

Pipeline Act

CHAPTER 345

OF THE

REVISED STATUTES, 1989

amended 2000, c. 12, ss. 12-15; 2001, c. 15, ss. 12, 13

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An Act Respecting
the Transmission of Oil and Gas

Short title

1 This Act may be cited as the Pipeline Act. R.S., c. 345, s. 1.

Application of Act

2 (1) This Act applies to all pipelines on or under Nova Scotia lands.

(2) "Nova Scotia lands" means the land mass of Nova Scotia including Sable Island, and includes the seabed and subsoil off the shore of the land mass of Nova Scotia, the seabed and subsoil of the Continental shelf and slope and the seabed and subsoil seaward from the Continental shelf and slope to the limit of exploitability. R.S., c. 345, s. 2.

Interpretation

3 (1) In this Act,

(a) "Board" means the Nova Scotia Utility and Review Board established pursuant to the Utility and Review Board Act;

(b) "gas" means

(i) natural gas, including coal gas as defined in the Petroleum Resources Act, both before and after it has been subjected to any processing,

(ii) any substance removed from natural gas, crude oil, oil sands or coal for transmission in gaseous state,

(iii) any gaseous substance for injection to an underground formation through a well,

(iv) any substance declared by the Board to be gas;

(c) "gas pipeline" means a gas pipeline as defined in the regulations;

(d) "highway" means a highway to which the Public Highways Act applies;

(e) "installation" means

(i) any equipment, apparatus, mechanism, machinery or instrument incidental to the operation of a pipeline,

(ii) any building, structure, real or personal property and works that houses or protects anything referred to in clause (i) or that is used for any activity referred to in clause (i),

but does not include a refinery;

(f) "licence" means a licence issued pursuant to this Act to operate a pipeline;

(g) "local authority" means the council of a city or incorporated town and includes an agency or body having the general administration or direction, management and control of a road by or under any Act of the Legislature;

(h) "Minister" means the member of the Executive Council designated as the Minister for the purpose of this Act;

(i) "oil" means

(i) crude oil before and after it has been subjected to any refining or processing,

(ii) any hydrocarbon recovered from crude oil, oil sands, natural gas or coal for transmission in a liquid state,

(iii) liquified natural gas,

and any other substance in association therewith;

(j) "permit" means a permit issued pursuant to this Act to construct a pipeline;

(k) "pipeline" means pipes and installations for the transmission of

(i) gas,

(ii) oil,

(iii) fluids from a well,

(iv) water or effluent used or produced in connection with a well or the production or manufacture of gas or oil;

(l) "prescribed" means prescribed by the regulations;

(m) repealed 2000, c. 12, s. 12.

(n) "road" means any road or road allowance and includes a street, public bridge or public park within a city or incorporated town, but does not include a highway;

(o) "transmission" includes storage;

(p) "well" means an orifice in the ground, including ground under water and the seabed and subsoil, made by drilling, boring or in any other manner, from which oil or gas is obtained or obtainable, or which is being so made for the purpose of seeking or obtaining oil or gas or ascertaining the presence of the same.

(2) Any reference in this Act or the regulations to a code or standard is and is deemed to be a reference to the latest code or standard. R.S., c. 345, s. 3; 2000, c. 12, s. 12; 2001, c. 15, ss. 12, 13.

Withdrawal or exemption

4 (1) The Governor in Council may, by order, for any purposes and under any conditions set out in the order,

(a) withdraw from the application of this Act or the regulations, or any part thereof, such Nova Scotia lands;

(b) exempt from this Act or the regulations, or any part thereof, any person or pipeline including a gas pipeline, or any class or classes of persons or pipelines,

as are specified in the order.

