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# OIL AND GAS CONSERVATION ACT

## Chapter O-6

### *Table of Contents*

- 1 Interpretation
- 2 Description of land
- 3 Application of Act
  
- Part 1**  
**Object and Application of Act**
- 4 Purposes of Act
  
- Part 2**  
**Financing of Board**
- 5 Funds for Board
- 6 Estimate of expenditures
  
- Part 3**  
**General Powers**
- 7 General powers
- 8 Conditions of approval

**Part 4  
Overriding Provisions**

- 9 Overriding provisions

**Part 5  
Regulations**

- 10 Regulations

**Part 6  
Licences and Approvals**

- 11 Requirement for licence  
12 Licence or approval for facility  
13 Transitional  
14 Appeal  
15 Application for licence  
16 Entitlement for well licence  
17 Entitlement for facility licence  
18 Granting of licence  
19 Location of road in licence  
20 Additional requirements of licensee  
21 Identification codes  
22 Terms and conditions  
23 Reworking wells and facilities  
23.1 Captured carbon dioxide wells, facilities and schemes  
24 Transfer of licence  
25 Cancellation and suspension  
26 Amendment of licence or approval  
26.1 Security deposit  
27 Suspension and abandonment  
28 Suspension, abandonment by Board  
29 Continuing liability  
30 Suspension, abandonment and reclamation costs  
31 Deemed working interest participant  
31.1 Deemed licensee  
32 Extended obligation

**Part 7  
Production****Designation of Fields, etc.**

- 33 Regulation of production

**Prorationing of Oil**

- 34 Prorationing of oil

**Rateable Take of Gas**

- 36 Rateable take

**Conservation Projects**

- 37 Disposal of water  
38 Prevention of waste  
39 Approval of scheme  
40 Prohibition against injunction  
41 Escape of oil, gas, water or substance

**Production and Use of Gas**

- 42 Gas wells

**Part 8  
Shut-down and Closure**

- 44 Shut-down and closure  
45 Request for inquiry  
46 Powers of Board  
47 Prohibition

**Part 9  
Common Carriers, Purchasers and Processors****Common Carrier**

- 48 Common carrier  
49 Relief to common carrier

**Common Purchaser**

- 50 Common purchaser of oil  
51 Common purchaser of gas  
52 Relief to common purchaser

**Common Processor**

- 53 Common processor  
54 Relief to common processor

**Alberta Utilities Commission**

- 55 Powers of Alberta Utilities Commission

**Operation**

- 56 Effective date of order

**Part 10  
Borrowing, Guarantees  
and Advances**

- 65 Power to borrow  
66 Guarantee and advances

**Part 11  
Orphan Fund**

- 68 Definitions  
69 Fund continued  
70 Purpose of fund  
71 Effect of payment from fund  
72 Ordinary remedies available  
73 Orphan fund levy  
74 Payment of levy  
75 Notice of levy  
76 Appeal of levy  
76.1 Special orphan fund levy  
77 Regulations

**Part 12  
Unit Operation**

- 78 Definitions

**Agreement to Establish Unit**

- 79 Agreement to establish unit

**Pooling**

- 80 Pooling  
81 Well on tract in drilling spacing unit  
82 Application to vary pooling order  
83 Drilling costs  
84 Inclusion of drilling spacing unit in unit area

**General**

- 85 Missing or untraceable tract owner  
86 Dispute re production  
87 Operation of unit area  
88 Operating expenses

- 89 Alteration of orders
- 90 Effect of agreement

### **Part 13 Registers, Records and Reports**

#### **Registered Address of Licensee**

- 91 Appointment of agent

#### **Battery Records and Reports**

- 92 Battery of wells
- 93 Production of records

### **Part 14 Proceedings Before the Board**

#### **Powers of Board**

- 94 Jurisdiction of Board
- 95 Service of notices

### **Part 15 Provisions of General Application**

- 96 Inspection
- 97 Closing area to travel
- 98 Offset wells
- 99 Compensation schemes
- 100 Control, completion and operation costs
- 101 Entry on land
- 102 Sale of equipment, etc.
- 103 Enforcement of lien
- 104 Escaped substance
- 105 Enforcement of orders
- 106 Actions re principals

#### **Offences and Penalties**

- 107 Waste prohibited
- 108 Offences
- 109 Time for complaint
- 110 Fines

#### **Cancellation of Industrial Development Permits and Applications**

- 111 Cancellation of permits and applications

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”, subject to section 68(a), means the permanent dismantlement of a well or facility in the manner prescribed by the regulations and includes any measures required to ensure that the well or facility is left in a permanently safe and secure condition;
- (b) “abandonment costs”, subject to section 68(b), means the reasonable costs actually incurred in the abandonment of a well or facility;
- (c) “agent” means an agent appointed under section 91;
- (d) “allowable”, when that term is used in connection with a well, means the amount of oil or gas a well is permitted to produce, in accordance with an order of the Board for this purpose, after application of any applicable penalty factor;
- (e) “approval holder” means the holder of an approval granted pursuant to this Act, any predecessor of this Act or a regulation under any of them;
- (f) “base allowable” means the amount of production that according to a Board order could be taken if no penalty factor, whether its purpose be for proration, for avoidance of waste or for protection of the rights of others, were to be applied;
- (g) “battery” means a system or arrangement of tanks or other surface equipment receiving the effluents of one or more wells prior to delivery to market or other disposition, and may include equipment or devices for separating the effluents into oil, gas or water and for measurement;
- (h) “block” means an area or part of a pool consisting of drilling spacing units grouped for the purpose of administering a common, aggregate production allowable;
- (i) “Board” means the Energy Resources Conservation Board;
- (j) “butanes” means, in addition to its normal scientific meaning, a mixture mainly of butanes that ordinarily may contain some propane or pentanes plus;

- (j.1) “captured carbon dioxide” means captured carbon dioxide as defined in the *Mines and Minerals Act*;
- (j.2) “coal deposit” means a natural accumulation of coal in one or more coal seams as defined in the Coal Conservation Act;
- (k) “condensate” means a mixture mainly of pentanes and heavier hydrocarbons that may be contaminated with sulphur compounds, that
  - (i) is recovered or is recoverable at a well from an underground reservoir and may be gaseous in its virgin reservoir state but is liquid at the conditions under which its volume is measured or estimated, or
  - (ii) is recovered from an in situ coal scheme and is liquid at the conditions under which its volume is measured or estimated;
- (l) “contractor” means a person who undertakes to perform any drilling, service or other operation at the site of a well or facility by agreement
  - (i) directly with the licensee, approval holder, operator or other person having a right with respect to or an interest in the well or facility, or
  - (ii) with another person who has in turn entered directly into an agreement with a person referred to in subclause (i);
- (m) “Court” means the Court of Queen’s Bench;
- (n) “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;
- (o) “crude oil” 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 liquid at the conditions under which its volume is measured or estimated, and includes all other hydrocarbon mixtures so recovered or recoverable except raw gas, condensate or crude bitumen;
- (p) “dehydrator” means an apparatus designed and used to remove water from raw gas;

- (q) “drilling spacing unit” means a drilling spacing unit prescribed by or pursuant to the regulations;
- (r) “enhanced recovery” means the increased recovery from a pool achieved by artificial means or by the application of energy extrinsic to the pool, which artificial means or application includes pressuring, cycling, pressure maintenance or injection to the pool of a substance or form of energy, but does not include the injection in a well of a substance or form of energy for the sole purpose of
  - (i) aiding in the lifting of fluids in the well, or
  - (ii) stimulation of the reservoir at or near the well by mechanical, chemical, thermal or explosive means;
- (s) “ethane” means, in addition to its normal scientific meaning, a mixture mainly of ethane that ordinarily may contain some methane or propane;
- (t) “evaluation well” means a well that, when being drilled, is expected by the Board to penetrate a pool or oil sands deposit and that is drilled for the sole purpose of evaluation;
- (u) “experiment” or “experimental scheme” means a scheme or operation for the recovery or processing of oil or gas, including the drilling and completion of wells for production or injection, that uses methods that are untried and unproven in that particular application;
- (v) “experimental well” means a well drilled, being drilled or operated pursuant to an experimental scheme approved by the Board;
- (w) “facility”, except for the purposes of Part 11, means any building, structure, installation, equipment or appurtenance over which the Board has jurisdiction and that is connected to or associated with the recovery, development, production, handling, processing, treatment or disposal of hydrocarbon-based resources, including synthetic coal gas and synthetic coal liquid, or any associated substances or wastes or the disposal of captured carbon dioxide, and includes, without limitation, a battery, a processing plant, a gas plant, an oilfield waste management facility, a central processing facility as defined in the *Oil Sands Conservation Regulation* (AR 76/88), a compressor, a dehydrator, a separator, a treater, a custom treating plant, a produced water-injection plant, a produced water disposal plant, a miscible flood injection

plant, a satellite or any combination of any of them, but does not include a well, a pipeline as defined in the *Pipeline Act*, a mine site or processing plant as defined in the *Oil Sands Conservation Regulation* (AR 76/88) or a mine site or coal processing plant as defined in the *Coal Conservation Act*;

