person is convicted of an offence under this Act, then, in addition to any other punishment that may be imposed, the court may, by order, do one or more of the following:

(a) prohibit the person from doing anything that may result in the continuation or repetition of the offence;

- (b) direct the person to take any action the court considers appropriate to remedy or avoid any harm to the environment or public safety that results or may result from the act or omission that constituted the offence;
- (c) direct the person to publish, at the person's own cost, the facts relating to the conviction;
- (d) direct the person to compensate the commission for all or part of the cost of any remedial or preventative action taken by or on behalf of the commission as a result of the act or omission that constituted the offence;
- (e) direct the person to pay court costs;
- (f) direct the person to pay the costs of the investigation.

#### Penalty for monetary benefit

92 (1) If the court convicts a person of an offence under this Act, the court may increase a fine imposed on the person by an amount equal to the court's estimation of the amount of the monetary benefit acquired by or that accrued to the person as a result of the commission of the offence.

(2) A fine increased under subsection (1)

- (a) applies despite any provision that provides for a maximum fine, and
- (b) is in addition to any other fine under this Act.

#### Recovery of debts due

93 An amount that a permit holder, producer or another person is required under this Act to pay to the commission or the government is a debt due by that permit holder, producer or person to the government or the commission, as the case may be, and the debt may be recovered by the government or the commission in any court of competent jurisdiction.

### Part 9 — Regulations

#### Division 1 — Regulations of the Lieutenant Governor in Council

##### General power to make regulations

94 (1) The Lieutenant Governor in Council may make regulations referred to in section 41 of the Interpretation Act.

(2) In making a regulation under this Act, the Lieutenant Governor in Council may do one or more of the following:

- (a) delegate a matter to a person, with or without directions on how the delegated power is to be exercised;
  - (b) confer a discretion on a person;
  - (c) make different regulations for different persons, places, things, decisions, transactions or activities.
- (2.1) The Lieutenant Governor in Council may make regulations establishing criteria that a person must use when exercising a discretionary or delegated power conferred on the person by a regulation under this Division.
- (3) The Lieutenant Governor in Council may make a regulation defining a word or expression used but not defined in this Act.
- (4) Sections 95 to 105 do not limit the authority of the Lieutenant Governor in Council to make regulations under subsection (1) of this section.

##### Policies and permitting authority of the commission

95 (1) The Lieutenant Governor in Council may make regulations respecting policies and procedures to be followed by the commission in conducting its affairs, exercising its powers and discretion, carrying out its functions and duties and discharging its responsibilities.

(2) The Lieutenant Governor in Council may make regulations for the purposes of section 25 (1.1).

##### Criteria for exercise of discretionary powers

96 (1) The Lieutenant Governor in Council may make regulations respecting the criteria that a person must use in exercising a discretionary power conferred on the person under this Act.

(2) Criteria prescribed under subsection (1) are in addition to any criteria required by this Act.

##### Prohibitions

97 The Lieutenant Governor in Council may make regulations as follows:

- (a) prohibiting the carrying out of any oil and gas activity or related activity at any point within a specified distance of any boundary, roadway, road allowance, right of way, building of any prescribed type or any specified works;
- (b) despite anything in the Local Government Act and the Community Charter, prohibiting the construction of a building or structure within a specified distance of a well, pipeline or facility, if the Lieutenant Governor in Council is satisfied that the prohibition is necessary to protect the public.

#### Exemptions

98 (1) The Lieutenant Governor in Council may make regulations respecting the exemption of a person, class of persons, place, thing, transaction or activity from a provision of this Act or the regulations.

(2) In making a regulation under subsection (1), the Lieutenant Governor in Council may make the exemption subject to conditions.

(3) The Lieutenant Governor in Council may make regulations restricting the commission's authority

(a) to exempt a person or class of persons from section 22 or from a requirement referred to in section 36, or

(b) to authorize an official to exempt a person from a provision referred to in section 103 (2).

