Province of Alberta

PIPELINE ACT

Revised Statutes of Alberta 2000
Chapter P-15

Current as of March 29, 2014

Office Consolidation

© Published by Alberta Queen's Printer

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Note

All persons making use of this consolidation are reminded that it has no legislative sanction, that amendments have been embodied for convenience of reference only. The official Statutes and Regulations should be consulted for all purposes of interpreting and applying the law.

Regulations

The following is a list of the regulations made under the *Pipeline Act* that are filed as Alberta Regulations under the Regulations Act

	Alta. Reg.	*Amendments*
Pipeline Act		
Pipeline	91/2005	*186/2005, 212/2005, 160/2008, 84/2009, 91/2010, 228/2011, 48/2012, 78/2012, 221/2012, 77/2013, 89/2013, 159/2013, 195/2014, 4/2015*

PIPELINE ACT

Chapter P-15

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HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Alberta, enacts as follows:

Interpretation

1(1) In this Act,

(a) "abandonment" means the permanent deactivation of a pipeline or part of a pipeline in the manner prescribed by the rules, whether or not the pipeline or part of the pipeline is removed;

(b) "abandonment costs" means the reasonable costs actually incurred in the abandonment of a pipeline;

(c) "agent" means an agent appointed under section 19;

(d) repealed 2012 cR-17.3 s101;

(e) "controlled area" means a strip of land on each side of a pipeline within the distance or distances from the pipeline prescribed in the rules and, without limitation, includes land that comprises the right of way held for the construction of a pipeline or for or incidental to the operation of a pipeline under

(i) a lease, easement, consent or other agreement,

(ii) a right of entry order as defined in the *Surface Rights Act* or a right of entry order under Part 4 of the *Metis Settlements Act*, or

(iii) a certificate of approval obtained for the purposes of a pipeline under the *Expropriation Act* before January 1, 1977;

(f) "crude bitumen" means a naturally occurring viscous mixture, mainly of hydrocarbons heavier than pentane, that may contain sulphur compounds and that, in its naturally occurring viscous state, will not flow to a well;

(g) "discontinuation" means the temporary deactivation of a pipeline or part of a pipeline;

(h) "discontinuation costs" means the reasonable costs actually incurred in the discontinuation of a pipeline;

(i) "gas" means

(i) natural gas both before and after it has been subjected to any processing,

(i.1) synthetic coal gas as defined in the *Coal Conservation Act*,

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

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

(i.1) "gas utility pipeline" means a gas utility pipeline as defined in the *Gas Utilities Act*;

(j) "ground disturbance" means any work, operation or activity that results in a disturbance of the earth including, without limitation, excavating, digging, trenching, plowing, drilling, tunnelling, augering, backfilling, blasting, topsoil stripping, land levelling, peat removing, quarrying, clearing and grading, but does not include,

(i) except as otherwise provided in subclause (ii), a disturbance of the earth to a depth of less than 30 centimetres that does not result in a reduction of the earth cover over the pipeline to a depth that is less than the cover provided when the pipeline was installed,

(ii) cultivation to a depth of less than 45 centimetres below the surface of the ground, or

(iii) any work, operation or activity that is specified in the rules not to be a ground disturbance;

(k) "highway" means a provincial highway under the *Highways Development and Protection Act*;

(l) "installation" means

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

(ii) any building or structure that houses or protects anything referred to in subclause (i),

but does not include a refinery, processing plant, marketing plant or manufacturing plant;

(m) "licence" means a licence to construct and operate a pipeline under this Act or a gas utility pipeline;

(n) "licensee" means the holder of a licence for a pipeline according to the records of the Regulator or the holder of a licence for purposes of a gas utility pipeline according to the records of the Alberta Utilities Commission and includes a trustee or receiver-manager of the property of a licensee;

(o) "local authority" means a member of the Executive Council or a municipal corporation or a Metis settlement having the administration or the direction, management and control of a road by or under any Act of the Legislature;

(p) "manufacturing plant" means a plant that utilizes a mineral or a substance recovered from a mineral as a component of a product manufactured by the plant;

(q) "marketing plant" means a plant used for the marketing or distribution of a product obtained from the refining, processing or purifying of oil and gas;

(r) "oil" means

(i) crude oil both 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) liquefied natural gas, and

(iv) synthetic coal liquid as defined in the *Coal Conservation Act*,

and any other substance in association with that crude oil, hydrocarbon, liquefied natural gas or synthetic coal liquid;

(s) "oil sands" means

(i) sands and other rock materials containing crude bitumen,

(ii) the crude bitumen contained in those sands and other rock materials, and

(iii) any other mineral substances, other than natural gas, in association with that crude bitumen or those sands and other rock materials referred to in subclauses (i) and (ii);

(t) "pipeline" means a pipe used to convey a substance or combination of substances, including installations associated with the pipe, but does not include

(i) a pipe used to convey water other than water used in connection with

(A) a facility, scheme or other matter authorized under the *Oil and Gas Conservation Act* or the *Oil Sands Conservation Act*, or

(B) a coal processing plant or other matter authorized under the *Coal Conservation Act*,

(ii) a pipe used to convey gas, if the pipe is operated at a maximum pressure of 700 kilopascals or less, and is not used to convey gas in connection with a facility, scheme or other matter authorized under the *Oil and Gas Conservation Act* or the *Oil Sands Conservation Act*, or

(iii) a pipe used to convey sewage;

(u) "processing plant" means a plant for the extraction from gas of hydrogen sulphide, helium, ethane, natural gas liquids or other substances, but does not include a well head separator, treater or dehydrator;

(v) "reclamation" means reclamation within the meaning of the *Environmental Protection and Enhancement Act*;

(w) "reclamation costs" means the reasonable costs actually incurred in the reclamation of a pipeline and includes such costs associated with assessment for the purpose of applying for a reclamation certificate under the *Environmental Protection and Enhancement Act*;

(x) "refinery" means a manufacturing or industrial plant where oil is processed or refined;

(x.1) "Regulator" means the Alberta Energy Regulator;

(y) "road" means a public road or road allowance other than a highway;

(z) "road allowance" means a road allowance as prescribed under the *Surveys Act*, whether containing an existing thoroughfare or not;

(z.1) "rules" means rules made pursuant to this Act, unless the context otherwise requires;

(aa) "transmission" includes storage.