- (x) “field” means
  - (i) the general surface area or areas underlain or appearing to be underlain by one or more pools, or
  - (ii) the subsurface regions vertically beneath a surface area or areas referred to in subclause (i);
- (y) “gas” means raw gas, synthetic coal gas or marketable gas or any constituent of raw gas, synthetic coal gas, condensate, crude bitumen or crude oil that is recovered in processing and that is gaseous at the conditions under which its volume is measured or estimated;
- (z) “helium” means, in addition to its normal scientific meaning, a mixture mainly of helium that ordinarily may contain some nitrogen and methane;
- (aa) “holding” means an area established as a holding pursuant to the regulations;
- (aa.01) “in situ coal scheme” means an in situ coal scheme as defined in the *Coal Conservation Act*;
- (aa.1) “large facility” means a facility that is
  - (i) a central processing facility as defined in the *Oil Sands Conservation Regulation* (AR 76/88) with a Board approved design capacity of 5000 cubic metres or more per day,
  - (ii) an oil sands upgrader integrated into a central processing facility as defined in the *Oil Sands Conservation Regulation* (AR 76/88) with a Board approved design capacity of 5000 cubic metres or more per day,
  - (iii) a processing plant designated by the Board as a stand alone straddle plant, or
  - (iv) a gas processing plant that has or has had sulphur recovery, with a sulphur inlet of one tonne or more per day;

- (bb) “licence” means a licence granted pursuant to this Act, any predecessor of this Act or a regulation under any of them;
- (cc) “licensee” means the holder of a licence according to the records of the Board and includes a trustee or receiver-manager of property of a licensee;
- (dd) “market demand” means the amount of oil or gas reasonably needed for current consumption, use, storage and working stocks within and outside Alberta;
- (ee) “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, and that meets specifications for use as a domestic, commercial or industrial fuel or as an industrial raw material;
- (ff) “methane” means, in addition to its normal scientific meaning, a mixture mainly of methane that ordinarily may contain some ethane, nitrogen, helium or carbon dioxide;
- (ff.1) “Minister” means the Minister determined under section 16 of the *Government Organization Act* as the Minister responsible for this Act;
- (gg) “natural gas liquids” means propane, butanes or pentanes plus, or a combination of them, obtained from the processing of raw gas or condensate;
- (hh) “oil” means condensate, crude oil or synthetic coal liquid or a constituent of raw gas, condensate or crude oil that is recovered in processing, that is liquid at the conditions under which its volume is measured or estimated;
- (ii) “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);
- (jj) “oil sands deposit” means a natural reservoir containing or appearing to contain an accumulation of oil sands

separated or appearing to be separated from any other such accumulation;

- (kk) “operator”, with respect to a well or facility, means a person who
- (i) has control of or undertakes the day to day operations and activities at a well or facility, or
  - (ii) keeps records and submits production reports for a well or facility to the Board,
- whether or not that person is also the licensee or approval holder in respect of the well or facility;
- (ll) “orphan fund” means the orphan fund continued under section 69;
- (mm) “pentanes plus” means a mixture mainly of pentanes and heavier hydrocarbons that ordinarily may contain some butanes and that is obtained from the processing of raw gas, condensate or crude oil;
- (nn) “pipeline” means any pipe or any system or arrangement of pipes wholly within Alberta and whereby oil, gas or synthetic crude oil or water incidental to the drilling for or production of oil, gas or synthetic crude oil is conveyed, and
- (i) includes all property of any kind used for the purpose of, or in connection with, or incidental to, the operation of a pipeline in the gathering, transporting, handling and delivery of oil, gas, synthetic crude oil or water, but
  - (ii) does not include any pipe or any system or arrangement of pipes that constitutes a distribution system for the distribution within a community of gas to ultimate consumers;
- (oo) “pool” means
- (i) a natural underground reservoir containing or appearing to contain an accumulation of oil or gas, or both, separated or appearing to be separated from any other such accumulation, or
  - (ii) in respect of an in situ coal scheme, that portion of a coal deposit that has been or is intended to be converted to synthetic coal gas or synthetic coal liquid;

- (pp) “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;
- (qq) “project” means a pool or part of a pool in which operations in accordance with a scheme for enhanced recovery of oil, approved by the Board, are conducted or, if the scheme provides for the application of more than one recovery mechanism, the part of the area subject to the scheme that is subject to one such recovery mechanism;
- (rr) “propane” means, in addition to its normal scientific meaning, a mixture mainly of propane that ordinarily may contain some ethane or butanes;
- (ss) “proportionate share” means, with respect to a working interest participant, the percentage share equal to the participant’s undivided interest in the well or facility;
- (tt) “raw gas” means a mixture containing methane, other paraffinic hydrocarbons, nitrogen, carbon dioxide, hydrogen sulphide, 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;
- (uu) “reclamation” means reclamation within the meaning of the *Environmental Protection and Enhancement Act*;
- (vv) “reclamation costs” means the reasonable costs actually incurred in the reclamation of a well or facility and includes such costs associated with assessment for the purpose of applying for a reclamation certificate under the *Environmental Protection and Enhancement Act*;
- (ww) “separator” means an unfired apparatus specifically designed and used for separating fluids produced from a well into 2 or more streams, but does not include a dehydrator;
- (xx) “suspension”, subject to section 68(f), means the temporary cessation of operations at a well or facility in the manner prescribed by the regulations and includes any measures required to ensure that the well or facility is left in a safe and secure condition;

- (yy) “suspension costs”, subject to section 68(g), means the reasonable costs actually incurred in the suspension of a well or facility;
- (yy.1) “synthetic coal gas” means synthetic coal gas as defined in the *Coal Conservation Act*;
- (yy.2) “synthetic coal liquid” means synthetic coal liquid as defined in the *Coal Conservation Act*;
- (zz) “synthetic crude oil” means a mixture, mainly of pentanes and heavier hydrocarbons, that may contain sulphur compounds, that is derived from crude bitumen and that is liquid at the conditions under which its volume is measured or estimated, and includes all other hydrocarbon mixtures so derived;
- (aaa) “test hole” means a well drilled or being drilled to a depth of more than 150 metres for the primary purpose of obtaining geological or geophysical information and that, when being drilled, is not expected by the Board to penetrate a pool or oil sands deposit;
- (bbb) “treater” means a fired apparatus specifically designed and used for separating gas and water from crude oil;
- (ccc) “waste”, in addition to its ordinary meaning, means wasteful operations;
- (ddd) “wasteful operations” means
  - (i) the locating, spacing, drilling, equipping, completing, operating or producing of a well in a manner that results or tends to result in reducing the quantity of oil or gas ultimately recoverable from a pool under sound engineering and economic principles,
  - (ii) the locating, drilling, equipping, completing, operating or producing of a well in a manner that causes or tends to cause excessive surface loss or destruction of oil or gas,
  - (iii) the inefficient, excessive or improper use or dissipation of reservoir energy however caused,
  - (iv) the failure to use suitable enhanced recovery operations in a pool when it appears probable on the basis of available information that those methods would result in increasing the quantity of oil or gas ultimately recoverable from the pool under sound engineering and economic principles,

- (v) the escape or the flaring of gas, if it is estimated that, in the public interest and under sound engineering principles and in the light of economics and the risk factor involved, the gas could be gathered, processed if necessary, and it or the products from it marketed, stored for future marketing, or beneficially injected into an underground reservoir,
  - (vi) the inefficient storing of oil or gas, whether on the surface or underground, or
  - (vii) the production of oil or gas in excess of proper storage facilities or of transportation and marketing facilities or of market demand for it;
- (eee) “well” means an orifice in the ground completed or being drilled
- (i) for the production of oil or gas,
  - (ii) for injection to an underground formation,
  - (iii) as an evaluation well or test hole, or
  - (iv) to or at a depth of more than 150 metres, for any purpose,
- but does not include one to discover or evaluate a solid inorganic mineral and that does not or will not penetrate a stratum capable of containing a pool or oil sands deposit;
- (fff) “working interest participant” means a person who owns a beneficial or legal undivided interest in a well or facility under agreements that pertain to the ownership of that well or facility;
- (ggg) “zone” means any stratum or any sequence of strata that is designated by the Board as a zone.