#### General

99 (1) The Lieutenant Governor in Council may make regulations as follows:

- (a) prescribing activities for the purposes of the definition of "oil and gas activity" in section 1 (2);
  - (b) prescribing substances for the purpose of paragraph (e) of the definition of "pipeline" in section 1 (2) and prescribing exclusions for the purposes of paragraph (h) of that definition;
  - (c) prescribing regulations under a specified enactment for the purposes of paragraph (f) of the definition of "specified provision" in section 1 (2);
  - (d) prescribing circumstances for the purposes of section 6 (2);
  - (e) respecting the application of the Public Inquiry Act for the purposes of section 12;
  - (f) prescribing authorizations for the purposes of section 18 (2) (c) (i);
  - (g) prescribing periods of time for the purposes of section 32;
  - (h) respecting the disclosure of records, reports and plans referred to in section 38;
  - (i) requiring that natural gas be gathered, and processed if necessary, and that the natural gas or liquid hydrocarbons extracted be marketed or injected into an underground reservoir for storage or for any other purpose;
  - (j) prescribing actions for the purposes of section 53;
  - (k) prescribing decisions for the purposes of the definition of "determination" in section 69;
  - (l) prescribing activities and methods for the purposes of section 75;
  - (m) prescribing works, activities and distances for the purposes of section 76 (1) and requirements for the purposes of section 76 (1) (e);
  - (m.1) respecting how costs incurred in relation to
    - (i) the construction of anything referred to in section 76 (1) (a),
    - (ii) the carrying out of an activity under section 76 (1) (b), or
    - (iii) the relocation referred to in section 76 (5) (a) and any actions referred to in section 76 (5) (b)
 are to be allocated between the pipeline permit holder and the person doing anything referred to in subparagraphs (i) to (iii) of this paragraph;
  - (n) respecting the application of the Mines Act to the exploration, development and production of oil sand, oil sand products, oil shale and oil shale products;
  - (o) respecting surveying to be carried out with respect to an oil and gas activity;
  - (p) respecting information for the purposes of section 77;
  - (q) respecting the carrying out of activities under a master licence to cut by a permit holder, an applicant for a permit or a person carrying out an activity under an approval, as defined in section 9 (1) of this Act.
- (2) The following do not apply to a master licence to cut held by a permit holder, an applicant for a permit or a person carrying out an activity under an approval, as defined in section 9 (1) of this Act:
- (a) the Forest and Range Practices Act and the regulations and standards made under that Act;
  - (b) the Forest Practices Code of British Columbia Act, as it read immediately before section 177 of the Forest and Range Practices Act came into force, and the regulations made under that Code.
- (3) In this section, "master licence to cut" has the same meaning as in the Forest Act.
- Regulations respecting orphan sites

100 (1) In this section, "tax" means the tax under section 47.

(2) The Lieutenant Governor in Council may make regulations for the purposes of Part 4 and, without limiting this, may make regulations as follows:

- (a) respecting administration of the fund;
- (b) respecting the designation of orphan sites;
- (c) prescribing the maximums, conditions and limitations on compensation paid to land owners under section 46;
- (d) suspending the operation of the tax;
- (e) respecting the assessment and reassessment of tax;
- (f) respecting appeals from assessment or reassessment of tax;
- (g) respecting refunds of tax;
- (h) providing for exemptions from payment of tax;
- (i) respecting time limits and time periods related to the tax, including returns, assessments, reassessments, appeals, refunds or exemptions, and including different time limits and time periods for different classes of persons;
- (j) establishing procedures for giving notice of tax payable, collection of tax, and use of the fund;
- (k) setting minimum amounts to be retained in reserve in the fund;
- (l) setting penalties for the purposes of section 47 (8);
- (m) designating an employee of the government as the collector of the tax and providing for the collection of the tax.