(2) A decision of the Regulator is final as to whether a particular thing falls within a definition in subsection (1), or whether a definition in subsection (1) applies to a particular case.

RSA 2000 cP-15 s1; 2004 cH-8.5 s70; 2007 cA-37.2 s82(22);2009 c20 s10; 2011 c11 s7;2012 cR-17.3 s101

Part 1
Application of Act

Application of Act

2 Except as otherwise provided in this Act, this Act applies to all pipelines in Alberta other than

(a) a pipeline situated wholly within the property of a refinery, processing plant, coal processing plant, marketing plant or manufacturing plant,

(b) 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 under the *National Energy Board Act* (Canada),

(c) 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 installations in connection with that pipe, or

(d) a boiler, pressure vessel or pressure piping system within the meaning of the definitions under the *Safety Codes Act*.

RSA 1980 cP-8 s2;1984 c32 s3;1985 c46 s3; 1991 cS-0.5 s70(10)

Part 2
Rules

Rules

3(1) The Regulator may make rules

(a) prescribing the information that is to be included or is to accompany any application under this Act or the rules;

(b) prescribing conditions subject to which the holder of a licence under this Act or a person proposing to construct a pipeline may enter on land of another person in the absence of an agreement to that entry by that other person;

(c) regarding matters preparatory to or in connection with the design, construction, testing, operation, maintenance or repair of pipelines;

(d) requiring the upgrading of pipelines or portions of pipelines and respecting the standards of upgrading;

(e) prescribing the distance or distances from a pipeline or category of pipeline that establish the boundary of the controlled area for that pipeline or category of pipeline;

(f) specifying any work, operation or activity that results in a disturbance of the earth not to be a ground disturbance;

(g) respecting matters preparatory to or in connection with any ground disturbance;

(h) prescribing the distance from the area of a ground disturbance within which the duties and responsibilities prescribed in section 32 apply;

(i) respecting approvals required under section 42;

(j) regarding equipment, materials and installations that may be used in any pipeline or in any works, fittings, machinery or plant connected with any pipeline;

(k) respecting the construction, operation, testing, maintenance and repair of pipelines;

(l) respecting the discontinuation, abandonment and removal of pipelines, including the circumstances under which a pipeline must be discontinued, abandoned or removed, the timing of such discontinuation, abandonment or removal and the manner in which discontinuation, abandonment and removal are to be carried out;

(m) respecting discontinuation costs, abandonment costs and reclamation costs in respect of pipelines;

(n) as to the inspection of pipelines both during and after construction;

(o) prescribing the measures to be taken to identify and protect from public access any pipeline or installation;

(p) prescribing the measures to be taken to identify and locate a pipeline and protect the pipeline from any ground disturbance or proposed ground disturbance;

(q) defining the changes that may be made with respect to a pipeline without application to the Regulator;

(r) requiring and prescribing tests and surveys at any time;

(s) requiring the submission to the Regulator of information obtained by tests or surveys;

(t) respecting the submission to the Regulator and the licensee whose pipeline may be affected by a ground disturbance of any information relating to the ground disturbance that the Regulator may require;

(u) respecting the transfer of licences;

(v) respecting the eligibility requirements in order to become and remain a licensee or agent;

(w) respecting the definition of "resident" for the purpose of section 19;

(w.1) respecting the exemption of licensees or classes of licensees from the application of some or all of the requirements in section 19, subject to any terms and conditions provided for in the rules, including the substitution of any other requirements;

(x) as to the sale, leasing or change of operator of a pipeline;

(y) exempting a pipeline or class of pipeline from any provision of this Act or the rules;

(z) prescribing alternate provisions that may apply to a pipeline or class of pipeline exempted by rules made under clause (y);

(aa) prescribing

(i) methods and facilities to be utilized for the measurement of any substance transmitted by a pipeline,

(ii) methods of recording the measurement, and

(iii) standard conditions to which the measurements are to be converted;

(bb) governing the maintenance of records and providing for their submission to the Regulator;

(cc) governing the making of reports and the authority or person to whom they are to be made;

(dd) as to when and to whom information contained in records, reports and information submitted to or acquired by the Regulator under this Act may be made available;

(ee) to meet any special case that may arise and for which no provision is made in this Act;

(ff) prescribing or approving forms to be used under this Act or the rules either generally or for a particular case;

(gg) establishing a schedule of fees

(i) pertaining to applications, or

(ii) for any other service provided by the Regulator;

(hh) respecting compliance with and enforcement of ALSA regional plans.

(2) When rules under subsection (1)(a) prescribe the information to be included in or to accompany an application pursuant to a given provision of this Act or the rules, the Regulator is not precluded from considering or acting on an application pursuant to that provision that does not contain that information or from requiring additional information.

RSA 2000 cP-15 s3;2008 c7 s8;2009 cA-26.8 s87;
2012 cR-17.3 s101

Part 3
Powers and Duties of the Regulator

Jurisdiction of Regulator

3.1(1) Subject to subsection (2), the Regulator has jurisdiction with respect to pipelines.

(2) The Alberta Utilities Commission has jurisdiction with respect to gas utility pipelines and exercises all the powers, functions and duties of the Regulator with respect to gas utility pipelines.