(2) The decision of the Board is final as to whether any product or mixture comes within a definition in subsection (1) or as to whether a definition in subsection (1) is applicable in a particular case.

RSA 2000 cO-6 s1;2006 c23 s60;2009 c20 s7;  
2010 c14 s3;2011 c11 s5

### Description of land

**2** In this Act and in any regulations or orders made pursuant to this Act, land may be described or referred to as if it were surveyed into sections in accordance with the *Surveys Act* whether or not the land is so surveyed, and reference to a legal subdivision, section or township in land that is not so surveyed is deemed to refer to that

which would be the legal subdivision, section or township if the land were so surveyed.

RSA 1980 cO-5 s2

#### **Application of Act**

**3** This Act applies to every well and facility situated in Alberta whenever drilled or constructed, and to any substance obtained or obtainable from such a well or facility, notwithstanding any terms to the contrary in any lease or grant from the Crown in right of Canada or from any other person.

RSA 1980 cO-5 s3;1983 cO-5.5 s30;2000 c12 s1(3)

## **Part 1**

### **Object and Application of Act**

#### **Purposes of Act**

**4** The purposes of this Act are

- (a) to effect the conservation of, and to prevent the waste of, the oil and gas resources of Alberta;
- (b) to secure the observance of safe and efficient practices in the locating, spacing, drilling, equipping, constructing, completing, reworking, testing, operating, maintenance, repair, suspension and abandonment of wells and facilities and in operations for the production of oil and gas or the storage or disposal of substances;
- (c) to provide for the economic, orderly and efficient development in the public interest of the oil and gas resources of Alberta;
- (d) to afford each owner the opportunity of obtaining the owner's share of the production of oil or gas from any pool;
- (e) to provide for the recording and the timely and useful dissemination of information regarding the oil and gas resources of Alberta;
- (f) to control pollution above, at or below the surface in the drilling of wells and in operations for the production of oil and gas and in other operations over which the Board has jurisdiction.

RSA 2000 cO-6 s4;2010 c14 s3

## Part 2 Financing of Board

### Funds for Board

**5(1)** In each fiscal year, funds equivalent to the estimated net expenditure of the Board in the year must be provided

- (a) to the extent of 50% from the money voted by the Legislature for that purpose and, if the vote is insufficient, from the General Revenue Fund, and
- (b) to the extent of 50% from an administration fee imposed by the Board under section 27.2 of the *Energy Resources Conservation Act*.

**(2)** The Minister shall advance to the Board the funds provided by vote and referred to in subsection (1)(a) in instalments as soon as is conveniently possible after April 1 and July 1 each year, and each instalment is to be in an amount that the Minister in consultation with the Board decides.

**(3)** Subject to subsections (1) and (2), the reference in subsection (1) and section 59 to proportions of the Board's estimated net expenditure to be received from the Government and from the imposition of an administration fee under section 27.2 of the *Energy Resources Conservation Act* is for the purpose only of determining the amounts to be so provided, and the Board is accountable for the actual money received from the Government and from the administration fee so imposed but not for the proportion which that money bears to the actual net expenditures.

**(4)** In this section and sections 6 and 59, "net expenditure" or "net expenditures" means net expenditures incurred by the Board in performance of its duties pursuant to this Act, the *Gas Resources Preservation Act*, the *Turner Valley Unit Operations Act*, the *Oil Sands Conservation Act* and the *Pipeline Act*.

RSA 2000 cO-6 s5;2006 c23 s60;2007 cA-37.2 s82(20)

### Estimate of expenditures

**6** In preparing its estimate of net expenditures for any fiscal year, the Board shall have regard to its estimate of any deficit or surplus existing at the end of each fiscal year from funds received from the Government and from the imposition of taxes or fees under section 27.2 of the *Energy Resources Conservation Act* in previous years.

RSA 2000 cO-6 s6;2007 cA-37.2 s82(20)

### Part 3 General Powers

#### General powers

**7** The Board, with the approval of the Lieutenant Governor in Council, may make any just and reasonable orders and directions the Board considers necessary to effect the purposes of this Act and that are not otherwise specifically authorized by this Act.

RSA 1980 cO-5 s7

#### Conditions of approval

**8(1)** Any order of the Lieutenant Governor in Council under this Act may be made subject to any terms or conditions that the Lieutenant Governor in Council prescribes.

**(2)** An order of the Lieutenant Governor in Council granting any approval or authorization under this Act and made before June 2, 1972 is not invalid by reason only of the fact that the order was made subject to any terms or conditions.

**(3)** If the holder of an approval contravenes or fails to comply with any term or condition contained in an order of the Lieutenant Governor in Council approving or authorizing the Board's approval,

- (a) the Board may cancel an approval granted by it under this Act or may take any other remedial measures that it considers suitable in the circumstances, or
- (b) the Lieutenant Governor in Council may amend, vary, add to or replace any terms or conditions contained in the order.

RSA 1980 cO-5 s8

### Part 4 Overriding Provisions

#### Overriding provisions

**9(1)** A provision of

- (a) this Act,
- (b) the regulations,
- (c) a declaration, order or direction of the Board pursuant to this Act or in any matter over which the Board has jurisdiction,

- (d) an order of the Alberta Utilities Commission in a matter in which its jurisdiction arises from an order under this Act,
- (e) an order of the Gas Utilities Board on any application or matter referred to it by the Energy Resources Conservation Board, or
- (f) an order of the Lieutenant Governor in Council under this Act,

overrides the terms and conditions of any contract or other arrangement conflicting with the provisions of the Act, regulations, declaration, order or direction.

(2) No terms or conditions of a contract or other arrangement that conflict with a provision referred to in subsection (1) are enforceable or give rise to any cause of action by any party against any other party to the contract or arrangement.

(3) This section does not apply to a franchise conferred by statute, or to a contract or arrangement entered into pursuant to a statute and between a municipal corporation or Metis settlement and a person supplying gas to the ultimate consumer, insofar as the franchise, contract or arrangement relates to the supply or distribution of gas within the municipality or settlement area.

RSA 2000 cO-6 s9;2007 cA-37.2 s82(20)

## Part 5 Regulations

### Regulations

**10(1)** The Board may make regulations

- (a) prescribing the information that is to be included in or is to accompany any application under this Act or the regulations;
- (b) requiring licensees and approval holders to provide to the Board deposits or other forms of security to guarantee the proper and safe suspension, abandonment and reclamation of wells and facilities and the carrying out of any other activities necessary to ensure the protection of the public and the environment, including regulations respecting the amount and form of those deposits and security and how they may be used, retained, forfeited and returned;
- (c) respecting the service of and the making of payments under a notice of garnishment under section 103;

- (d) as to the licensing, approval, transfer, location, equipping and operation of facilities;
- (e) prohibiting the drilling of a well at any point within a prescribed distance of any boundary, roadway, road allowance, right of way, building of any specified type, or any specified works either public or private;
- (f) requiring notice to the Board of intention and approval of the Board before
  - (i) the suspension of normal drilling or normal producing or injecting operations,
  - (ii) the abandonment of a well,
  - (iii) the reconditioning or recompletion of a well,
  - (iv) the removal of casing from a well,
  - (v) the resumption of drilling operations after a previous completion, suspension or abandonment of a well,
  - (vi) the resumption of producing or injecting operations at a well after a previous suspension, or
  - (vii) the commencement of the injection of gas, air, water or other substance to an underground formation in a well that has been drilled or operated for another purpose;
- (g) governing multi-zone wells, prohibiting completion of a well as a multi-zone well without the permission of the Board, and prohibiting the use of a well for the production from or injection to more than one zone without the approval of the Board;
- (h) prescribing normal drilling spacing units and providing for the establishment of other drilling spacing units;
- (i) prescribing and describing the part of a drilling spacing unit within which a well is to be completed, and providing penalties for completing the well in other parts of the drilling spacing unit;
- (j) providing for the establishment of blocks;
- (k) prescribing rules by which the base allowable of a well in a drilling spacing unit or of a block or project may be determined;