(2) Where the Governor in Council has withdrawn any Nova Scotia lands from the application of this Act or the regulations, or any part thereof, or has exempted a person or a pipeline from the application of this Act or the regulations, or any part thereof, he may

(a) by order make an enactment of the Government or Parliament of Canada respecting pipelines applicable to, or give a board, agency or person established by that enactment jurisdiction over the lands, persons or pipelines determined by the order with such modifications as are specified, and such enactment has the same force and effect as if enacted, and, in the case of the board, agency or person as if established, by the Legislature and remains in force during the term determined by the order unless the order is sooner revoked, varied or amended;

(b) enter into an agreement with the Government of Canada respecting the administration of Nova Scotia lands withdrawn, or the person or pipeline exempted, and the agreement has the same force and effect as if enacted by the Legislature and any board, agency or person referred to in the agreement is empowered to do all things necessary to effect the agreement.

(3) For the purpose of this Section, where the Governor in Council makes an enactment applicable, the enactment, or any part thereof, is the enactment as it is in force from time to time. R.S., c. 345, s. 4.

Act does not apply

5 Except as provided in Section 24, this Act does not apply to

(a) a pipeline situated wholly within property used for a refinery, absorption plant, processing plant, coal processing plant, marketing plant or manufacturing plant;

(b) a pipe transmitting gas or oil for use as fuel from a tank that is situated wholly within the property of a consumer and the fittings and apparatus in connection therewith;

(c) a boiler, pressure vessel or pressure piping system within the meaning of the Steam Boiler and Pressure Vessel Act and, for the purpose of this Act, pipeline does not include a pressure vessel under the Steam Boiler and Pressure Vessel Act and a pressure vessel within the meaning of that Act does not include a pipeline;

(d) a pipeline that is part of a facility approved pursuant to Part V of the Environment Act;

(e) a pipeline excluded from the application of this Act by the Governor in Council. R.S., c. 345, s. 5; 2000, c. 12, s. 13.

Duties of Board

6 The Board shall

(a) exercise control over the manner in which all pipelines including gas pipelines are constructed, tested, maintained and operated and, subject to the regulations, may issue such orders and directives as it deems appropriate;

(b) have such other powers and duties as are conferred upon it by this Act, the regulations and the Governor in Council. R.S., c. 345, s. 6; 2001, c. 15, s. 13.

Permit required

7 No person shall construct a pipeline or any part thereof except pursuant to a permit. R.S., c. 345, s. 7.

Application for permit

8 Any person may apply in the prescribed manner to the Board for a permit. R.S., c. 345, s. 8; 2001, c. 15, s. 13.

Issuance of permit

9 The Board may issue a permit upon such terms and conditions as it considers appropriate or as are prescribed. R.S., c. 345, s. 9; 2001, c. 15, s. 13.

Date for commencement or completion

10 (1) When a permit is granted, or at any time thereafter, the Board may determine a date by which construction of the pipeline is to be commenced or completed.

(2) The Board may cancel a permit if

(a) the pipeline is not substantially commenced

(i) by the date determined for commencement pursuant to subsection (1), or

(ii) where no date is determined pursuant to subsection (1), within one year from the date the permit is issued;

(b) the pipeline is not substantially completed by the date determined for completion pursuant to subsection (1). R.S., c. 345, s. 10; 2001, c. 15, s. 13.

Licence required

11 No person shall operate a pipeline except pursuant to a licence. R.S., c. 345, s. 11.

Application for licence

12 (1) Any person may apply in the prescribed manner to the Board for a licence.

(2) Notwithstanding subsection (1), no person shall operate a pipeline until he has furnished the Board with particulars of the testing of the pipeline. R.S., c. 345, s. 12; 2001, c. 15, s. 13.

Issuance of licence

13 The Board may issue a licence upon such terms and conditions as it considers appropriate or as are prescribed. R.S., c. 345, s. 13; 2001, c. 15, s. 13.

Transmission of authorized substance

14 (1) No pipeline for which a licence has been issued shall be used for the transmission of any substance other than the substance authorized by the licence.

(2) The holder of a licence desiring to use a pipeline for the transmission of a substance other than a substance authorized by the licence may apply to the Board in the prescribed manner for an amendment to the licence. R.S., c. 345, s. 14; 2001, c. 15, s. 13.

Amendment of permit or licence

15 (1) The Board may amend a permit or licence upon application by the holder in the prescribed manner.

