

Petroleum Resources Removal Permit Act

CHAPTER 7

OF THE

ACTS OF 1999

amended 1999 (2nd Sess.), c. 14; 2003, c. 13, ss. 8, 9

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An Act to Require a Permit for the Removal
of Petroleum Resources from the Province

Short title

1 This Act may be cited as the Petroleum Resources Removal Permit Act. 1999, c. 7, s. 1.

Purpose of Act

2 The purpose of this Act is to ensure the efficient and sustainable use of petroleum resources in the Province by requiring a permit to remove petroleum resources from the Province and thereby ensuring available feedstock to support a petrochemical industry in the Province. 1999, c. 7, s. 2.

Interpretation

3 (1) In this Act,

- (a) "Board" means the Nova Scotia Utility and Review Board;
- (b) "butane" means, in addition to its normal scientific meaning, a mixture mainly of butane, that may ordinarily contain trace amounts of propane or condensate;
- (c) "coal gas" means the methane occurring naturally in coal seams and associated strata;
- (d) "condensate" means a mixture mainly of pentanes and heavier hydrocarbons, that may be contaminated with sulphur compounds, that is recovered or is recoverable at a well from an underground reservoir and that is gaseous in its virgin reservoir state but is liquid at the conditions under which its volume is measured or estimated;
- (e) "ethane" means, in addition to its normal scientific meaning, a mixture mainly of ethane, that may ordinarily contain trace amounts of methane or propane;
- (f) "gas" means raw gas, including coal gas or any constituent of raw gas or marketable gas, including, but not limited to, condensate, propane, butane and ethane;
- (g) "marketable gas" means a mixture mainly of methane originating from raw gas, if necessary through the processing of the raw gas for the removal or partial removal of some constituents, that

meets specifications for use as a domestic, commercial or industrial fuel or as an industrial raw material;

(h) "methane" means, in addition to its normal scientific meaning, a mixture mainly of methane, that may ordinarily contain trace amounts of ethane, nitrogen, helium or carbon dioxide;

(i) "Minister" means the Minister responsible for the Petroleum Directorate;

(j) "Nova Scotia lands" means Nova Scotia lands as defined in the Canada-Nova Scotia Offshore Petroleum Resources Accord Implementation (Nova Scotia) Act;

(k) "oil" means crude oil before and after it has been subjected to any refining or processing;

(l) "permit" means a petroleum resources removal permit issued pursuant to this Act;

(m) "petroleum resources" means oil and gas;

(n) "propane" means, in addition to its normal scientific meaning, a mixture mainly of propane, that may ordinarily contain trace amounts of ethane or butanes;

(o) "Province" includes Nova Scotia lands;

(p) "raw gas" means a mixture containing methane, other paraffinic hydrocarbons, nitrogen, carbon dioxide, hydrogen sulfide, helium and minor impurities, or some of them, that is recovered or is recoverable at a well from an underground reservoir and that is gaseous at the conditions under which its volume is measured or estimated.

(2) Any mixture containing a substantial amount of methane or ethane that is removed from the Province, regardless of the conditions under which it is removed from the Province, is deemed to be gas for the purpose of this Act. 1999, c. 7, s. 3.

Application of Act

4 This Act applies to petroleum resources produced in the Province. 1999, c. 7, s. 4.

Minister

5 (1) The Minister has the general supervision and management of this Act and the regulations.

(2) The Minister may designate a person to perform any of the duties or functions of the Minister under this Act.

(3) The Minister may establish and administer policies, programs, standards, guidelines, objectives, codes of practice, directives and approval processes under this Act. 1999, c. 7, s. 5.

Permit

6 (1) Subject to subsections (2) and (3), no person shall remove from the Province petroleum resources produced within the Province, except in accordance with a petroleum resources removal permit issued pursuant to this Act.

(2) A permit is not required to remove from the Province

(a) coal gas;

(b) methane;

(c) oil; or

(d) condensates,

unless a regulation is passed requiring a permit for the removal of one or more of the substances referred to in clauses (a) to (d).

(3) A permit is not required to remove small volumes of petroleum resources from the Province up to limits prescribed by the regulations. 1999, c. 7, s. 6.

Application for permit

7 (1) An application for a permit or for an amendment to a permit shall be made to the Minister and shall contain the information prescribed by the regulations.