#### Administrative penalties

101 The Lieutenant Governor in Council may make regulations respecting the imposition of administrative penalties, including, without limiting this,

- (a) matters to be considered before imposing administrative penalties, the criteria for determining appropriate administrative penalties, setting different limits on different administrative penalties and setting out those provisions of this Act or the regulations which, if contravened, make a person liable to an administrative penalty, and
- (b) providing for increased administrative penalties for repeated contraventions and specifying the time within which a contravention is to be considered a repeat contravention of an earlier contravention.

#### Collector of levy

102 The Lieutenant Governor in Council may make regulations designating an employee of the government as the collector of the levy referred to in section 110 for payment under section 18 to the commission and providing for its collection.

#### Environmental protection and management

103 (1) For the purposes of environmental protection and management, the Lieutenant Governor in Council may make regulations respecting actions that a permit holder and a person carrying out an oil and gas activity must take or refrain from taking to protect or effectively manage the environment.

(2) Without limiting subsection (1), the Lieutenant Governor in Council may make regulations respecting actions that a permit holder and a person carrying out an oil and gas activity must take or refrain from taking with respect to any of the following:

- (a) a wildlife habitat feature, as identified under section 104 (1) (c) (i);
- (b) wildlife, including fish, and wildlife habitat;
- (c) temperature sensitive streams, as identified under section 104 (1) (c) (ii);
- (d) streams, wetlands and lakes;
- (e) riparian areas and lakeshores;
- (f) lakeshore management zones;
- (g) water quality;
- (h) watersheds;
- (i) aquifers and ground water recharge areas;
- (j) old-growth management areas, as identified under section 104 (3) (a);
- (k) wildlife trees;
- (l) commercial timber;

- (m) soils, including soil stability, disturbance and productivity;
- (n) surface drainage, ground percolation and erosion control;
- (o) biodiversity;
- (p) invasive plants, as identified under section 104 (3) (c);
- (q) resource features;
- (r) range;
- (s) forest resources;
- (t) cultural heritage resources;
- (u) scenic areas, as established under section 104 (3) (d);
- (v) ungulate winter ranges, as established under section 104 (1) (a) (i);
- (w) wildlife habitat areas, as established under section 104 (1) (a) (ii);
- (x) fisheries sensitive watersheds, as established under section 104 (1) (a) (iv).

(3) The Lieutenant Governor in Council may make regulations

(a) for the purposes of subsection (2), classifying

(i) streams, wetlands and lakes,

(ii) riparian areas, and

(iii) wildlife habitat features, scenic features and resource features,

(b) for the purposes of subsection (2) and of section 104 (1) (a) (iv) and (2) (a), classifying watersheds,

(c) for the purposes of subsection (2) and of section 104 (2) (b) (i), classifying aquifers, and

(d) for the purposes of subsection (2) and of section 104 (4), classifying lakeshore management zones.

(4) The Lieutenant Governor in Council may make regulations prescribing objectives for the purposes of the definition of "government's environmental objectives" in section 1.

Authorizations respecting environmental protection and management

104 (1) The Lieutenant Governor in Council may make regulations authorizing the minister responsible for administering the Wildlife Act

(a) to establish, for the purposes of paragraph (b), one or more of the following:

(i) an area as an ungulate winter range;

(ii) an area as a wildlife habitat area;

(iii) categories of wildlife for the purposes of subparagraphs (i) to (ii);

(iv) a fisheries sensitive watershed, in accordance with regulations, if any, respecting the classification of watersheds made under section 103 (3) (b),

(b) to establish, for the purposes of section 36 (1), an environmental measure in relation to paragraph (a) (i), (ii) or (iv) of this subsection, and

(c) to identify one or both of the following:

(i) for the purposes of section 103 (2) (a), a wildlife habitat feature, in accordance with regulations, if any, respecting the classification of wildlife habitat features made under section 103 (3) (a) (iii);

(ii) for the purposes of section 103 (2) (c), a temperature sensitive stream.