- (l) providing for the establishment of holdings and prescribing the rules to be applied within holdings;
- (m) requiring the erection of fences and the posting of signs or licences at a well or battery;
- (n) governing the removal of rigs, derricks or other equipment from a well;
- (o) respecting the drilling and completion of wells;
- (p) respecting the repair of wells;
- (q) respecting the suspension and abandonment of wells and facilities, including the circumstances under which a well or facility must be suspended or abandoned, the timing of such suspension or abandonment and the manner in which suspension and abandonment are to be carried out;
- (r) respecting suspension costs, abandonment costs and reclamation costs in respect of wells and facilities;
- (s) respecting economic limit tests and throughput rates;
- (t) exempting facilities for the purposes of section 12 and exempting facilities and equipment for the purposes of section 32;
- (u) as to the kind and specification of tools, casing, equipment and materials that may be used for drilling, and as to the construction, alteration or use of any works, fittings, machinery, plant or appliance in and for the development, production, transmission, supply, distribution, measurement, consumption or handling of any gas or oil;
- (u.1) as to the kind and specification of tools, casing, equipment and materials that may be used for drilling, and as to the construction, alteration or use of any works, fittings, machinery, plant or appliance in and for the transmission, supply, distribution, measurement or handling of substances to be stored or disposed of pursuant to a scheme approved under section 39(1);
- (v) requiring the provision of adequate well casing and the proper anchorage and cementation of well casing;
- (w) as to the measures to be adopted to confine any injected fluid or other substance to the underground formation into which it is injected;
- (x) prohibiting the drilling through oil, gas, water, coal or other minerals without taking adequate measures to

confine oil, gas or water to its original stratum and to protect that stratum or any coal seam or other mineral deposit or any workings in it from infiltration, inundation, migration or injury, and prescribing the nature and extent of those measures;

- (x.1) prohibiting the drilling through underground formations used for storage or disposal of substances without taking adequate measures to confine the injected substances to those formations;
- (x.2) respecting the measures to be taken before the commencement of drilling and during drilling to confine substances likely to be encountered in an underground formation used for storage or disposal of substances;
- (y) respecting the approval, location, equipping, operation and abandonment of experimental schemes;
- (z) prescribing the measures to be taken before the commencement of drilling and during drilling to conserve any gas, oil or water likely to be encountered;
- (aa) as to the location of wells and the methods of operation to be observed during drilling and in the subsequent management and conduct of any well for any purpose including, without restricting the generality of the foregoing,
  - (i) the protection of life, property and wildlife,
  - (ii) the prevention and extinguishment of fires, and
  - (iii) the prevention of wells blowing out of control;
- (bb) as to operations for the conditioning or reconditioning of wells by mechanical, chemical or explosive means, and as to the notices to be given of intention to so condition or recondition a well;
- (cc) as to the inspection of wells both during and after drilling;
- (dd) providing for the capping of or otherwise closing in of wells for the purpose of preventing waste;
- (ee) requiring the combustion of vented gas;
- (ff) requiring and prescribing the taking and method of taking of samples of any kind;
- (gg) requiring and prescribing any tests, analyses, surveys and logs;

- (hh) requiring the submission to the Board of samples, information obtained by tests, analyses, surveys or logs, or any other well or reservoir data;
- (ii) prescribing rules for the calculation of allowables, maximum production rates, penalty factors, penalties and overproduction status;
- (jj) respecting the prorationing of crude oil for the purposes of section 34;
- (kk) as to the records to be kept, their manner and form, the persons by whom and the place at which they are to be kept and the length of time they are to be kept, and providing for their submission to the Board;
- (ll) requiring the provision of reports and other information and respecting the persons who must provide such reports and information, the persons to whom and time at which they must be provided and their form and contents;
- (mm) as to the records, reports and information submitted to or acquired by the Board under this Act that shall be confidential, and as to when and to whom the information contained in them may be made available;
- (nn) respecting the eligibility requirements in order to become and remain a licensee, approval holder or agent or to acquire and hold an identification code;
- (oo) respecting appeals for the purposes of section 14;
- (pp) providing for official well names and a register of them;
- (qq) limiting the length of well names and prescribing what may be included in a well name;
- (rr) limiting the length of battery names and prescribing what may be included in a battery name;
- (ss) providing for the registration and use of battery names;
- (tt) prescribing methods to be used for the measurement of oil, gas or products derived from oil or gas, and water, and the standard conditions to which those measurements are to be converted;
- (uu) exempting facilities from the application of Part 11;
- (uu.1) exempting wells from the application of Part 11;
- (uu.2) exempting pipelines from the application of Part 11;

- (vv) respecting appeals referred to in section 76;
  - (ww) respecting applications to the Board for payment of money out of the orphan fund for the purposes referred to in section 70(1) and respecting the payment of money by the Board for those purposes;
  - (xx) respecting the definition of “resident” for the purposes of section 91;
  - (xx.1) respecting the exemption of licensees or approval holders or classes of licensees or approval holders from the application of some or all of the requirements in section 91, subject to any terms and conditions provided for in the regulations, including the substitution of any other requirements;
  - (yy) establishing a schedule of fees
    - (i) pertaining to any application or any proceeding under this Act or the regulations,
    - (ii) for any map, report, document or other record of the Board, and
    - (iii) for any other service provided by the Board;
  - (yy.1) exempting wells that are included within an in situ coal scheme from the application of specified provisions of the regulations;
  - (zz) prescribing forms to be used under this Act or the regulations;
  - (aaa) generally to conserve oil and gas, and to prevent waste or improvident disposition of oil or gas, and to do any other matter reasonably incidental to the development and drilling of any oil or gas wells, the operation of them and the production from them;
  - (bbb) respecting compliance with and enforcement of ALSA regional plans.
- (2) The Board, with the approval of the Minister of Environment, may make regulations
- (a) restricting drilling and producing operations in water covered areas, and prescribing any special measures to be taken in those operations;
  - (b) as to the location of wells and facilities and the methods of operation to be observed during drilling and

construction and in the subsequent management and conduct of any operations for the prevention of pollution;

- (c) prescribing the measures to be taken to control pollution above, at or below the surface in the drilling of wells and in operations for the production of oil and gas and in other operations over which the Board has jurisdiction.

(3) If a regulation made pursuant to subsection (1) or (2) authorizes the Board to approve any operation, the Board may prescribe conditions under which it grants approval in any case.

(4) If a regulation under subsection (1)(a) has prescribed the information to be included in or to accompany an application pursuant to a given provision of the Act or the regulations, the Board 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.

(5) When no form has been prescribed pursuant to subsection (1)(dd) for use under a provision of this Act or the regulations, the Board may prescribe or accept any form it considers suitable.

(6) A regulation made pursuant to subsection (1)(mm) respecting confidentiality of records, reports or information submitted to or acquired by the Board under this Act prevails despite the *Freedom of Information and Protection of Privacy Act*.

RSA 2000 cO-6 s10;2002 c12 s5;2008 c7 s5;2009 cA-26.8 s85;  
2009 c20 s7;2010 c14 s3;2011 c11 s5

## Part 6 Licences and Approvals

### Requirement for licence

**11(1)** No person shall commence to drill a well or undertake any operations preparatory or incidental to the drilling of a well or continue any drilling operations, any producing operations or any injecting operations unless

- (a) a licence has been issued and is in full force and effect, and
- (b) the person is the licensee.

(2) Notwithstanding subsection (1),

- (a) the site for a well may be surveyed, or

- (b) on the direction or with the consent of the Board, operations to suspend or abandon a well may be undertaken,

without a licence or by a person other than the licensee.

**(3)** No well shall be drilled elsewhere than at the exact location specified in the licence or, if the licence has been amended with respect to the location of the well, at the exact location specified in the amendment.

RSA 1980 cO-5 s11;1994 c26 s4

#### **Licence or approval for facility**

**12(1)** No person shall commence to construct or to operate a facility or undertake any operations preparatory or incidental to the construction or operation of a facility or continue any construction or operation of a facility unless

- (a) a licence or approval has been granted and is in full force and effect and the person is the licensee or approval holder, or
- (b) the facility is exempt from the requirement of a licence or approval by regulation or by direction of the Board.

**(2)** Notwithstanding subsection (1),

- (a) the site for a facility may be surveyed, or
- (b) on the direction or with the consent of the Board, operations to suspend or abandon a facility may be undertaken,

without a licence or approval or by a person other than the licensee or approval holder.

2000 c12 s1(7)

#### **Transitional**

**13** Where, by virtue of the operation of section 12, on June 30, 2000 a licence is required in respect of an existing unlicensed facility, the Board shall

- (a) designate a working interest participant who meets the requirements of this Act for a licensee as the person to whom a licence will be granted, and

- (b) subject to section 14, grant a licence to that person, and for that purpose this Act applies in respect of the granting of the licence as if the working interest participant had applied for a licence.