2007 cA-37.2 s82(22);2012 cR-17.3 s101

Investigation by Regulator

4 The Regulator, when required by the Lieutenant Governor in Council shall, or on its own motion may, inquire into and examine any matter relating to

(a) the economic, orderly and efficient development in the public interest of pipeline facilities in Alberta;

(b) the observance of safe and efficient practices in the construction, operation, discontinuation and abandonment of pipelines;

(c) the observance of safe and efficient methods in any work, operations or activities when a ground disturbance in a controlled area is being undertaken;

(d) the control of pollution and conservation of the environment in the development, operation, discontinuation and abandonment of pipeline facilities.

RSA 2000 cP-15 s4;2012 cR-17.3 s101

Inspections

5(1) At any reasonable time, a person authorized by the Regulator

(a) is entitled to access to pipelines and routes of proposed pipelines, and to all buildings, installations, structures and land incidental to those pipelines or routes,

(b) is entitled to access to any controlled area,

(c) may enter on any land that the person must cross to reach a pipeline, installation or controlled area,

(d) may make inspections, investigations or tests

(i) of pipelines, and

(ii) in controlled areas, and

(e) may inspect all books, records and documents pertaining to the construction, operation and maintenance of pipelines or the undertaking of a ground disturbance.

(2) A person authorized by the person authorized by the Regulator to exercise any of the powers referred to in subsection (1) shall, at any time during which the person is exercising those powers, produce on demand the person's certificate of authority from the Regulator.

(3) A person who is the holder of a licence under Part 4, or a person in charge of a pipeline, installation or ground disturbance, or a contractor or employee of that person shall permit or assist any person authorized by the Regulator in the exercise of the powers conferred by subsection (1).

RSA 2000 cP-15 s5;2012 cR-17.3 s101

Part 4
Licences

Licence

6(1) No person shall construct a pipeline or any part of a pipeline or undertake any operations preparatory or incidental to the construction of a pipeline unless the person is the holder of a licence or unless the person is acting pursuant to a direction of the Regulator under section 33 authorizing the person to do so.

(2) This section does not preclude a person proposing to apply for a licence or that person's agent from

(a) entering on any Crown or other land lying in the intended route of the pipeline to make surveys or examinations, or

(b) negotiating for the acquisition of interests in land that may be required for the pipeline.

RSA 2000 cP-15 s6;2012 cR-17.3 s101

Rural gas utilities

7 The Regulator shall not grant a licence for a pipeline that will be part of a rural gas utility as defined in the *Gas Distribution Act* without the consent of the Minister responsible for the *Gas Distribution Act* or a person authorized by the Minister to give that consent.

RSA 2000 cP-15 s7;2012 cR-17.3 s101

Changes by Regulator

8 The Regulator may, on its own initiative, make any changes and alterations in the plans and specifications of a pipeline that the Regulator considers expedient.

RSA 2000 cP-15 s8;2012 cR-17.3 s101

Granting of licence

9(1) A licence for a pipeline may be granted by the Regulator subject to any terms and conditions expressed in the licence or the Regulator may refuse to grant a licence.

(2) The Regulator, in a licence granted under this section, may stipulate that the licensee must acquire any interest in land not owned by the licensee and required for the purposes of the licensee's pipeline by negotiation with the owner.

RSA 2000 cP-15 s9;2012 cR-17.3 s101

Amendment of licence

10(1) When a licensee desires to make a change with respect to a pipeline either before the commencement or during the construction of the pipeline, an application, unless otherwise provided in the rules, shall be submitted to the Regulator to amend the licence.

(2) If an amendment involves a relocation or diversion of the pipeline or proposed pipeline, the Regulator may cancel the licence and grant a new licence.

RSA 2000 cP-15 s10;2012 cR-17.3 s101

Application to amend licence

11(1) If a licensee, after the construction of a pipeline, desires to make a change with respect to that pipeline by alteration or addition to it or relocation, diversion or extension of it, the licensee shall submit an application for that purpose to the Regulator.

(2) In granting an application under subsection (1) the Regulator may

(a) amend the licence for the pipeline,

(b) grant a new licence, or

(c) exempt in writing the alteration, addition, relocation, diversion or extension from any or all of the provisions of this Part, subject to any terms and conditions it considers advisable.

(3) Subsection (1) does not apply to

(a) repairs or maintenance made in the course of operations,

(b) minor improvements to an existing installation, or

(c) changes made in an emergency.

(4) When changes are made to a pipeline in an emergency, particulars of those changes shall be forwarded to the Regulator immediately.

RSA 2000 cP-15 s11;2012 cR-17.3 s101

Regulator's powers re licences

12 The Regulator, on the request of the licensee or on its own initiative, may

(a) amend a licence,

(b) suspend a licence,

(c) cancel a licence, or

(d) subject to any terms or conditions the Regulator considers necessary, regrant a licence.

RSA 2000 cP-15 s12;2012 cR-17.3 s101

Date of construction

13 When a licence or an amendment of a licence is granted, or at any time after a licence or an amendment of a licence is granted, the Regulator may prescribe a date by which construction of a pipeline is to be commenced or completed.

RSA 2000 cP-15 s13;2012 cR-17.3 s101

Location of pipeline and rights of way

14 The Regulator, in a licence or an amendment of a licence, may

(a) prescribe the location and route of the pipeline as precisely as it considers suitable, and

(b) prescribe the location of the right of way of the pipeline and the relationship of its boundaries to the pipeline or any part of the pipeline.

RSA 2000 cP-15 s14;2012 cR-17.3 s101

Finality of Regulator decision

15 The decision of the Regulator with respect to an application for a licence or with respect to the cancellation or suspension of a licence is final and there is no appeal from that decision.