(2) Where an application is made pursuant to subsection (1), the Board may

(a) amend the permit or licence subject to such terms and conditions as the Board considers appropriate;

(b) cancel the permit or licence and grant a new permit or licence subject to such terms and conditions as the Board considers appropriate; or

(c) deny the amendment.

(3) No amendment of a permit or licence is required for

(a) repairs or maintenance made in the ordinary course of operation;

(b) minor improvements to an existing installation; or

(c) a change made in an emergency.

(4) Where changes are made to a pipeline in an emergency, particulars thereof shall immediately be forwarded to the Board. R.S., c. 345, s. 15; 2001, c. 15, s. 13.

Alienation of permit or licence

16 No person shall transfer, assign or otherwise alienate a permit or licence except as prescribed. R.S., c. 345, s. 16.

Amendment or suspension or cancellation

17 The Board may, in its discretion or as prescribed, amend, suspend, reinstate or cancel a permit or licence. R.S., c. 345, s. 17; 2001, c. 15, s. 13.

Effect of suspension or cancellation

18 Where a permit or licence has been suspended or cancelled by the Board, no construction shall be carried out and no oil, gas, water or other substance shall be transmitted in the pipeline until the permit or licence has been reinstated or a new permit or licence has been issued by the Board, except as the Board may authorize, to maintain the facilities to carry on operations in accordance with the Act. R.S., c. 345, s. 18; 2001, c. 15, s. 13.

Suspension of normal operation

19 A holder of a licence shall not suspend or discontinue the normal operation of a pipeline without the consent in writing of the Board, except in an emergency or for repairs or maintenance. R.S., c. 345, s. 19; 2001, c. 15, s. 13.

Removal or abandonment of pipeline

20 Except in the ordinary course of maintenance or repair, no pipeline or part thereof may be taken up, removed or abandoned without the consent of the Board. R.S., c. 345, s. 20; 2001, c. 15, s. 13.

Board may require alteration or relocation

21 (1) Where, in its opinion it would be in the public interest to do so, the Board may, upon such terms and conditions as it considers appropriate or as are prescribed, direct a holder of a permit or licence to

(a) alter or relocate any part of his pipeline; or

(b) install additional or other equipment on the pipeline.

(2) Upon an order being made by the Board to alter or relocate part of a pipeline or install additional or other equipment on a pipeline, the Board may order by whom and to whom payment for the actual cost of the alteration or relocation or any portion thereof shall be made.

(3) If a dispute arises as to the amount to be paid or what constitutes actual cost pursuant to an order referred to in subsection (2), it may be resolved by the Board and the decision of the Board relating thereto is final. R.S., c. 345, s. 21; 2001, c. 15, s. 13.

Right of entry and inspection

22 (1) At any reasonable time, a member of the Board or any person authorized by the Board

(a) is entitled to access to pipelines, rights of way and routes of proposed pipelines, and to all buildings, installations, structures and land incidental thereto;

(b) may enter upon any land which it is necessary to cross to reach a pipeline or installation;

(c) may inspect, investigate or test pipelines and installations;

(d) may inspect all books, records and documents pertaining to construction, operation and maintenance of pipelines.

(2) Any person who is the holder of a permit or licence, or any person in charge of a pipeline or installation or any contractor or employee of such persons shall permit or assist any member of the Board or any person authorized by the Board in the exercise of the powers conferred by subsection (1). R.S., c. 345, s. 22; 2001, c. 15, s. 13.

Board may require inspection

23 The Board may at any time direct the holder of a permit or licence to make inspections or tests of the pipeline in the manner prescribed or in such manner as it may determine. R.S., c. 345, s. 23; 2001, c. 15, s. 13.

Duty upon leak in pipeline

24 (1) Upon the occurrence of a leak or break in a pipeline, the holder of a permit or licence shall immediately cause such reports to be made as are prescribed, and shall otherwise comply with the regulations respecting reporting and the repair of the leak or break[.]