(2) Where a person

(a) produces or has the right to produce petroleum resources in the Province;

(b) appears to the Minister, on evidence that the Minister considers sufficient, to have made an arrangement

(i) to purchase or otherwise acquire property in petroleum resources in the Province, or

(ii) giving that person the exclusive right to dispose of a petroleum resource; or

(c) appears to the Minister, on evidence that the Minister considers sufficient, to have made an arrangement with the owner of petroleum resources produced in the Province to transport the petroleum resource to a place outside the Province,

and the person proposes to remove the petroleum resources, or cause them to be removed from the Province, that person shall apply to the Minister for a permit authorizing the removal of the petroleum resources from the Province.

(3) Subject to the Freedom of Information and Protection of Privacy Act, the application and information submitted to the Minister pursuant to this Section shall be made available to the public by the Minister. 1999, c. 7, s. 7.

Powers of Minister

8 (1) Subject to subsection (2), upon receipt of an application pursuant to Section 7, the Minister may

(a) require an applicant to submit any additional information the Minister considers necessary;

(b) issue a permit to the applicant, subject to such terms and conditions as the Minister prescribes;

(c) amend a permit previously issued to or held by the applicant, subject to such terms and conditions as the Minister prescribes;

(d) refuse to issue a permit to the applicant;

(e) cancel a permit previously issued to or held by the applicant; or

(f) refer all or part of the application to alternative dispute resolution.

(2) The Minister shall not issue or amend a permit unless it is in the public interest to do so having regard to the purpose of this Act.

(3) Where the Minister is of the opinion that a permit should not be issued or amended because it is not in the public interest, a permit shall not be issued and the Minister shall give public notice of the decision together with reasons.

(4) All decisions of the Minister made pursuant to clause (1)(a), (b), (c), (d) or (e) shall be made public in the manner prescribed by the regulations. 1999, c. 7, s. 8.

Appeal of Ministerial decision

9 (1) A decision of the Minister pursuant to Section 8 may be appealed to the Board by an applicant within the time period prescribed by the regulations.

(2) The Board shall hear the appeal referred to in subsection (1) and, upon conclusion of the hearing, submit a report and recommendation to the Governor in Council.

(3) Upon receiving the report and recommendation referred to in subsection (2), the Governor in Council shall make the report public and may

(a) refuse to issue or amend a permit;

(b) issue or amend a permit, subject to the terms and conditions recommended by the Board;

(c) issue or amend a permit, subject to such terms and conditions as may be prescribed by the Governor in Council; or

(d) confirm the Minister's cancellation of the permit.

(4) A decision of the Governor in Council pursuant to subsection (3) shall be made in the public interest and the decision, together with reasons, shall be made public. 1999, c. 7, s. 9.

Terms and conditions of permit

10 (1) Where a permit is issued or amended, the terms and conditions shall include the period for which the permit is operative but that period shall not exceed two years.

(2) Where a permit is issued or amended, the terms and conditions of the permit or amendment may include any or all of the following:

(a) the point at which the permit holder may remove the petroleum resource from the Province;

(b) the maximum annual quantities of the petroleum resource that may be removed from the Province during the interval set out in the permit;

(c) the maximum daily quantities of the petroleum resource that may be removed from the Province;

(d) the conditions under which the removal of the petroleum resource by the permit holder may be diverted, reduced or interrupted. 1999, c. 7, s. 10.

Transfer and amendment of permit

11 (1) No person shall transfer or assign a permit without the written approval of the Minister.

(2) A permit holder or proposed assignee of a permit may apply to the Minister for an amendment of the permit to show the proposed assignee as the permit holder.

(3) A transfer or assignment of a permit has no effect until the Minister makes the amendment referred to in subsection (2).

(4) The assignee of a permit that has been amended in accordance with this Section is subject to the duties, obligations and liabilities of the original permit holder and any further duties, obligations and liabilities that may be imposed by the Minister, and the assignor is relieved of the duties, obligations and liabilities under the permit. 1999, c. 7, s. 11.

Cancellation or suspension of permit

12 (1) Where the Minister believes on reasonable and probable grounds that a person has contravened or will contravene

(a) this Act or the regulations; or

(b) a term or condition of a permit,

the Minister may cancel or suspend the permit.

(2) The Minister shall forthwith on cancellation or suspension of a permit pursuant to subsection (1) give public notice, in writing, together with reasons for the cancellation or suspension to the permit holder.

(3) Where a permit is cancelled or suspended pursuant to subsection (1), the permit holder may, within thirty days of receipt of the notice pursuant to subsection (2), request an inquiry from the Board and the Board shall commence the holding of an inquiry within ten clear days, exclusive of holidays, after the date of receipt of the request.