2000 c12 s1(7)

**Appeal**

**14** A working interest participant who is designated under section 13 may appeal to the Board in accordance with the regulations.

2000 c12 s1(7)

**Application for licence**

**15(1)** An application for a licence shall be submitted to the Board on the form prescribed by and obtainable from the Board.

**(2)** An application under subsection (1) shall be accompanied with the prescribed fee, if any.

**(3)** No person shall apply for a licence for a well for the purpose of obtaining production from the same pool as that from which another well is obtaining or capable of obtaining production in the same drilling spacing unit unless the Board, if it believes special circumstances warrant it, authorizes the making of the application or unless the wells are required for the operation of an experimental scheme that has been approved by the Board.

RSA 1980 cO-5 s12

**Entitlement for well licence**

**16(1)** No person shall apply for or hold a licence for a well

- (a) for the recovery of oil, gas or crude bitumen, or
- (b) for any other authorized purpose

unless that person is a working interest participant and is entitled to the right to produce the oil, gas or crude bitumen from the well or to the right to drill or operate the well for the other authorized purpose, as the case may be.

**(2)** If, after 30 days from the mailing of a notice by the Board to a licensee at the licensee's last known address, the licensee fails to prove entitlement under subsection (1) to the satisfaction of the Board, the Board may cancel the licence or suspend the licence on any terms and conditions that it may specify.

**(3)** Where a licence is cancelled or suspended pursuant to subsection (2),

- (a) all rights conveyed by the licence are similarly cancelled or suspended, and
- (b) notwithstanding the cancellation or suspension of the licence, the liability of the licensee to complete or abandon the well and reclaim the well site or suspend operations as the Board directs continues after the cancellation or suspension.

RSA 1980 cO-5 s13;2000 c12 s1(8)

**Entitlement for facility licence**

**17(1)** No person shall apply for or hold a licence for a facility unless that person is a working interest participant.

**(2)** If, after 30 days from the mailing of a notice by the Board to a licensee at the licensee's last known address, the licensee fails to prove to the satisfaction of the Board that it is a working interest participant in the facility, the Board may cancel or suspend the licence on any terms and conditions that it may specify.

**(3)** Where a licence is suspended or cancelled pursuant to subsection (2),

- (a) all rights conveyed by the licence are similarly cancelled or suspended, and
- (b) notwithstanding the cancellation or suspension of the licence, the liability of the licensee to abandon the facility and reclaim the facility site or suspend operations as the Board directs continues after the cancellation or suspension.

2000 c12 s1(8)

**Granting of licence**

**18(1)** On receiving an application for a licence, the Board may grant the licence subject to any conditions, restrictions and stipulations that may be set out in or attached to the licence or it may refuse the licence.

**(2)** When the Board has refused a licence, the Lieutenant Governor in Council, in the Lieutenant Governor in Council's discretion, may review the application and may direct the Board to issue the licence.

**(3)** The Board shall keep a record of licences granted.

RSA 1980 cO-5 s14

**Location of road in licence**

**19(1)** The Board may, where a licensee requires a road to give the licensee access to the licensee's well site, prescribe in a licence the location of the road and conditions relating to its construction.

**(2)** If an application is made under the *Surface Rights Act* or the *Metis Settlements Act* for a right of entry order in respect of land necessary for a road the location of which has been prescribed under subsection (1), the Surface Rights Board, Land Access Panel or Existing Leases Land Access Panel shall, if it grants a right of entry order for that road, grant a right of entry to land in the same location as the location prescribed under subsection (1).

**(3)** The Board shall not, pursuant to subsection (1), prescribe the location of a road on lands under the administration of the Minister responsible for the *Public Lands Act*, or conditions relating to its construction, unless it obtains the prior approval of the Minister responsible for the *Public Lands Act*, which may be given with or without conditions.

**(4)** The Minister responsible for the *Public Lands Act* may authorize a member of the public service under that Minister's administration to exercise the powers conferred on that Minister under this section.

1982 c27 s4;1986 cD-20.5 s14;1990 cM-14.3 s278;  
1994 cG-8.5 ss51,95

**Additional requirements of licensee**

**20** No person shall acquire or hold a licence or approval unless the person meets the eligibility requirements set out in the regulations and, in the case of a corporation, is

- (a) registered, with an active status, under the *Business Corporations Act*,
- (b) incorporated by or under an Act of the Legislature, other than the *Business Corporations Act*, and approved by the Board as a corporation that may acquire or hold a licence,
- (c) incorporated under the *Bank Act* (Canada),
- (d) a railway company incorporated under an Act of the Parliament of Canada,
- (e) registered under the *Loan and Trust Corporations Act*, or
- (f) an insurer licensed under the *Insurance Act*.

RSA 2000 cO-6 s20;RSA 2000 cI-3 s867

**Identification codes**

**21(1)** No person shall apply for a licence or approval unless the person holds a subsisting identification code issued under this section.

**(2)** An application for an identification code must

- (a) be made in the form and manner and contain the information required under the regulations, and
- (b) be accompanied with the fee prescribed in the regulations.

**(3)** Where the Board is satisfied that the applicant meets the eligibility requirements of the regulations for holding an identification code, the Board may issue the identification code.

**(4)** The Board may issue an identification code subject to any terms and conditions it considers appropriate.

**(5)** The Board shall keep a record of identification codes issued under this section.

**(6)** Operator's identification codes that were issued by the Board before June 30, 2000 are deemed to be identification codes issued under this section, and the existing terms and conditions continue to apply.

2000 c12 s1(10)

**Terms and conditions**

**22** The Board may impose any terms and conditions it considers appropriate on the holder of an identification code, licence or approval or on the identification code, licence or approval if

- (a) the Board has reasonable grounds to believe that
  - (i) there has been a contravention of any Act or regulation under the jurisdiction of the Board or a direction or order of the Board in respect of the operations of the holder, or
  - (ii) the holder ceases to meet the eligibility requirements under this Act and the regulations for holding the identification code, licence or approval,

or

- (b) the holder is named in a declaration under section 106.

2000 c12 s1(10)

**Reworking wells and facilities**

**23(1)** When the records of the Board indicate that a well or facility is suspended or abandoned, no person other than

- (a) the approval holder or licensee, or
- (b) a person acting under a direction or with the consent of the Board,

shall undertake operations with respect to that well or facility until that person applies for and obtains a licence or approval.

**(2)** The provisions of this Act and the regulations regarding an application for a licence or approval apply to an application under subsection (1) unless the Board otherwise directs.

**(3)** On the granting of a licence or approval on an application under subsection (1), the holder of the former licence or approval for the well or facility is relieved from all obligations under this Act with respect to the well or facility except as to outstanding debts to the Board or to the account of the orphan fund in respect of suspension or abandonment costs.

RSA 1980 cO-5 s17;1994 c26 s5;2000 c12 s1(11)

**Captured carbon dioxide wells, facilities and schemes**

**23.1** Where the Board receives notice under Part 9 of the *Mines and Minerals Act* that the Crown has assumed the obligations of an owner and licensee with respect to a well or facility or the obligations of an approval holder with respect to a scheme,

- (a) the Board shall amend the licence or approval to reflect that the Crown is the holder of the licence for that well or facility or the approval holder for that scheme, and
- (b) the former holder of the licence for the well or facility or approval for the scheme is relieved from all obligations under this Act with respect to the well or facility or scheme, as the case may be, except as to outstanding debts to the Board.

2010 c14 s3

**Transfer of licence**

**24(1)** A licence shall not be transferred without the consent in writing of the Board.

**(2)** The Board may consent to the transfer of a licence subject to any conditions, restrictions and stipulations that the Board may prescribe, or the Board may refuse to consent to the transfer of a licence.

- (3) The transfer shall be in the form prescribed and shall have endorsed on or attached to it proof of execution satisfactory to the Board.
- (4) The applicant shall submit the transfer to the Board together with the prescribed fee.
- (5) The Board shall keep a record of every transfer to which it has given consent.
- (6) The Board may direct that a licence be transferred to a person who agrees to accept it and who, in the opinion of the Board, has the right to receive it, and the direction of the Board has the same effect as a transfer consented to under this section.
- (7) A transfer of a licence has no effect until the Board has consented to, or directed, a transfer of the licence under this section.