(2) Upon it appearing to the Board that adequate steps are not being taken to repair a leak or break in a pipeline or to contain any escaped substance, the Board may

(a) direct that such steps as it considers appropriate be taken to repair the leak or break and to contain the escaped substance and to prevent further escape thereof; or

(b) enter upon the area where the leak or break occurred or the substance has escaped and conduct such operations as it considers necessary to repair the leak or break and contain the escaped substance and to prevent further escape thereof.

(3) When any operation is conducted pursuant to clause (b) of subsection (2), the Board may determine the costs and expenses of such operations and direct by whom and to what extent they are to be paid.

(4) No action for damages lies against the Board, the members of the Board or any person directed by the Board to conduct operations pursuant to this Section in respect of anything done or omitted to be done in good faith pursuant to this Section or a direction of the Board.

(5) Notwithstanding Section 5, this Section applies to

(a) the holder of a permit or licence;

(b) the owner or operator of a pipeline for which there is in force

(i) a certificate, or

(ii) an order exempting the pipeline from a certificate,

issued or made by the National Energy Board pursuant to the National Energy Board Act (Canada);
and

(c) the person constructing or operating the pipeline as though that person was the holder of a permit or licence, as the case may be, of the pipeline. R.S., c. 345, s. 24; 2000, c. 12, s. 14; 2001, c. 15, s. 13.

Damage to other structure

25 If during construction or operation of a pipeline any damage occurs to any structure, another pipeline or to a private or public utility, the holder of a permit or licence, as the case may be, shall immediately cause the damage to be repaired unless an arrangement has otherwise been made with the owner thereof. R.S., c. 345, s. 25.

Hazardous practice or violation of Act

26 (1) The Board or its authorized representative may at any time cancel a permit or licence or, pending compliance by the holder thereof with any direction of the Board, suspend or shut down operations of the holder where, in the opinion of the Board or its authorized representative, the holder of the permit or licence has

(a) contravened a provision of this Act, the regulations, a permit or licence or an order or direction of the Board;

(b) employed a hazardous practice or used improper, inadequate or defective equipment at a pipeline.

(2) Where the Board or its representative acts pursuant to subsection (1), the Board shall, within five days of such action, commence an inquiry in accordance with the regulations and following the conclusion of the inquiry make such disposition of the matter as it deems appropriate. R.S., c. 345, s. 26; 2001, c. 15, s. 13.

Construction on or across highway or road

27 A holder of a permit or licence may, with the approval of the Minister of Transportation and Communications or the local authority, whichever is appropriate, and in accordance with the regulations, construct a pipeline on, across, over or under any highway or road. R.S., c. 345, s. 27.

Refusal of approval under Section 27

28 Where the Board is satisfied that an approval required from a local authority pursuant to Section 27 cannot reasonably be obtained from the local authority, the Board may, upon application, grant the required approval subject to such terms and conditions as it considers appropriate or as are prescribed. R.S., c. 345, s. 28; 2001, c. 15, s. 13.

Mine or quarry

29 No person, without the approval of the Board, shall construct a pipeline or part thereof so as to interfere with the present workings of a mine or quarry or obstruct any opening thereto. R.S., c. 345, s. 29; 2001, c. 15, s. 13.

Approval to construct under certain buildings

30 (1) No pipeline shall be constructed under a building used or capable of being used as a public building, residence, office, warehouse or factory without the approval of the Board, and the Board may make its approval subject to such terms and conditions as it deems appropriate.

(2) Subsection (1) does not apply where the pipeline will deliver a substance to the building for use therein. R.S., c. 345, s. 30; 2001, c. 15, s. 13.

Title to property in pipeline

31 The title to all property in pipelines and works constructed by a person pursuant to the provisions of this Act shall remain vested in such person, his heirs, successors, executors, administrators and assigns, notwithstanding that the whole or any part thereof has before, on or after the twenty-eighth day of July, 1984, become affixed to realty, the title to which is not vested in such person. R.S., c. 345, s. 31.