RSA 2000 cP-15 s15;2012 cR-17.3 s101

Licence to operate

16(1) No person shall operate a pipeline for any purpose unless the person is a licensee.

(2) No person shall operate a pipeline unless the pipeline has first been tested pursuant to the rules or as otherwise approved by the Regulator, and been found to be satisfactory.

RSA 2000 cP-15 s16;2012 cR-17.3 s101

Transmission of unauthorized substance

17(1) No pipeline for which a licence has been granted may be used for the transmission of any substance other than the substance authorized by the licence.

(2) On an application being made by a licensee to use the licensee's pipeline for the transmission of a substance other than the substance authorized by the licensee's licence, the Regulator may amend the licence or cancel the licence and issue a new licence subject to any terms and conditions it prescribes.

RSA 2000 cP-15 s17;2012 cR-17.3 s101

Transfer of licence

18(1) A licence may not be transferred without the consent in writing of the Regulator.

(2) When the licensee of a pipeline or proposed pipeline sells or otherwise disposes of the licensee's interest in the pipeline or proposed pipeline, a proposed transfer reflecting that transaction must be filed with the Regulator.

(3) The Regulator may consent to the transfer of a licence subject to any conditions, restrictions or stipulations that the Regulator may prescribe, or the Regulator may refuse to consent to the transfer.

(4) A proposed transfer must be in a form prescribed or approved by the Regulator and must have endorsed on it or attached to it proof of execution satisfactory to the Regulator.

(5) The applicant shall submit the proposed transfer to the Regulator together with the prescribed fee.

(6) The Regulator shall keep a record of every transfer to which it has given consent.

(7) The Regulator may direct that a licence be transferred to a person who agrees to accept it and who, in the opinion of the Regulator, has the right to receive it, and the direction of the Regulator has the same effect as a transfer consented to under this section.

(8) A transfer of a licence has no effect until the Regulator has consented to or directed the transfer under this section.

RSA 2000 cP-15 s18;2012 cR-17.3 s101

Appointment of agent

19(1) In this section, "resident" means resident as defined in the rules.

(2) Subject to the rules made under section 3(1)(w.1), each licensee of a pipeline shall register its address with the Regulator and, in the case of a licensee that is resident outside Alberta, shall

(a) appoint an agent within Alberta to carry out the licensee's duties and other responsibilities under this Act,

(b) notify the Regulator in writing of the appointment, and

(c) register with the Regulator the address in Alberta of the agent, which address shall also be the address for service of the licensee in Alberta.

(3) A person is not eligible to be appointed or to remain as an agent under subsection (2) unless the person meets the requirements of section 21 and the rules.

(4) The appointment of an agent under this section is ineffective unless the Regulator approves the appointment, and the Regulator may approve or refuse to approve the appointment.

(5) The approval of an appointment by the Regulator does not relieve the licensee of any duty or responsibility to comply with this Act, the rules or an order of the Regulator, but if an agent has been appointed and the licensee fails or is unable to comply with a duty or responsibility, the agent is responsible for compliance with the duty or responsibility.

(6) A licensee and an agent shall register any change of address with the Regulator within 15 days after the change.

(7) An agent may not be changed or discharged without the consent, in writing, of the Regulator, and the Regulator may refuse that consent.

RSA 2000 cP-15 s19;2008 c7 s8;2012 cR-17.3 s101

Notice of change of name

20 When a licensee of a pipeline or proposed pipeline changes the licensee's name, the licensee shall forthwith advise the Regulator in writing and the Regulator may amend the licence accordingly.

RSA 2000 cP-15 s20;2012 cR-17.3 s101

Capacity to hold licences

21(1) No person shall acquire or hold a licence unless the person meets the eligibility requirements set out in the rules and, in the case of a corporation, is

(a) registered under the *Companies Act*,

(b) registered, incorporated or continued under the *Business Corporations Act* or the *Cooperatives Act*,

(c) an association within the meaning of the *Co-operative Associations Act* or the *Rural Utilities Act*,

(d) licensed under the *Insurance Act*,

(e) registered under the *Loan and Trust Corporations Act*,

(f) incorporated by or under an Act of Alberta and approved by the Regulator as a company that may acquire or hold a licence, or

(g) incorporated or continued under the *Bank Act* (Canada).

(2) No syndicate or association of persons other than those listed in subsection (1) shall acquire or hold a licence in the name of the syndicate or association unless it has been incorporated by or under an Act of Alberta and approved by the Regulator to acquire or hold a licence.

RSA 2000 cP-15 s21;2001 cC-28.1 s463;
2012 cR-17.3 s101

Identification codes

22 No person shall apply for a licence unless the person holds a subsisting identification code issued under the *Oil and Gas Conservation Act*.

2000 c12 s2(15)

Discontinuation and abandonment

23(1) A licensee shall discontinue or abandon a pipeline when directed by the Regulator or required by the rules.

(2) The Regulator may order that a pipeline be discontinued or abandoned where the Regulator considers that it is necessary to do so in order to protect the public or the environment.

(3) A discontinuation or abandonment must be carried out in accordance with the rules.

RSA 2000 cP-15 s23;2012 cR-17.3 s101

Discontinuation, abandonment by Regulator

24 If, in the opinion of the Regulator, a pipeline is not discontinued or abandoned in accordance with the direction of the Regulator or the rules, the Regulator may

(a) authorize any person to discontinue or abandon the pipeline, or

(b) discontinue or abandon the pipeline on the Regulator's own motion.

RSA 2000 cP-15 s24;2012 cR-17.3 s101

Continuing liability

25 Abandonment of a pipeline does not relieve the licensee from the responsibility for further abandonment or other work with respect to the same pipeline or part of a pipeline that may become necessary, or from the responsibility for the costs of the further abandonment or other work.