RSA 1980 cO-5 s18;1994 c26 s6;2000 c12 s1(12)

### **Cancellation and suspension**

**25** The Board may

- (a) cancel a licence or approval or suspend a licence or approval for a definite or indefinite period if the Board determines that a contravention of this Act, the regulations or an order or direction of the Board has occurred with respect to the well or facility to which the licence or approval relates,
- (b) cancel a licence for a well if drilling has not commenced within 6 months after the licence was granted,
- (c) cancel a licence or approval for a facility if construction has not commenced within one year after the licence or approval was granted,
- (d) cancel a licence or approval at the request of the licensee or approval holder, and
- (e) issue a new licence or approval in place of a cancelled licence or approval.

RSA 1980 cO-5 s19;1994 c26 s7;2000 c12 s1(13)

### **Amendment of licence or approval**

**26(1)** An application to amend a licence or approval must be submitted to the Board.

(2) The Board, in its discretion, may

- (a) amend the licence or approval in accordance with the application,
- (b) after notifying the licensee or approval holder of its intention to do so, amend the licence or approval otherwise as it considers fit, or
- (c) refuse the application.

RSA 1980 cO-5 s20;2000 c12 s1(13)

**Security deposit**

**26.1** Where, on the written request of a licensee of a large facility or one or more working interest participants who have a 50% or greater share in a large facility, the Board requires the licensee to provide a security deposit in respect of the large facility, each working interest participant in the large facility is responsible for paying its share of the security deposit to the licensee in proportion to its share in the facility.

2009 c20 s7

**Suspension and abandonment**

**27(1)** Subject to subsection (2), a licensee or approval holder shall suspend or abandon a well or facility when directed by the Board or required by the regulations.

**(2)** Notwithstanding subsection (1),

- (a) if the Board so directs, a well or facility must be suspended or abandoned by a working interest participant other than the licensee or approval holder, and
- (b) with the consent of the Board, a well or facility may be suspended by a working interest participant other than the licensee or approval holder.

**(3)** The Board may order that a well or facility be suspended or abandoned where the Board considers that it is necessary to do so in order to protect the public or the environment.

**(4)** A suspension or abandonment must be carried out in accordance with the regulations.

1994 c26 s8;2000 c12 s1(15)

**Suspension, abandonment by Board**

**28** If, in the opinion of the Board, a well or facility is not suspended or abandoned in accordance with a direction of the Board or the regulations, the Board may

- (a) authorize any person to suspend or abandon the well or facility, or
- (b) suspend or abandon the well or facility on the Board's own motion.

2000 c12 s1(15)

**Continuing liability**

**29** Abandonment of a well or facility does not relieve the licensee, approval holder or working interest participant from responsibility for the control or further abandonment of the well or facility or from the responsibility for the costs of doing that work.

2000 c12 s1(15)

**Suspension, abandonment and reclamation costs**

**30(1)** Subject to subsection (2), the well or facility suspension costs, abandonment costs and reclamation costs must be paid by the working interest participants in accordance with their proportionate share in the well or facility.

**(2)** The Board may determine the suspension costs, abandonment costs and reclamation costs

- (a) on the application of the person who conducted the suspension, abandonment or reclamation, in the case of a well or facility that was suspended, abandoned or reclaimed by a licensee, approval holder, working interest participant or agent, or
- (b) on the Board's own motion, in the case of a well or facility suspended or abandoned by the Board or by a person authorized by the Board,

and the Board shall allocate those costs to each working interest participant in accordance with its proportionate share in the well or facility and shall prescribe a time for payment.

**(3)** A working interest participant that fails to pay its share of costs as determined under subsection (2) within the period of time prescribed by the Board must pay, unless the Board directs otherwise, a penalty equal to 25% of its share of the costs.

**(4)** Where a well or facility is suspended, abandoned or reclaimed by a licensee, approval holder, working interest participant or agent, the costs as determined under subsection (2), together with any penalty prescribed by the Board under subsection (3), constitute a debt payable to the licensee, approval holder, working interest participant or agent who carried out the suspension, abandonment or reclamation.

(5) Where a well or facility is suspended or abandoned by the Board or by a person authorized by the Board, the costs as determined under subsection (2), together with any penalty prescribed by the Board under subsection (3), constitute a debt payable to the Board.

(6) A certified copy of the order of the Board determining the costs and penalty under this section and the allocation of those costs to each working interest participant in the well or facility may be filed in the office of the clerk of the Court of Queen's Bench and, on being filed and on 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.

1994 c26 s8;2000 c12 s1(15)

#### **Deemed working interest participant**

**31(1)** Where

- (a) a transaction occurs that results in a person no longer being a working interest participant in a well or facility,
- (b) the successor working interest participant is a person other than the licensee of the well or facility, and
- (c) the successor working interest participant fails to pay its proportionate share of the suspension, abandonment or reclamation costs,

the Board may deem the person referred to in clause (a) to continue to be a working interest participant for the purposes of sections 27 to 30 and Part 11 if subsection (2) applies.

(2) The Board may deem as provided in subsection (1) if

- (a) in the case of a well, the transaction occurred after the well ceased to meet the economic limit test set out in the regulations, or
- (b) in the case of a facility, the transaction occurred after the facility ceased operation or after the facility has throughput that is less than the rate prescribed in the regulations as sufficient to warrant deeming the facility to be active.

1994 c26 s8;2000 c12 s1(15)

#### **Deemed licensee**

**31.1** Where

- (a) the licensee of a large facility (referred to in this section as the “transferor”) transfers the licence to another person (referred to in this section as the “transferee”) in accordance with section 24,
  - (b) within 24 months of the transfer
    - (i) the transferee has become bankrupt or insolvent, or
    - (ii) in the case of a transferee that is a corporation,
      - (A) the transferee’s status is inactive, or the transferee is dissolved, under the Business Corporations Act, or
      - (B) the corporate registry status of the transferee is struck or rendered liable to be struck under the legislation governing the transferee,
- and
- (c) the Board determines that the transfer has resulted in suspension, abandonment and reclamation costs being transferred without a corresponding value in assets being transferred,

the Board may deem the transferor to be the licensee of the large facility.

2009 c20 s7

#### **Extended obligation**

**32** Where a provision of this Act or the regulations imposes a responsibility, obligation or liability on a licensee, approval holder or working interest participant in respect of the operation, suspension or abandonment of a well or facility or in respect of any matter arising out of the operation, suspension or abandonment of a well or facility, the responsibility, obligation or liability extends also to associated equipment and non-licensed facilities that are located on the site or used in connection with the operation, suspension or abandonment of the well or facility, unless such equipment or facilities are exempted from the application of the provision by the regulations.

2000 c12 s1(15)

## Part 7 Production

### Designation of Fields, etc.

#### Regulation of production

**33(1)** The Board may, by order,

- (a) designate a field by describing the surface area of the field;
- (b) designate a pool by describing the surface area vertically above the pool and by naming the geological formation, member or zone in which the pool occurs or by some other method of identification that the Board in any case considers suitable;
- (c) designate the area that is to be allocated to a well in connection with fixing allowable production;
- (d) designate any stratum or sequence of strata as a zone, either generally or in respect of any designated area or any specified well or wells.

**(2)** If a dispute arises in the application of a pool or zone designation made by the Board, the dispute shall be referred to the Board and its decision on it is final.

RSA 1980 cO-5 s21;1983 cO-5.5 s30

### Prorating of Oil

#### Prorating of oil

**34(1)** The Board may, by order, restrict the amount of oil and gas produced in association with the oil that may be produced from a pool or pools in Alberta

- (a) by determining the market demand for a stream or streams of crude oil within a pipeline or pipelines, and
- (b) by allocating that market demand in a reasonable manner among the wells or group of wells supplying the pipeline or pipelines for the purpose of giving each well owner the opportunity of producing or receiving a just and equitable share of the crude oil in the pool or pools.

**(2)** This section does not apply in respect of condensate, pentanes plus, crude bitumen or synthetic crude oil.

RSA 1980 cO-5 s22;1983 cO-5.5 s30;1988 c37 s5;1991 c26 s5

### Ethane Supply for Straddle Plants

**35** Repealed RSA 2000 cO-6 s35.

### Rateable Take of Gas

#### Rateable take

**36(1)** The Board may, by order, restrict

- (a) the amount of gas, or
- (b) where gas is produced in association with oil, the amount of gas and oil,

that may be produced during a period defined in the order from a pool in Alberta.

**(2)** The restriction referred to in subsection (1) may be imposed by either or both of the following means:

- (a) by limiting, if the limitation appears to be necessary, the total amount of gas that may be produced from the pool or part of the pool, having regard to the demand for gas from the pool or to the efficient use of gas for the production of oil, or to both of those considerations;
- (b) by distributing the amount of gas that may be produced from the pool or part of the pool in an equitable manner among the wells or groups of wells in the pool for the purpose of giving each well owner the opportunity of receiving the well owner's share of gas in the pool.