(4) At the conclusion of the inquiry referred to in subsection (3), the Board may

(a) confirm the Minister's decision;

(b) order the continued suspension for a specified period; or

(c) re-instate the permit, with or without conditions.

(5) A decision of the Board pursuant to subsection (4) and the reasons for the decision shall be made public. 1999, c. 7, s. 12.

Ministerial order

13 (1) Where the Minister believes on reasonable and probable grounds that a person has contravened, or will contravene, any part of this Act or the regulations or any term or condition of any permit, the Minister may, whether or not the person has been charged or convicted in respect of the contravention, issue an order requiring the person to cease the specified activity.

(2) An order pursuant to subsection (1) remains in effect until it is revoked, in writing, by the Minister.

(3) A copy of an order made pursuant to subsection (1) shall be served as prescribed in the regulations and shall be made public.

(4) Where an order is served on a person to whom it is directed, that person shall comply with the order forthwith or, where a period for compliance is specified in the order, within the time period specified.

(5) Where the person to whom an order is directed does not comply with the order or a part of the order, the Minister may take whatever action the Minister considers necessary to carry out the terms of the order.

(6) An order issued by the Minister pursuant to subsection (1) may be appealed by the person named in the order to the Board within thirty days of the date of the order and, at the conclusion of an appeal pursuant to this Section, the Board may affirm, rescind or vary the order of the Minister.

(7) The initiation of an appeal pursuant to subsection (6) does not act as a stay of compliance with the order pending the disposition of the appeal. 1999, c. 7, s. 13.

Further powers of Minister

14 The Minister may determine the manner in which petroleum resources are measured, monitored and reported for the requirements of this Act or the regulations. 1999, c. 7, s. 14.

Application of Utility and Review Board Act

15 (1) The Utility and Review Board Act and the regulations made pursuant to that Act apply *mutatis mutandis* to the matters arising under this Act and the regulations made pursuant to this Act, except where a contrary intention is expressed or necessarily implied in this Act or the regulations.

(2) In a proceeding before the Board, the Board may award such costs as the Board deems appropriate.

(3) A decision or order of the Board made pursuant to this Act or the regulations is final and conclusive and not open to question or review, but the Board may, where the Board considers it advisable to do so, reconsider any decision or order made and may vary or revoke any decision or order made by the Board. 1999, c. 7, s. 15.

Inspectors

16 (1) The Minister may appoint a person to be an inspector for the purpose of this Act.

(2) An inspector, in carrying out duties pursuant to this Act, has and may exercise in any part of the Province all the powers, authorities, and immunities of a peace officer as defined in the Criminal Code (Canada).

(3) A permit holder shall forthwith, on request, permit an inspector to carry out an inspection of any place, other than a dwelling place, to which the permit relates.

(4) The owner or occupier of any place in respect of which an inspector is exercising powers or carrying out duties pursuant to this Section shall

(a) give the inspector all reasonable assistance to enable the inspector to exercise those powers and carry out those duties; and

(b) furnish all books, records and financial information relative to the exercising of those powers and the carrying out of those duties that the inspector may reasonably require. 1999, c. 7, s. 16.

Exemption from liability

17 Notwithstanding anything contained in this Act, no action for damages may be commenced or maintained and no cause of action lies against the Minister, a person designated by the Minister pursuant to subsection 5(2), the Board or any member of the Board or an employee or agent acting under the direction of the Minister or the Board, if the action arises out of any act or omission of that person that occurs while that person is carrying out duties or exercising powers pursuant to this Act in good faith and, without restricting the generality of the foregoing, no person referred to in this Section is liable for damages caused by a system of inspection or the manner in which inspections are to be performed or the frequency, infrequency or absence of inspections. 1999, c. 7, s. 17.

18 repealed 2003, c. 13, s. 8.

Offences

19 A person who

- (a) removes from the Province any petroleum resource produced in the Province and owned by that person, except pursuant to the authority contained in a permit that is not under suspension;
- (b) knowingly removes from the Province any petroleum resource produced in the Province and not owned by that person, except pursuant to the authority of a permit that is not under suspension;
- (c) as the owner, or the agent of the owner, of any petroleum resource produced in the Province, enters into or continues any arrangement under which the petroleum resource is removed from the Province otherwise than under the authority of a permit that is not under suspension; or

(d) contravenes

(i) a term or condition of a permit,

(ii) an order or direction of the Board made pursuant to this Act,

(iii) an order of the Minister made pursuant to Section 13, or

(iv) this Act or the regulations,

is guilty of an offence. 1999, c. 7, s. 19.