2000 c12 s2(17)

Discontinuation and abandonment costs

26(1) In the case of a pipeline that is discontinued or abandoned under section 24,

(a) the Regulator may determine the discontinuation costs or abandonment costs and may prescribe a time for payment of those costs, and

(b) the licensee of the pipeline shall pay the costs so determined.

(2) A licensee who fails to pay the costs as determined under subsection (1) within the period of time prescribed by the Regulator must pay, unless the Regulator directs otherwise, a penalty equal to 25% of those costs.

(3) Costs as determined under subsection (1), together with any penalty payable under subsection (2), constitute a debt payable to the Regulator.

(4) A certified copy of the order of the Regulator determining the costs and penalty under this section may be filed in the office of the clerk of the Court of Queen's Bench and, on being filed and on the payment of any fees prescribed by law, the order may be entered as a judgment of the Court and may be enforced according to the ordinary procedure for enforcement of judgments of the Court.

RSA 2000 cP-15 s26;2012 cR-17.3 s101

Sale of material, etc.

27(1) When abandonment of a pipeline is conducted by the Regulator or a person authorized by the Regulator, the Regulator may in a manner it sees fit sell or dispose of any installation or material found on the site or taken from the pipeline, but the Regulator shall not sell any installation or material that it knows is owned by someone other than the licensee of the pipeline.

(2) A person to whom any installation or material is sold pursuant to subsection (1) receives good title to the installation or material, free of any claim whatsoever.

(3) When the Regulator receives money on the sale or disposal of any installation or material under subsection (1), the Regulator shall

(a) apply the money

(i) first, to the payment of any unpaid costs and penalty determined by it under section 26, and

(ii) 2nd, if any money remains after complying with subclause (i), to the payment of any other outstanding debt owing to the Regulator from the licensee,

and

(b) if any money remains after complying with clause (a), pay persons who file a claim with the Regulator within 6 months after the date of the sale and establish their entitlement to the money.

RSA 2000 cP-15 s27;2006 c23 s64;2012 cR-17.3 s101

Entry on land

28(1) A person carrying out discontinuation or abandonment operations pursuant to section 23 or 24 is entitled to have access to and may enter on the land and any structures on the land concerned for the purpose of carrying out the discontinuation or abandonment operations.

(2) A person shall, before entering on any land under subsection (1), give prior written notice of intention to enter to the landowner and to the occupant, if any, unless it is impractical under the circumstances to do so.

(3) If a person who enters on any land under subsection (1) is prevented from entering, that person may apply to the Court of Queen's Bench for an order permitting the person to enter on the land for the purposes specified in the order, and an order so made may be enforced by the sheriff.

(4) A person who enters on any land under subsection (1) shall compensate the landowner or the occupant, if any, for direct expenses and for any damage to the landowner's or occupant's land, crop or livestock arising directly from that entry.

(5) If a dispute arises as to the compensation payable pursuant to subsection (4), the compensation is to be determined by the Surface Rights Board.

RSA 2000 cP-15 s28;2009 c53 s133

Part 5
Suspension and Shutting Down

Suspension of construction or operation

29(1) Where it appears to the Regulator or its authorized representative that in the construction or operation of a pipeline or in the undertaking of a ground disturbance there has been or is a contravention of this Act, the rules, a licence or an order or direction of the Regulator, or that a method or practice employed or any equipment or installation at a pipeline or in a controlled area is improper, hazardous, inadequate or defective,

(a) the Regulator or its representative may order that the construction or operation of the pipeline, or the ground disturbance, is suspended and shall not be resumed until

(i) the contravention ceases or this Act or the rules, licence or order or direction of the Regulator is complied with,

(ii) approved methods or practices are employed or adopted,

(iii) remedial measures are taken, or

(iv) proper, safe and adequate equipment is used,

(b) the Regulator or its representative may order that the construction or operation of the pipeline or the ground disturbance be suspended until further order, or

(c) the Regulator may call an inquiry.

(2) Where a representative of the Regulator makes an order under subsection (1)(a) or (b), the representative shall, as soon as possible, report to the Regulator and so advise in writing the licensee, if any, or person responsible for the ground disturbance, setting out the reasons for the representative's actions.

RSA 2000 cP-15 s29;2012 cR-17.3 s101

Inquiry into suspension

30 Where an order is made under section 29(1)(a) or (b) for the suspension of the construction or operation of a pipeline or of a ground disturbance within a controlled area, the person to whom the order is directed may request an inquiry and, if the person does so, the Regulator shall hold an inquiry within 5 days, exclusive of holidays, after the date of receipt of the request.

RSA 2000 cP-15 s30;2012 cR-17.3 s101

Powers of Board

31(1) Within 15 days after the conclusion of an inquiry pursuant to section 29 or 30, the Regulator may

(a) allow the construction or operation of the pipeline, or the ground disturbance within a controlled area, to continue or resume subject to any conditions that the Regulator may prescribe,

(b) order the continued suspension of the construction or operation of the pipeline, or the ground disturbance within a controlled area, until the Regulator makes an order to the contrary, or

(c) in the case of the construction or operation of a pipeline, cancel or suspend the licence for the pipeline.

(2) On the cancellation or suspension of a licence by the Regulator, no construction shall be carried out and no oil, gas, water or other substance shall be transmitted in the pipeline until the licence has been reinstated or a new licence has been issued by the Regulator except such as the Regulator authorizes to maintain the facilities in a state whereby operations can be carried out in accordance with this Act.