(2) The Lieutenant Governor in Council may make regulations authorizing the minister responsible for administering the Water Sustainability Act

(a) to establish, for the purposes of paragraph (c), a designated watershed or portion of a watershed, in accordance with regulations, if any, respecting the classification of watersheds made under section 103 (3) (b),

(b) to identify, for the purposes of paragraph (c), either or both of the following:

(i) an aquifer, in accordance with regulations, if any, respecting the classification of aquifers made under section 103 (3) (c);

(ii) a groundwater recharge area, and

(c) to establish, for the purposes of section 36 (1), an environmental measure in relation to paragraphs (a) and (b).

(3) The Lieutenant Governor in Council may make regulations authorizing the minister responsible for administering the Land Act

(a) to establish, for the purposes of section 103 (2) (j) and paragraph (b) of this subsection, an old-growth management area,

(b) to establish, for the purposes of section 36 (1), an environmental measure in relation to paragraph (a) of this subsection,

(c) to identify invasive plants for the purposes of section 103 (2) (p) and

(d) to establish, for the purposes of section 103 (2) (u), scenic areas.

(4) The Lieutenant Governor in Council may make regulations authorizing the minister responsible for administering the Forest and Range Practices Act to establish, for the purposes of section 103 (2) (f) and (3) (d), lakeshore management zones.

(5) The Lieutenant Governor in Council may make regulations as follows:

(a) prescribing the circumstances in which and the extent to which a discretion conferred in an authorization referred to in subsections (1) to (4) or paragraph (b) of this subsection may be exercised,

(b) authorizing a minister referred to in subsections (1) to (4) to grant an exemption from an environmental measure established by that minister and to impose one or more conditions with respect to the exemption;

(c) authorizing a minister referred to in subsections (1) to (4) to delegate any power conferred on the minister by a regulation made under this section with or without directions on how the delegated power is to be exercised,

(d) prescribing the consultations or notifications, or both, that a minister referred to in subsections (1) to (4), or a person authorized by the minister, must carry out before exercising a power conferred on the minister by a regulation made under this section;

(e) prescribing a date on which, or a period of time at the expiry of which, an order made by a minister referred to in subsection (1) to (4) in the exercise of a power conferred on the minister by a regulation made under this section comes into force.

Relation between regulations, environmental measures and other provisions

105 (1) In making a regulation under section 103, the Lieutenant Governor in Council may provide an exception to the application of the regulation, including an exception relating to the application of an environmental measure.

(2) If there is an inconsistency between

(a) either

(i) a requirement prescribed under section 103, or

(ii) an environmental measure established under section 104, and

(b) a provision of an Act administered by the minister responsible for the administration of the Wildlife Act or the Water Sustainability Act or a regulation made under any of those Acts

the provision referred to in paragraph (b) prevails to the extent of the inconsistency.

Division 2 — Regulations of the Board

Board regulations generally

106 (1) In making a regulation under this Division, the board may do one or more of the following:

(a) delegate a matter to a person, with or without directions on how the delegated power is to be exercised;

(b) confer a discretion on a person;

(c) make different regulations for different persons, places, things, decisions, transactions or activities;

(d) make the regulation subject to orders issued under section 49, on any conditions the board considers appropriate.

(2) The board may make regulations establishing criteria that a person must use when exercising a discretionary or delegated power conferred on the person by a regulation under this Division.

(3) In making a regulation under section 111 or 112 (1) (a), (b), (c), (d), (d.1) or (d.2), the board may authorize an official to exempt a person from a provision of the regulation and to impose one or more conditions with respect to the exemption.

Consultations and notification

107 (1) The board may make regulations respecting consultations and notification for the purposes of sections 22, 31 (5) and 32 (3) and notification for the purposes of section 23 (3).