Penalties, limitation periods and defences

20 (1) A person who is guilty of an offence under this Act or the regulations is liable on summary conviction to a fine of not more than one million dollars or to imprisonment for a term of not more than two years, or to both.

(2) Where an offence under this Act or the regulations is committed or continued on more than one day, the person who committed the offence is liable to be convicted for a separate offence for each day on which the offence is committed.

(3) Where a corporation is guilty of an offence under this Act or the regulations, an officer, director or agent of the corporation who directed, authorized, assented to, acquiesced in or participated in the commission of the offence is a party to and guilty of the offence and is liable to the penalties provided for in this Section.

(4) In a prosecution for an offence under this Act or the regulations, it is sufficient proof of the offence to establish that it was committed by an employee or agent of the accused, whether or not the employee or agent is identified or has been prosecuted for the offence, unless the accused establishes that the offence was committed without the knowledge or consent of the accused.

(5) A prosecution for an offence under this Act or the regulations shall be commenced within two years from the date on which the subject-matter of the prosecution arose.

(6) No person shall be convicted of an offence under this Act if the person establishes that the person

(a) exercised all due diligence to prevent the commission of the offence; or

(b) reasonably and honestly believed in the existence of facts that, if true, would render the conduct of that person innocent. 1999, c. 7, s. 20.

Board regulations

21 (1) The Board may make regulations respecting

- (a) procedures and forms to be used in a proceeding before the Board;
- (b) fees pertaining to a proceeding before the Board;
- (c) the information to be provided in a proceeding before the Board;
- (d) the provision of public notice;
- (e) a matter deemed necessary or advisable to carry out effectively the duties of the Board under this Act.

(2) The exercise by the Board of the authority contained in subsection (1) is regulations within the meaning of the Regulations Act. 1999, c. 7, s. 21.

Governor in Council regulations

22 (1) The Governor in Council may make regulations

- (a) respecting the small volume exemption permitted under subsection 6(3);
- (aa) exempting from this Act a person who has signed a petrochemical supply agreement with the Province;
- (b) for the purpose of subsection 6(2);
- (c) respecting the consolidation of applications for a permit;
- (d) respecting the information required on an application for a permit or an application for an amendment, transfer or assignment of a permit;
- (e) respecting financial or other security to be provided by an applicant for a permit
- (f) respecting a review of applications, fees to be charged and the provision of public notice for the purpose of this Act;
- (g) respecting time periods for processing applications and filing appeals;
- (h) respecting the terms and conditions and time periods for issuing a permit pursuant to this Act;
- (i) respecting measuring, monitoring and reporting requirements under this Act;
- (j) respecting the confidentiality of records, returns and other information furnished pursuant to this Act and the communication of and access to those records and returns and information;
- (k) respecting the service of orders and notices issued pursuant to this Act;
- (l) respecting the appointment, duties and powers of inspectors under this Act;
- (m) respecting orders issued pursuant to Section 13;

- (n) respecting cost recovery for inspectors appointed pursuant to this Act;
 - (o) vesting in the Board any authority and powers considered necessary or advisable for the purpose of enabling the Board to conduct and perform its duties pursuant to this Act;
 - (p) repealed 2003, c. 13, s. 9.
 - (q) defining any word or expression used but not defined in this Act;
 - (r) deemed necessary or advisable to carry out effectively the intent and purpose of this Act.
- (2) The exercise by the Governor in Council of the authority contained in subsection (1) is regulations within the meaning of the Regulations Act.
- (3) Any regulations or any substantive amendment to the regulations become law only after the regulations or the amendments, as the case may be, have been subjected to such public review as the Minister considers appropriate.
- (4) Within thirty days after the close of the time period for public review, the Minister shall prepare a report with recommendations of comments made during the public review and make the report available to the public. 1999, c. 7, s. 22; 1999 (2nd Sess), c. 14, s. 1; 2003, c. 13, s. 9.

Effective dates

23 (1) This Act, except Section 18, has effect on and after March 1, 2000, or such earlier date as the Governor in Council orders and declares by proclamation.

In force - March 1, 2000

- (2) For greater certainty, Section 18 comes into force on Royal Assent.
- (3) The regulations required by this Act shall be made on or before the date this Act, except Section 18, has effect and have effect on and after that date.
- (4) For greater certainty, nothing in subsection (3) prevents the amendment of regulations or making of new regulations pursuant to this Act after the date this Act, except Section 18, has effect. 1999, c. 7, s. 23; 1999 (2nd Sess), c. 14, s. 2.

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