RSA 2000 cP-15 s31;2012 cR-17.3 s101

Part 6
General

Ground disturbance

32(1) A person proposing to undertake or undertaking a ground disturbance shall, before commencing any work, operation or activity,

(a) take all precautions reasonably necessary

(i) to ascertain whether a pipeline exists within

(A) the area in which the person proposes to undertake or undertakes the ground disturbance, and

(B) the distance, prescribed in the rules, from the area referred to in paragraph (A),

(ii) to determine who is the licensee of a pipeline in existence within the area or distance referred to in clause (a)(i), and

(b) notify the licensee referred to in clause (a)(ii) of the nature of the proposed ground disturbance and the proposed schedule for the undertaking of that ground disturbance in accordance with the rules.

(2) A licensee shall, on the request of a person proposing to undertake or undertaking a ground disturbance, provide to that person any information respecting a pipeline in existence within the area or distance referred to in subsection (1)(a)(i) that is contained in the records of the licensee and is required by that person for the purpose of complying with subsection (1) and the rules.

(3) A licensee of a pipeline that may be or is affected by a ground disturbance shall provide to the person proposing to undertake or undertaking the ground disturbance any assistance that the person may reasonably require to enable the person to comply with this Act and the rules.

RSA 2000 cP-15 s32;2012 cR-17.3 s101

Alteration or relocation

33(1) When in its opinion it would be in the public interest to do so, the Regulator may, on any terms and conditions it considers proper, direct a licensee

(a) to alter or relocate any part of the licensee's pipeline,

(b) to install additional or other equipment on the licensee's pipeline, or

(c) to erect permanent fencing on the right of way or provide any other protective measures within the controlled area that the Regulator considers necessary.

(2) Where the Regulator directs the alteration or relocation of a pipeline, the installation of additional or other equipment on a pipeline, the erection of fences or the provision of other protective measures within the controlled area, it may order by whom and to whom payment of the cost of the work and material, or either, shall be made.

(3) If a dispute arises as to the amount to be paid pursuant to an order under subsection (2), it shall be referred to the Regulator and the Regulator's decision is final.

RSA 2000 cP-15 s33;2012 cR-17.3 s101

Samples and tests

34(1) The Regulator may order that a representative sample of the substance being transmitted by a pipeline be taken and analyzed by a person it determines.

(2) The Regulator may at any time require the licensee of a pipeline to make inspections, investigations or tests of the pipeline and may prescribe the manner in which they are to be made.

RSA 2000 cP-15 s34;2012 cR-17.3 s101

Leaks and breaks

35(1) When a leak or break occurs in a pipeline, the licensee shall immediately cause the Regulator to be informed of the location of the leak or break.

(2) Where contact is made with a pipeline during any ground disturbance, resulting in a puncture of or crack in the pipeline or in a scratch, gouge, flattening or dent on the surface of the pipeline, or in damage to its protective coating,

(a) the particular ground disturbance that resulted in the contact with the pipeline shall be immediately stopped and the person responsible for the ground disturbance shall immediately advise the licensee of the pipeline of the location where the contact occurred and the kind of damage that resulted from the contact, and

(b) the licensee of the pipeline shall immediately notify the Regulator of the location where the contact occurred and the kind of damage that resulted from the contact.

(3) Where a particular ground disturbance has been stopped pursuant to subsection (2) it shall not be recommenced without the approval of the licensee of a pipeline with which contact was made or, if approval cannot be reasonably obtained from the licensee, without the approval of the Regulator.

(4) When a leak or break in a pipeline or damage to a pipeline that resulted from a contact described in subsection (2) has been repaired, the Regulator may require the submission of reports in writing, in accordance with the rules.

(5) When a pipeline that is transmitting oil breaks on Crown land or in a forested area, the licensee shall immediately report the

location of the break and the approximate quantity of oil that has escaped, to an employee or officer of the Government designated by the Minister responsible for the *Public Lands Act*.

(6) The provisions of this section extend to a pipeline for which there is in force a certificate or an order exempting the pipeline from a certificate made or issued by the National Energy Board under the *National Energy Board Act* (Canada) and to the person constructing or operating the pipeline as though that person were the licensee of the pipeline.

RSA 2000 cP-15 s35;2012 cR-17.3 s101

Clean up of spills

36(1) When a substance escapes from a pipeline and it appears to the Regulator that the substance may not otherwise be contained and cleaned up forthwith, the Regulator may

(a) direct the pipeline operator or licensee, or those pipeline operators or licensees who in the opinion of the Regulator could be responsible for a pipeline from which the substance escaped, to take any steps that the Regulator considers necessary to contain and clean up, to the satisfaction of the Regulator, the substance that has escaped and to prevent further escape of the substance, or

(b) enter on the area where the substance has escaped and conduct any operations it considers necessary to contain and clean up the substance that has escaped and to prevent further escape of the substance.

(2) When the Regulator enters on an area pursuant to subsection (1)(b),

(a) every person responsible for the escape of the substance, every pipeline operator or licensee who in the opinion of the Regulator could be responsible for a pipeline from which the substance escaped and every officer and employee of that person, operator or licensee shall, until the operations to be conducted by the Regulator are completed, obey the orders concerning those operations given by the Regulator or a person or persons the Regulator places in charge of those operations;

(b) the Regulator may recover, deal with and dispose of the escaped substance as if it were the property of the Regulator, and if any escaped substance is sold, apply the proceeds to pay the costs and expenses of the operations conducted by the Regulator;

(c) the Regulator may engage any persons it considers necessary to conduct any of the operations on its behalf.

(3) When any operations are conducted pursuant to this section

(a) by an operator, licensee or other person under subsection (1)(a) and the operator, licensee or person requests the Regulator to do so, or

(b) by or on behalf of the Regulator under subsection (1)(b),

the Regulator may determine the costs and expenses of the operations and direct by whom and to what extent they are to be paid.