RSA 1980 cO-5 s23;1988 c37 s6

### Conservation Projects

#### Disposal of water

**37** The Board may, by order,

- (a) control and regulate the production of oil, gas and water by restriction, proration or prohibition, or
- (b) require the disposal into an underground formation or otherwise, in accordance with any terms and conditions that the Board may prescribe, of any water produced.

RSA 1980 cO-5 s24

**Prevention of waste**

**38** In order to prevent waste, the Board, with the approval of the Lieutenant Governor in Council, may

- (a) require enhanced recovery operations in any pool or portion of a pool, and for or incidental to that purpose require the introduction or injection into the pool or portion of a pool of gas, air, water or other substance or a form of energy, and
- (b) require that any gas, on its production, be gathered, processed if necessary, and the gas or products from it marketed or injected into an underground reservoir for storage or for any other purpose.

RSA 1980 cO-5 s25

**Approval of scheme**

**39(1)** No scheme for

- (a) enhanced recovery in any field or pool,
- (b) the processing or underground storage of gas,
- (c) the gathering, storage and disposal of water produced in conjunction with oil or gas,
- (d) the storage or disposal of any fluid or other substance to an underground formation through a well,
- (e) an experiment in any field, pool or well,
- (f) the concurrent production of an oil accumulation and its associated gas cap, or
- (g) the storage, treatment, processing or disposal of oil field waste

may be proceeded with unless the Board, by order, has approved the scheme on any terms and conditions that the Board prescribes.

**(1.1)** The Board may not approve a scheme for the disposal of captured carbon dioxide to an underground formation under subsection (1)(d) that is pursuant to an agreement under Part 9 of the *Mines and Minerals Act* unless the lessee of that agreement satisfies the Board that the injection of the captured carbon dioxide will not interfere with

- (a) the recovery or conservation of oil or gas, or

(b) an existing use of the underground formation for the storage of oil or gas.

(2) Prior to the Board approving a scheme under subsection (1)(d), it shall refer the application to the Minister of Environment for that Minister's approval with respect to the application as it affects matters of the environment.

(3) The Minister of Environment may give approval with or without conditions, but when conditions are imposed, the Board shall, if it approves the scheme, make its order subject to the same conditions imposed by the Minister of Environment when that Minister gave approval.

(4) Notwithstanding subsection (2), the Minister of Environment may direct that

(a) an application, or

(b) a type of application

for any approval of a scheme or an amendment of an approval specified by that Minister be not referred to that Minister.

(5) The Minister of Environment may authorize an employee of that Minister's Department to exercise the powers conferred on that Minister by this section.

(6) Notwithstanding subsection (3), the Board is not required to impose the conditions specified by the Minister of Environment when the Lieutenant Governor in Council directs that the conditions are not to be imposed.

RSA 2000 cO-6 s39;2010 c14 s3

#### **Prohibition against injunction**

**40** The performance of any act required to be done under section 38 or of any scheme approved under section 39 shall not be prevented or restrained by an injunction, judgment or order of any court.

RSA 1980 cO-5 s27

#### **Escape of oil, gas, water or substance**

**41(1)** If at any time the flow or escape of oil, gas, water or any other substance from a facility, or from a well or any underground formation that the well enters, is not prevented or controlled, the Board may take any means that appear to it to be necessary or expedient in the public interest to prevent or control the flow or escape.

(2) Any action taken by the Board pursuant to subsection (1) is governed by section 105(2) to (6) insofar as those provisions are applicable.

RSA 2000 cO-6 s41;2010 c14 s3

## Production and Use of Gas

### Gas wells

**42** No well may be produced as a gas well from a pool that, in the opinion of the Board, is or could be commercially productive of oil except in accordance with a scheme for concurrent production of the pool approved under section 39, or in some other manner approved by the Board as not detrimental to the recovery of hydrocarbons from the pool.

RSA 1980 cO-5 s29;1983 cO-5.5 s30

**43** Repealed 2011 c11 s5.

## Part 8 Shut-down and Closure

### Shut-down and closure

**44** Where the Board or its authorized representative determines that a licensee, approval holder, contractor or operator of a well or facility has contravened or failed to comply with this Act, the regulations or an order of the Board, or that a method or practice employed at a well or facility or any equipment or installation at a well or facility is improper, hazardous, inadequate or defective,

- (a) the Board or its authorized representative may order the well or facility to be shut down or closed,
- (b) the Board or its authorized representative may require that approved methods be adopted and that remedial measures be taken before any operation proceeds at the well or facility, or
- (c) the Board may hold an inquiry into the matter.

RSA 1980 cO-8 s33;2000 c12 s1(18)

### Request for inquiry

**45(1)** Where the Board orders that a well or facility be shut down or closed under section 44(a), the licensee or approval holder may by notice in writing to the Board request an inquiry into the matter.

(2) Where the Board receives a request for an inquiry, it shall, within 15 days after receiving the request, hold an inquiry into the matter.

(3) Unless the Board directs otherwise, a well or facility that has been ordered to be shut down or closed under section 44(a) must remain shut down or closed pending the result of the inquiry.

RSA 1980 cO-8 s34;2000 c12 s1(18)

#### **Powers of Board**

**46** Where the Board holds an inquiry pursuant to section 44(c) or 45 it may

- (a) in a case to which section 44(c) applies, make an order under section 44(a) or (b), or
- (b) in a case referred to in section 45, withdraw the order made under section 44(a) or extend it on any terms and conditions the Board considers appropriate.

RSA 1980 cO-8 s35;2000 c12 s1(18)

#### **Prohibition**

**47** Except as otherwise authorized by the Board, when any well or facility is shut down or closed under section 44 or 46, no person may

- (a) enter on, or carry on any operations at, or
- (b) remove any equipment, installation or material situated on,

the well or facility site until the order has been rescinded.

2000 c12 s1(18)

## **Part 9 Common Carriers, Purchasers and Processors**

### **Common Carrier**

#### **Common carrier**

**48(1)** On application the Board may from time to time declare each proprietor of a pipeline in any designated part of Alberta or the proprietor of any designated pipeline to be a common carrier as and from a date fixed by the order for that purpose, and on the making of the approved declaration the proprietor is a common carrier of oil, gas or synthetic crude oil or any 2 or all of them in accordance with the declaration.

(2) No proprietor of a pipeline who is a common carrier shall directly or indirectly make or cause to be made or suffer or allow to be made any discrimination of any kind as between any of the

persons for whom any oil, gas or synthetic crude oil is gathered, transported, handled or delivered by means of the pipeline.

(3) No common carrier shall discriminate in favour of the common carrier's own oil, gas or synthetic crude oil or oil, gas or synthetic crude oil in which the common carrier is directly or indirectly interested either in whole or in part.

(4) On application the Board, in order to give effect to a declaration under subsection (1), may direct

- (a) the point at which the common carrier shall take delivery of any production to be gathered, transported, handled or delivered by means of the pipeline, or
- (b) the proportion of production to be taken by the common carrier from each producer or owner offering production to be gathered, transported, handled or delivered by means of the pipeline.

RSA 2000 cO-6 s48;2009 c20 s7

#### **Relief to common carrier**

**49** The Board, by order, may relieve any common carrier from the duty of carrying any oil, gas or synthetic crude oil of inferior or different quality or composition or from any other duties that in its opinion are unreasonable.

RSA 1980 cO-5 s38;1988 c37 s8

### **Common Purchaser**

#### **Common purchaser of oil**

**50(1)** On application the Board may declare any person who purchases, produces or otherwise acquires oil produced from any pool in Alberta to be a common purchaser of oil from the pool or pools designated by the Board and from which oil is being taken when that person is declared to be a common purchaser.

(2) Each common purchaser of oil shall purchase oil offered for sale to the common purchaser without discrimination in favour of one producer or owner as against another in the same pool.

(3) Each common purchaser of oil shall purchase without discrimination between the pools in Alberta designated in the declaration.

(4) No common purchaser of oil shall discriminate in favour of the common purchaser's own production or production in which the common purchaser is directly or indirectly interested either in whole or in part.

RSA 2000 cO-6 s50;2009 c20 s7

#### **Common purchaser of gas**

**51(1)** On application the Board may declare any person who purchases, produces or otherwise acquires gas produced from a pool from which gas is being taken to be a common purchaser of gas from the pool.