(2) Without limiting subsection (1), the board may make regulations

(a) prescribing classes of applicants for the purposes of section 22 (1),

(b) respecting the extent, nature and manner of the consultations or notifications that may be required under section 22, 31 (5) or 32 (3), including, without limiting this, regulations respecting the provision of notice to specified persons or classes of persons and the provision of replies to persons who respond to a notice, and

(c) respecting reports to be submitted under section 24 (1) (c), 31 (6) or 32 (4), including, without limiting this, regulations respecting the publication of those reports.

#### Permits

108 The board may make regulations as follows:

- (a) respecting information for the purposes of section 24 (1) (d) and records for the purposes of section 24 (1) (e);
- (b) respecting requirements for the purposes of section 25 (1).

#### Security

109 The board may make regulations respecting security for the purposes of sections 23 and 30, including regulations as follows:

- (a) prescribing the amount of the security for the purposes of section 23 and the minimum or maximum amount, or both, of security for the purposes of section 30;
- (b) respecting the type of security that is acceptable or unacceptable;
- (c) respecting the form and content of the security;
- (d) respecting the time by which the security must be submitted to the commission;
- (e) respecting the circumstances under which the security may be realized;
- (f) respecting interest on the security.

#### Recovery of expenses

110 The board, for the purposes of recovering expenses arising out of the administration of this Act in a fiscal year, may make regulations as follows:

- (a) subject to the approval of Treasury Board,
  - (i) requiring permit holders or a class of permit holders to pay a levy to the government, and
  - (ii) establishing the amount, or the method of determining the amount, of the levy;
- (b) providing for the imposition of penalties, payable to the government, to enforce payment of the levy.

#### Oil and gas activities

111 (1) The board may make regulations respecting the carrying out of an oil and gas activity, including, without limiting this, regulations as follows:

- (a) if the commission is satisfied that there is a danger to the public, increasing a specified distance prescribed under section 97 (a), and, if a prohibition has not been prescribed under that section with respect to any area of the province, prescribing a prohibition for that area of the type referred to in that section;
  - (a.1) respecting actions a permit holder and a person carrying out an oil and gas activity must carry out or refrain from carrying out on completion of or while completing an oil and gas activity;
- (b) respecting equipment and techniques that must be used when carrying out an oil and gas activity;
- (c) respecting waste produced directly or indirectly by the carrying out of an oil and gas activity;
- (d) respecting the carrying out of geophysical exploration;
- (e) respecting the drilling, operation and abandonment of wells, including, without limiting this, regulations respecting
  - (i) the measures to be taken and the methods of operation to be used before drilling begins and during drilling or operation,
  - (ii) the drilling of multizone wells,
  - (iii) the conditioning and reconditioning of wells by mechanical, chemical or explosive means,
  - (iv) water source wells, and
  - (v) spacing areas in which wells are to be completed;
- (f) respecting the exploration for and development, use and abandonment of storage reservoirs;
- (g) respecting the exploration for and development and production of oil sand, oil sand products, oil shale and oil shale products;
- (h) respecting the construction, operation and abandonment of a pipeline, including, without limiting this, regulations respecting measures to be taken
  - (i) to restore the land and surface of land after construction or removal of a pipeline,
  - (ii) to monitor and maintain the integrity of the pipeline and equipment, and
  - (iii) on suspension of operation of a pipeline;

(h.1) respecting the construction, operation and abandonment of a facility used for the purposes of producing, gathering, processing or storing petroleum, natural gas, water or a substance referred to in paragraph (d) or (e) of the definition of "pipeline" in section 1;

(i) and (j) [Repealed 2010-9-46.]

(k) determining whether a field or pool designated under section 49.1 may be operated for the production of petroleum, natural gas, or both;

(l) designating the area that is to be allocated to a well in connection with fixing allowable production;

(m) controlling and regulating the production of petroleum, natural gas and water by restriction, proration or prohibition;

(n) requiring the disposal of water produced into an underground formation or otherwise and authorizing the commission to specify the terms according to which the disposal must be done;

(o) respecting the management of petroleum or natural gas fields, pools or zones;

(p) respecting the maintenance of a pipeline, facility, well, road prescribed under subsection (2) or other structure, equipment or thing.