(4) No action or proceeding may be brought against a person named in a direction issued pursuant to subsection (1)(a) in respect of any act or thing done pursuant to the direction.

RSA 2000 cP-15 s36;2012 cR-17.3 s101

Part 7
Use and Acquisition of Land

Pipeline under highway

37(1) Subject to sections 38 to 40, a person who has the right to construct or operate a pipeline under this Act has the right to do so on, across, over or under any highway or road.

(2) A person exercising a right granted under subsection (1) shall

(a) during construction or repair of the pipeline, take care to preserve, as far as possible, a free and uninterrupted passage to and over the portion of the highway or road affected, and

(b) during operation of the pipeline, do nothing to prevent a free and uninterrupted passage to and over the portion of the highway or road affected.

RSA 1980 cP-8 s38

Approval of pipeline

38(1) No pipeline may be constructed on, across, over or under a highway without the approval of the Minister of Transportation.

(2) An application for approval under subsection (1) shall be accompanied with a plan and profile of the portion of the highway affected.

(3) The land in which an interest is required for a pipeline parallel to a highway shall not be located nearer than

(a) 30 metres from the boundary of the highway, in the case of a highway other than a freeway under the *Highways Development and Protection Act*, or 115 metres from the centre line of such a freeway, without the approval of the Minister of Transportation, or

(b) any greater distance from the boundary or centre line that the Regulator stipulates.

(4) If a pipeline crosses a highway, no bend shall be permitted in that part of the pipeline that is

(a) within the boundaries of the highway without the approval of the Minister of Transportation, or

(b) within

(i) 30 metres from the boundary of the highway, in the case of a highway other than a freeway under the *Highways Development and Protection Act*, or 115 metres from the centre line of such a freeway, without the approval of the Minister of Transportation, or

(ii) any greater distance from the boundary or centre line that the Regulator stipulates.

RSA 2000 cP-15 s38;2004 cH-8.5 s70; 2012 cR-17.3 s101

Pipeline crossing road

39(1) No pipeline shall be constructed on, across, over or under a road without the approval of the local authority concerned.

(2) The land in which an interest is required for a pipeline parallel to a road shall not be located nearer than 30 metres to the boundary of the road without the approval of the local authority concerned.

(3) If a pipeline crosses a road, no bend shall be permitted in that portion of the pipeline within the boundaries of the road or within 8 metres of the boundary of the road without the approval of the local authority concerned.

RSA 1980 cP-8 s40

Regulator approval

40 If the Regulator is satisfied that an approval required by section 39 cannot reasonably be obtained from a municipal corporation or a Metis settlement, it may, on application, grant the required approval subject to any terms and conditions it considers suitable in the circumstances.

RSA 2000 cP-15 s40;2012 cR-17.3 s101

Irrigation canal or drainage ditch

41 No pipeline may be constructed on, across, over or under an irrigation canal or ditch under the *Irrigation Districts Act* or a drainage ditch under the *Drainage Districts Act* without the approval of the owner, or, if approval cannot reasonably be obtained from the owner, without the approval of the Regulator.

RSA 2000 cP-15 s41;2012 cR-17.3 s101

Approval to undertake ground disturbance

42 No ground disturbance may be undertaken in the right of way for a pipeline without the approval of the licensee of the pipeline in accordance with the rules, or, if approval cannot reasonably be obtained from the licensee, without the approval of the Regulator.

RSA 2000 cP-15 s42;2012 cR-17.3 s101

River or stream

43 When the description of land in a certificate of title issued to a person other than the Crown does not except, reserve or otherwise refer to land, owned by the Crown, that comprises at any time the bed or shore of a lake, river, stream or other body of water then, notwithstanding anything in the *Public Lands Act*, a person who has the right to construct or operate a pipeline under this Act has the right to do so on, across, over or under that bed or shore.

RSA 1980 cP-8 s43

Mines and quarries

44 No person, without the authority of the Regulator, shall construct a pipeline or part of a pipeline so as to interfere with the present workings of a mine or quarry or obstruct any opening to a mine or quarry.

RSA 2000 cP-15 s44;2012 cR-17.3 s101

Repair of damage

45 If during construction or operation of a pipeline any damage occurs to any structure, another pipeline or to a private or public utility, the licensee shall immediately cause the damage to be repaired unless an arrangement has otherwise been made with the owner of that structure, pipeline or utility.

RSA 1980 cP-8 s45;2000 c12 s2(25)

Public buildings, etc.

46(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 Regulator, and the Regulator may make its approval subject to any terms and conditions it prescribes.

(2) Subsection (1) does not apply when the pipeline will deliver a substance to the building for use in the building.

RSA 2000 cP-15 s46;2012 cR-17.3 s101

Definition

47 In sections 48 to 50, "land" means land other than mines or minerals.

RSA 1980 cP-8 s47;2000 c12 s2(26)

Acquisition of interest in lands

48(1) When a licensee requires an interest in land for the purposes of the licensee's pipeline, the interest may be acquired in land owned by the Crown or by any other person

(a) by negotiation with the owner,

(b) by proceedings under the *Surface Rights Act*, or

(c) in respect of patented land as defined in the *Metis Settlements Act*, by proceedings under Part 4 of the *Metis Settlements Act*.

(2) Notwithstanding subsection (1), when a licence for a pipeline contains a stipulation in accordance with section 9(2) and the licensee requires an interest in land for the purposes of that pipeline, the licensee shall not acquire the interest otherwise than by negotiation with the owner.