Acquisition of required land

32 (1) When a holder of a permit or licence requires an interest in land for the purposes of a pipeline for which a permit or licence is issued, the interest may be acquired in such lands

(a) by agreement with the owner of the lands; or

(b) if the holder is unable to arrive at an agreement with the owner of the lands, by application to the Minister for an order that the interest in lands required be vested in the holder of the permit or licence.

(2) If the Minister is satisfied that the interest in lands should be vested in the holder of the permit or licence, he shall issue an order vesting it in that person.

(3) A vesting order issued by the Minister shall be filed at the appropriate registry of deeds and the filing thereof shall be deemed to be a deposit of expropriation documents pursuant to the Expropriation Act.

(4) Upon the filing of a vesting order by the Minister, the holder named in the order is and is deemed to be an expropriating authority within the meaning of the Expropriation Act. R.S., c. 345, s. 32.

Expropriation Act

33 (1) The Expropriation Act shall apply mutatis mutandis to any such expropriation.

(2) Notwithstanding Section 4 of the Expropriation Act, wherever the provisions of that Act conflict with the expropriation provisions of this Act, the expropriation provisions of this Act prevail.

(3) The holder of a permit or licence is deemed to be the statutory authority for the purposes of the Expropriation Act.

(4) The Minister is deemed to be the approving authority for the purposes of the Expropriation Act. R.S., c. 345, s. 33.

Regulations

34 The Governor in Council may make regulations respecting

(a) a request by a holder of a permit or licence for expropriation;

(b) the matters and things necessary to satisfy the Minister that lands required by a holder of a permit or licence should be vested in the holder of the permit or licence;

(c) the contents of a vesting order;

(d) generally, any matter relating to any proposed expropriation of lands pursuant to this Act. R.S., c. 345, s. 34.

Offence and penalty

35 (1) Every person who contravenes or fails to comply with

(a) any provision of this Act or the regulations;

(b) any term or condition of a permit or licence issued pursuant to this Act;

(c) any term or condition of an approval given pursuant to this Act;

(d) any order or direction given by the Board or the Minister or the representative of either of them pursuant to this Act or the regulations,

is guilty of an offence and liable on summary conviction to a penalty not exceeding one hundred thousand dollars or imprisonment for a term not exceeding two years.

(2) Where an offence described in subsection (1) is committed by a person on more than one day or is continued for more than one day, it shall be a separate offence for each day on which the offence is committed or continued. R.S., c. 345, s. 35; 2001, c. 15, s. 13.

Liability for offence by employee or agent

36 In any prosecution for an offence under this Act 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 his knowledge or consent and that he exercised all due diligence to prevent its commission. R.S., c. 345, s. 36.

Offence by officer or agent of corporation

37 When a corporation has committed an offence under this Act, any 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 upon summary conviction to the punishment provided for the offence whether or not the corporation has been prosecuted. R.S., c. 345, s. 37.

Interference with authorized person

38 Every person who prevents, hinders, obstructs, molests or otherwise interferes with a member of the Board or a person authorized by the Board in the exercise of his powers pursuant to this Act is guilty of an offence. R.S., c. 345, s. 38; 2001, c. 15, s. 13.

False statement

39 Every person who knowingly makes a false statement in any record required to be kept or any report required to be made by this Act or the regulations is guilty of an offence. R.S., c. 345, s. 39.

Delegation

40 Where any duty, power or authority is imposed or conferred on the Minister or the Board by this Act or the regulations, the Minister or the Board, as the case may be, may delegate such duty, power or authority to whatever person he or it considers appropriate. R.S., c. 345, s. 40; 2001, c. 15, s. 13.

Decision as to type of pipeline

41 The decision of the Board that a pipeline is a gas line, oil line, fluids line, multiphase line, secondary line, distribution line, flow line or otherwise, shall be final. R.S., c. 345, s. 41; 2001, c. 15, s. 13.

Public Utilities Act

42 Notwithstanding any other Act, no pipeline, except a pipeline excluded by this Act, shall be or be deemed to be a public utility or subject to the Public Utilities Act and, without restricting the generality of the foregoing, Section 117 of the Public Utilities Act does not apply to a pipeline to which this Act applies. R.S., c. 345, s. 42.