(2) The board may make regulations as follows:

(a) prescribing roads for the purposes of paragraph (f) in the definition of "oil and gas activity" in section 1 (2);

(b) respecting the construction, operation, maintenance and deactivation of prescribed roads;

(c) respecting the application of the Motor Vehicle Act to prescribed roads;

(d) respecting the use of a prescribed road by a permit holder.

General

112 (1) The board may make regulations as follows:

(a) adopting by reference, in whole or in part and with any changes the board considers necessary, any regulation, code, standard or rule

(i) enacted as or under a law of another jurisdiction, including a foreign jurisdiction, or

(ii) set by a provincial, national or international body or any other code, standard or rule making body, as the regulation, code, standard or rule stands at a specific date, as it stands at the time of adoption or as amended from time to time;

(b) respecting the taking of samples and the conducting of tests and analyses by permit holders;

(c) subject to the approval of Treasury Board, respecting fees for the provision under this Act of a service by the commission to any person;

(d) prescribing records, reports and plans for the purposes of section 38 and respecting the maintenance and submission of those records, reports, and plans;

(d.1) respecting emergency response programs and response contingency plans for the purposes of section 38 (1) (b), including, without limiting this, regulations requiring the programs or plans to include requirements with respect to the training of persons who will carry out the programs or prepare the plans and consultations that must be carried out with respect to the programs or plans;

(d.2) respecting well samples and cores, including, without limiting this, regulations respecting the examination, storage, maintenance and submission to the commission of well samples and cores;

(e) prescribing the methods that must be used for the measurement of petroleum, natural gas, substances prescribed under section 133 (2) (v) of the Petroleum and Natural Gas Act and mixtures of any of them;

(f) prescribing the standard conditions to which the measurements referred to in paragraph (e) must be converted;

(g) [Repealed 2010-9-47.]

(h) prescribing requirements for the purposes of sections 39 (4) and 40 (e);

(i) prescribing classes of persons for the purposes of section 41;

(i.1) prescribing the content and manner of publication of a notice referred to in section 49.1 (2);

(j) for the purposes of section 51, respecting the restriction or prohibition of access to a public area;

(k) [Repealed 2010-9-47.]

(l) prescribing methods of service and times of deemed receipt for the purposes of section 79.

(2) For greater certainty, regulations made under subsection (1) (c) or section 110 (b) with the approval of Treasury Board may be made or adjusted at any time.

Part 10 — Transition

Repealed

Transition - appeal tribunal

114 The Lieutenant Governor in Council, when appointing the first appeal tribunal, may appoint to the appeal tribunal, without a merit-based process, a person who, at the time of the appointment, is

- (a) a member of the Environmental Appeal Board continued under the Environmental Management Act, or
- (b) a member of the Forest Appeals Commission continued under the Forest Practices Code of British Columbia Act.

Transition - Oil and Gas Commission Act

115 (1) In this section, "former Act" means the Oil and Gas Commission Act, S.B.C. 1998, c. 39, as it read immediately before being repealed.

(2) A designation made under section 6.2 (5) (a) of the former Act and in effect immediately before the repeal of the former Act is deemed to be a designation made under section 45 (2) of this Act.

Transition – Petroleum and Natural Gas Act

116 (1) In this section, "former Act" means the Petroleum and Natural Gas Act, R.S.B.C. 1996, c. 361, as it read immediately before this section comes into force.