(3) When it appears to the Minister of Infrastructure that an interest in land for the purposes of a pipeline of a rural gas utility cannot be acquired in accordance with subsection (2), then, notwithstanding the stipulation contained in the licence, the Minister may direct that the interest be acquired by proceedings under the *Surface Rights Act* or Part 4 of the *Metis Settlements Act* under any terms and conditions the Minister prescribes and in that case the operation shall not by reason only of proceeding in that manner, be in contravention of the stipulation contained in the licence.

RSA 1980 cP-8 s48;1983 c27 s7;1986 c15 s10;
1990 cM-14.3 s279;2000 c12 s2(27)

Effect of orders

49 If a licensee obtains a certificate of approval under the *Expropriation Act* for the purposes of the licensee's pipeline pursuant to proceedings commenced before January 1, 1977,

(a) the certificate of approval, unless otherwise provided, vests in the licensee an exclusive interest in the land described in the certificate for the purposes named in it, with any annexed rights in or over other land that may be specified in

the certificate, but the certificate of approval does not give a licensee

(i) any right or entitlement to a certificate of title under the *Land Titles Act* for the interest in land acquired by the licensee by the certificate of approval, or

(ii) the right to carry away sand, gravel, clay or marl from the land in respect of which the certificate of approval was granted,

and

(b) the certificate of approval is deemed to be an instrument referred to in section 69 of the *Land Titles Act*.

RSA 1980 cP-8 s49;1983 c37 s53;2000 c12 s2(28)

Land that may be acquired

50 Subject to section 48(2), if the location of a right of way is precisely defined in the licence, the powers granted by this Part to the licensee of the pipeline apply to land within that location.

RSA 1980 cP-8 s50;2000 c12 s2(29)

Part 8
Miscellaneous

Actions re principals

51(1) Where a licensee

(a) contravenes or fails to comply with an order of the Regulator, or

(b) has an outstanding debt to the Regulator, or to the Regulator to the account of the orphan fund under the *Oil and Gas Conservation Act*, in respect of discontinuation, abandonment or reclamation costs,

and the Regulator considers it in the public interest to do so, the Regulator may make a declaration setting out the nature of the contravention, failure to comply or debt and naming one or more directors, officers, agents or other persons who in the Regulator's opinion were directly or indirectly in control of the licensee at the time of the contravention, failure to comply or failure to pay.

(2) The Regulator may not make a declaration under subsection (1) unless it first gives written notice of its intention to do so to the affected directors, officers, agents or other persons and gives them at least 10 days to show cause as to why the declaration should not be made.

(3) Where the Regulator makes a declaration under subsection (1), the Regulator may, subject to any terms and conditions it considers appropriate,

(a) suspend any operations of a licensee under this Act or the *Oil and Gas Conservation Act* or of an approval holder under the *Oil and Gas Conservation Act*,

(b) refuse to consider any application for an identification code, licence or approval from an applicant under this Act or the *Oil and Gas Conservation Act*,

(c) refuse to consider an application to transfer a licence under this Act or the *Oil and Gas Conservation Act* or an approval under the *Oil and Gas Conservation Act*,

(d) require the submission of abandonment and reclamation deposits in an amount determined by the Regulator prior to granting any licence, approval or transfer to an applicant, transferor or transferee under the *Oil and Gas Conservation Act*, and

(e) require the submission of abandonment and reclamation deposits in an amount determined by the Regulator for any wells or facilities of any licensee or approval holder under the *Oil and Gas Conservation Act*,

where the person named in the declaration is the licensee, approval holder, applicant, transferee or transferor referred to in clauses (a) to (e) or is a director, officer, agent or other person who in the Regulator's opinion is directly or indirectly in control of the licensee, approval holder, applicant, transferee or transferor referred to in clauses (a) to (e).

(4) This section applies in respect of a contravention, failure to comply or debt whether the contravention, failure to comply or debt arose before or after the coming into force of this section.

RSA 2000 cP-15 s51;2012 cR-17.3 s101

Offences

52(1) A person who

(a) obstructs or causes any obstruction to the construction, repair, operation or dismantling of a pipeline,

(b) wilfully does any damage to a pipeline, or

(c) harms, removes, defaces or destroys a sign erected under this Act or the rules except for replacement, repair or removal under the rules,

is guilty of an offence.

(2) A person who

(a) whether as a principal or otherwise, contravenes any provision of this Act or of the rules or of any order, direction or licence under this Act,

(b) either alone or in conjunction or participation with others causes any holder of a licence to contravene any of those provisions, or

(c) instructs, orders, directs or causes any officer, agent or employee of any holder of an approval or licence to contravene any of those provisions,

is guilty of an offence.

(3) A person who prevents, hinders, obstructs, molests or otherwise interferes with, or who fails to assist, a person authorized by the Regulator in the exercise of the powers conferred by section 5(1) is guilty of an offence.

(4) A 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 rules is guilty of an offence.

RSA 2000 cP-15 s52;2012 cR-17.3 s101

Limitation period for prosecution

53 A prosecution for an offence under this Act may not be commenced more than 2 years after

(a) the date on which the offence was committed, or

(b) the date on which evidence of the offence first came to the attention of the Regulator,

whichever is later.

RSA 2000 cP-15 s53;2012 cR-17.3 s101

Penalties

54(1) A person who is guilty of an offence under this Act is liable

(a) in the case of a corporation, to a fine of not more than $500 000, or

(b) in the case of an individual, to a fine of not more than $50 000.

(2) No person shall be convicted of an offence under this Act if that person establishes on a balance of probabilities that the person took all reasonable steps to prevent its commission.

(3) A person who is guilty of an offence under this Act is liable on conviction for each day or part of a day on which the offence occurs or continues.

RSA 2000 cP-15 s54;2012 cR-17.3 s101

Board regulations deemed to be rules

55 Regulations made under this Act that are in force when this section comes into force are deemed to be rules for the purposes of this Act.

2012 cR-17.3 s101

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