Tariff for transmission in pipeline

43 The Board may, in the prescribed manner, determine tariffs, rates, tolls and charges to be paid for the transmission of substances carried in pipelines. R.S., c. 345, s. 43; 2001, c. 15, s. 13.

Regulations

44 (1) The Governor in Council may make regulations respecting

(a) the powers and duties of the Board including its authority to determine tariffs, rates, tolls and charges to be paid for the transmission of substances carried in pipelines;

(b) the procedures and forms to be used for any application, hearing or inquiry pursuant to this Act;

(c) the forms generally to be used under this Act or the regulations and the fees pertaining to any matter provided for pursuant to this Act or the regulations;

(d) the terms and conditions of a permit or licence or an order of the Board;

(e) any approval required pursuant to this Act and the exemption of a class or classes from the required approval pursuant to this Act;

(f) generally any matter relating to the amendment, suspension, reinstatement or cancellation of a permit or licence;

- (g) the transfer, assignment or any other alienation of a permit or licence;
- (h) the measures to be taken to identify and protect a pipeline or installation;
- (i) the changes that may be made with respect to a pipeline without application to the Board;
- (j) the tests and surveys which may be made at any time and the requirement for information obtained from such tests and surveys to be submitted to the Board;
- (k) the nature and extent of employment of Nova Scotians by holders of permits and licences and others performing work authorized by holders of permits and licences;
- (l) the nature and extent of the supply of goods and services by Nova Scotians to holders of permits and licences and others requiring goods and services pursuant to work or operations authorized by a holder of a permit or licence;
- (m) the reporting and repair of leaks or breaks in a pipeline;
- (n) the design, construction, inspection, testing, operation, maintenance and repair of pipelines and equipment, materials and installations used therein and works, fittings, machinery or plant connected or associated therewith, including without limiting the generality of the foregoing, the setting of standards and construction and safety codes;
- (o) the pipelines proposed or built and maintained in a submarine area and, without limiting the generality of the foregoing, setting additional or different standards for pipelines under the sea as distinguished from pipelines on land;
- (p) the definition of any area or site as a submarine area for the purpose of some or all of the provisions of this Act and the regulations;
- (q) the construction of a pipeline on, across, over or under any highway or road;
- (r) the maintaining and keeping of books, records, reports and accounts by holders of permits or licences or by any other persons;
- (s) the examinations and investigations by the Board into any matters relating to the development, construction and operation of pipelines;

(t) the assignment of a function, responsibility or duty under this Act to an officer or employee in a department or agency of the Province;

(u) a compensation fund from which persons who suffer loss as a result of activities by the holder of any permit or licence may be reimbursed, and respecting contributions to the fund by holders of permits and licences;

(v) the nature, scope and extent of education and training and research and development projects and programs, and the nature and extent of the financial and other obligations of holders of permits and licences with respect thereto;

(w) the nature and extent of participation by the Province in the construction and operation of pipelines;

(wa) fees and financial security for permits, licences or other approvals;

(wb) cost recovery for services rendered pursuant to this Act by the Board or persons delegated by the Board;

(wc) the appointment of inspectors and the inspection and certification of pipelines and installations during and after their construction and persons by whom the costs are borne;

(wd) the adoption, incorporation or constituting as regulations, in whole or in part, of any relevant codes, rules or standards, as amended from time to time, prepared and published by the Canadian Standards Association or any similar association, with or without any modification or amendment;

(x) the defining of any word or expression used in this Act but not defined herein;

(y) generally any matter which, in the opinion of the Governor in Council, is necessary for the purpose of carrying into effect the provisions of this Act.

(2) repealed 2000, c. 12, s. 15.

(3) The exercise by the Governor in Council of the authority in subsection (1), Section 4 and Section 34 shall be regulations within the meaning of the Regulations Act. R.S., c. 345, s. 44; 2000, c. 12, s. 15; 2001, c. 15, s. 13.

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