(2) The following approval and authorizations are each deemed to be a permit issued under this Act if the authorization or approval is in effect immediately before the coming into force of this section:

- (a) an approval issued under section 33 of the former Act;
  - (b) a well authorization issued under Division 1 of Part 12 of the former Act;
  - (c) a water source well authorization issued under Division 2.1 of Part 12 of the former Act;
  - (d) an authorization to construct or modify a production facility issued by the commission under the Drilling and Production Regulation, B.C. Reg. 362/98, as it read immediately before this section comes into force.
- (3) Despite the repeal of Part 4 of the former Act, that Part continues to apply to a geophysical licence issued under section 32 of the former Act and in effect immediately before this section comes into force, until whichever of the following happens first:
- (a) the geophysical licence is cancelled under section 35 of the former Act;
  - (b) a permit is issued under this Act to the holder of the geophysical licence, permitting the holder to carry out geophysical exploration;
  - (c) 2 years expire after the date Part 4 of the former Act is repealed.
- (4) Despite the repeal of Part 12 of the former Act, that Part continues to apply to a test hole authorization issued under Division 2 of that Part until whichever of the following happens first:
- (a) the test hole authorization is cancelled under Division 2 of Part 12;
  - (b) a permit is issued under this Act to the holder of the test hole authorization, permitting the holder to convert the test hole into a well;
  - (c) 2 years expire after the date Part 12 of the former Act is repealed.
- (5) A drilling deposit submitted under section 85 of the former Act is deemed to be security submitted for the purposes of section 30 of this Act.
- (6) An approval issued under section 100 of the former Act and in effect immediately before this section comes into force is deemed to be a designation under section 75 of this Act.

Transition – Pipeline Act

117 (1) In this section, "former Act" means the Pipeline Act, R.S.B.C. 1996, c. 364, as it read immediately before its repeal.

(2) Each of the following is deemed to be a pipeline permit issued under this Act:

- (a) a certificate issued under section 10 of the former Act and in effect immediately before the repeal of the former Act;
- (b) an authorization issued under section 22 of the former Act and in effect immediately before the repeal of the former Act;
- (c) an authorization issued under section 27 of the former Act and in effect immediately before the repeal of the former Act;
- (d) a certificate issued under section 2 of the former Act and in effect immediately before the repeal of the former Act.

- (3) A leave given under section 28 of the former Act and in effect immediately before the repeal of the former Act is deemed to be an approval issued under section 76 of this Act.
- (4) A leave, in relation to a pipeline, given under section 30 of the former Act and in effect immediately before the repeal of the former Act is deemed to be a permission in the pipeline permit for the pipeline.
- (5) A leave given under section 31 of the former Act and in effect immediately before the repeal of the former Act is deemed to be an approval under section 76 of this Act.
- (6) Despite the repeal of Part 7 of the former Act, any decision made with respect to a common carrier by the British Columbia Utilities Commission under the authority of that Part continues to apply, subject to section 65 of the Utilities Commission Act as amended by this enactment.

#### Transition - permits

118 The commission may consolidate into a single permit any or all permits held by a permit holder by operation of sections 116 and 117.

#### Transition - roads

118.1 Despite section 21, a person does not require a permit to maintain on private land a road that existed immediately before January 27, 2011, and that is prescribed for the purposes of paragraph (f) of the definition of "oil and gas activity" in section 1 (2).

### Part 11 — Consequential Amendments and Repeals

#### Consequential Amendments and Repeals

[Note: See Table of Legislative Changes for the status of sections 119 to 206.]

Section(s)	Affected Act
119-122	Environmental Management Act
123	Environmental Management Amendment Act, 2004
124	Expropriation Act
125	Forest Act
126-128	Forest and Range Practices Act
129	Forest and Range Practices Amendment Act, 2003
130	Forests Statutes Amendment Act, 2000
131-143	Geothermal Resources Act
144	Land Surveyors Act
145-146	Land Title Act
147	Mineral Land Tax Act
148	Mines Act
149	Muskwa-Kechika Management Area Act
150	Oil and Gas Commission Act
151	Park Act
152-199	Petroleum and Natural Gas Act
200	Pipeline Act
201	Safety Standards Act
202	Securities Act
203	Utilities Commission Act
204	Water Act
205	Wildfire Act
206	Wildlife Act

#### Commencement

207 This Act comes into force by regulation of the Lieutenant Governor in Council.