

NEWFOUNDLAND AND LABRADOR
REGULATION 11/09

Nickel-in-Concentrate Exemption Order, 2009

under the
Mineral Act
(O.C. 2009-051)

Amended by:

34/13

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Mineral Act
(O.C. 2009-051)

(Filed February 28, 2009)

Under the authority of section 31.1 of the Mineral Act, the Lieutenant-Governor in Council makes the following Order.

Dated at St. John's , February 28, 2009 .

Sandra M. Barnes

Deputy Clerk of the Executive Council

ORDER

Analysis

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3. Production order exemption
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Short title

1. This Order may be cited as the Nickel-in-Concentrate Exemption Order, 2009 .

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Interpretation

2. (1) In this Order

- (a) "Act" means the Mineral Act ;

- (b) "development agreement" means the Development Agreement made as of September 30, 2002 among Her Majesty the Queen in Right of Newfoundland and Labrador, Voisey's Bay Nickel Company Limited and Inco Limited and includes the amendments to the agreement entered into on February 28, 2009 by Her Majesty in Right of Newfoundland and Labrador, Vale Inco Newfoundland and Labrador Limited and Vale Inco Limited; and

- (c) "production order" means the Voisey's Bay Nickel Company Limited Primary Production Order.

- (2) In interpreting this Order, the terms, "construction completion date", "government", "implementation plan", "nickel-in-concentrate", "processing plant" and "proponent" have the meanings given to them in the development agreement.

11/09 s2

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Production order exemption

3. (1) Notwithstanding the production order, the proponent, prior to the earlier of the construction completion date of the processing plant and March 31, 2013, may ship a maximum of 440,000 tonnes of nickel-in-concentrate from the province.

(2) The amount of nickel-in-concentrate the proponent may ship from the province under subsection (1) includes the amount shipped by the proponent before February 28, 2009 under the Voisey's Bay Nickel Company Limited Nickel Concentrate Exemption Order.

(3) In the period beginning on January 1, 2009 and ending on December 31, 2009, the proponent shall not ship from the province an amount of nickel-in-concentrate that exceeds 55,000 tonnes.

(4) In the period beginning on January 1, 2010 and ending on the earlier of the construction completion date of the processing plant and March 31, 2013, the proponent shall not ship from the province an amount of nickel-in-concentrate that exceeds, on average over the period, 55,000 tonnes in a calendar year.

11/09 s3; 34/13 s1

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Termination of exemption

4. The exemption contained in section 3 shall terminate on the earliest of the

(a) date on which the shipments of nickel concentrate by the lessee have reached a total of 440,000 tonnes of nickel-in-concentrate;

(b) construction completion date; and

(c) date on which it is rescinded under section 31.1(3) of the Act.

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Suspension of shipping rights

5. Notwithstanding section 3, where the proponent is not proceeding diligently to complete the engineering and construction of the processing plant as required by section 4.7.4 or 4.7.5 of the development agreement, the right of the proponent to ship nickel-in-concentrate out of the province under section 3 shall be suspended, subject to sections 5.3 and 6.5.2 of the development agreement.

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Suspension of exemption

6. (1) Notwithstanding section 3, the right of the proponent to ship nickel-in-concentrate from the province shall be suspended where a term of the development agreement provides for the suspension for a failure of the proponent to fulfil an obligation under the development agreement, or for another reason provided for in the development agreement, and a notice, where one is required in the circumstances, has been given by the government to the proponent.

(2) Where the failure of the proponent, or the other reason, giving rise to the suspension of the proponent's right to ship nickel-in-concentrate from the province under this Order has been remedied as provided for under the development agreement, the proponent may resume the shipments.

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NLR 66/02 Rep.

7. The Voisey's Bay Nickel Company Limited Nickel Concentrate Exemption Order ,
Newfoundland and Labrador Regulation 66/02, is repealed.

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