(2) Each common purchaser of gas shall purchase gas offered for sale to the common purchaser without discrimination in favour of one producer or owner as against another in the pool.

(3) No common purchaser of gas shall discriminate in favour of the common purchaser's own production or production in which the common purchaser is directly or indirectly interested either in whole or in part.

(4) On application the Board, in order to give effect to a declaration under subsection (1), may direct

- (a) the point at which the common purchaser shall take delivery of any gas offered for sale to it, or
- (b) the proportion of the common purchaser's acquisitions of gas from the pool that it shall purchase from each producer or owner offering gas for sale.

(5) A direction by the Board under subsection (4) does not operate to require a common purchaser

- (a) to purchase a greater total amount of gas from the pool than the common purchaser was obligated to purchase from the pool under the gas purchase contracts existing immediately before the making of the declaration under subsection (1), or
- (b) to purchase gas from the pool at a greater rate than the rate at which the common purchaser was obligated to purchase gas from the pool under the gas purchase contracts existing immediately before the making of the declaration under subsection (1).

RSA 2000 cO-6 s51;2009 c20 s7

**Relief to common purchaser**

**52** The Board, by order, may relieve any common purchaser from the duty of purchasing oil or gas of inferior or different quality or composition or from any other duties that in its opinion are unreasonable.

RSA 1980 cO-5 s41;1988 c37 s8

**Common Processor****Common processor**

**53(1)** On application the Board may declare any person who is the owner or operator of a processing plant processing gas produced from a pool or pools in Alberta to be a common processor of gas from the pool or pools.

**(2)** Subsection (1) does not apply to a person declared to be a common purchaser under section 51 or when an operator has entered into a contract approved under section 12 of the *Gas Utilities Act*.

**(3)** Each common processor shall process gas that may be made available for processing in the common processor's plant without discrimination in favour of one producer or owner of gas as against another in the pool or pools.

**(4)** No common processor shall discriminate in favour of the common processor's own gas or gas in which the common processor is directly or indirectly interested either in whole or in part.

**(5)** On application the Board, in order to give effect to a declaration under subsection (1), may direct

- (a) the proportion of production to be processed by the common processor from each producer or owner in the pool or pools, or
- (b) the total amount of gas to be processed by the common processor from the pool or pools subject to the common processor declaration.

RSA 2000 cO-6 s53;2009 c20 s7

**Relief to common processor**

**54** The Board, by order, may relieve any common processor from the duty of processing any gas of inferior or different quality or composition or from any other duties that in its opinion are unreasonable.

RSA 1980 cO-5 s43;1988 c37 s8

## Alberta Utilities Commission

### Powers of Alberta Utilities Commission

**55(1)** If the Board has declared the proprietor of a pipeline to be a common carrier and agreement cannot be reached between the proprietor and a person desiring to have the person's oil or synthetic crude oil carried in the pipeline as to the tariff to be charged for the carriage, either party may, pursuant to the *Public Utilities Act*, apply to the Alberta Utilities Commission.

**(2)** If the Board has declared a purchaser or processor of gas to be a common purchaser or a common processor and agreement cannot be reached between the common purchaser and a person desiring to sell the person's gas or have it processed, as the case may be, as to the price to be paid for the gas or the costs, charges or deductions for the processing of the gas, either party may, pursuant to the *Gas Utilities Act*, apply to the Alberta Utilities Commission.

**(3)** If the Board has declared the proprietor of a pipeline to be a common carrier and agreement cannot be reached between the proprietor and a person desiring to have the person's gas carried in the pipeline as to the tariff to be charged for the carriage, either party may apply to the Alberta Utilities Commission to fix the tariff.

RSA 2000 cO-6 s55;2007 cA-37.2 s82(20)

## Operation

### Effective date of order

**56** The Board may, in a declaration or order under this Part, order that all or any part of the declaration or order be effective as of a date specified in the declaration or order, and a date so specified may be previous to the date the declaration or order is made but may not be previous to the date on which the application for the declaration or order was made to the Board.

RSA 1980 cO-5 s45

## Part 10 Borrowing, Guarantees and Advances

**57 to 64** Repealed 2007 cA-37.2 s82(20).

### Power to borrow

**65** The Board may borrow from time to time on the security of the administration fees for the time being uncollected any sums that

are required for the defrayal of the current expenditures of the Board.

1982 c27 s6

#### **Guarantee and advances**

**66** The Lieutenant Governor in Council may authorize and empower the Minister of Finance to do either or both of the following:

- (a) to guarantee on behalf of the Government the due payment of any money borrowed pursuant to section 65, together with the interest on the money borrowed, on any terms and conditions that may be prescribed by the Lieutenant Governor in Council;
- (b) to advance to the Board from time to time out of the General Revenue Fund any sums that are considered advisable, on any security, at a rate of interest and on terms and conditions that may be prescribed by the Lieutenant Governor in Council.

RSA 2000 cO-6 s66;2006 c23 s60

**67** Repealed 2007 cA-37.2 s82(20).

## **Part 11 Orphan Fund**

#### **Definitions**

**68** In this Part,

- (a) “abandonment”, as it relates to a pipeline, includes abandonment as defined in the *Pipeline Act*;
- (b) “abandonment costs”, as it relates to a pipeline, includes abandonment costs as defined in the *Pipeline Act*;
- (b.1) “defaulting licensee” means a licensee of a large facility who has been deemed to be a defaulting licensee under section 70(2)(b.1);
- (c) “defaulting working interest participant” means a working interest participant who has been deemed to be a defaulting working interest participant under section 70(2)(b);

- (d) “facility” has the same meaning as it has in section 1(1)(w) except that it includes a pipeline as defined in the *Pipeline Act* and does not include the following:
- (i) - (iv) repealed 2009 c20 s7;
  - (v) a refinery as defined in the *Pipeline Act*;
  - (vi) an oil transmission pipeline and associated storage, pumping and measurement facilities;
  - (vii) a gas transmission pipeline and associated compression and measurement facilities;
  - (vii.1) a pipe used to convey water used in connection with a coal processing plant or other matter authorized under the *Coal Conservation Act*;
  - (vii.2) a pipe used to convey water used in connection with a mine site or processing plant authorized under the *Oil Sands Conservation Act*;
  - (vii.3) any facility used in connection with or associated with the disposal of captured carbon dioxide pursuant to an agreement under Part 9 of the *Mines and Minerals Act*;
  - (viii) any facility listed in the regulations as specifically exempted from this Part;
  - (ix) any pipeline listed in the regulations as specifically exempted from this Part;
- (e) “facility site” does not include any part of a facility site that has been designated as a contaminated site under section 125 of the *Environmental Protection and Enhancement Act*;
- (f) “suspension”, as it relates to a pipeline, includes discontinuation as defined in the *Pipeline Act*;
- (g) “suspension costs”, as it relates to a pipeline, includes discontinuation costs as defined in the *Pipeline Act*;
- (g.1) “well” has the same meaning as it has in section 1(1)(eee) except that it does not include a well completed or being drilled for injection of captured carbon dioxide into an underground formation in accordance with an agreement under Part 9 of the *Mines and Minerals Act* or any well listed in the regulations as specifically exempted from this Part;

- (h) “well site” does not include any part of a well site that has been designated as a contaminated site under section 125 of the *Environmental Protection and Enhancement Act*.

RSA 2000 cO-6 s68;2009 c20 s7;2010 c14 s3

#### **Fund continued**

**69(1)** The abandonment fund is hereby continued as the orphan fund.

**(2)** The orphan fund is to be retained and administered by the Board in accordance with this Part.

2000 c12 s1(19)

#### **Purpose of fund**

**70(1)** The purposes of the orphan fund are

- (a) to pay for suspension costs, abandonment costs and related reclamation costs in respect of orphan wells, facilities, facility sites and well sites where the work is carried out
  - (i) by the Board,
  - (ii) by a person authorized by the Board, or
  - (iii) by a Director or a person authorized by a Director in accordance with the *Environmental Protection and Enhancement Act*;
- (b) to pay for costs incurred in pursuing reimbursement for the costs referred to in clause (a) from the person responsible for paying them;
- (c) except in respect of a large facility, to pay for a defaulting working interest participant’s share of suspension costs, abandonment costs and related reclamation costs incurred by a working interest participant if the person who carried out the work has taken all reasonable steps necessary to collect that share and has been unable to do so;
- (c.1) in respect of a large facility, to pay for a defaulting licensee’s share of suspension costs, abandonment costs and related reclamation costs incurred by a working interest participant or a person referred to in clause (a) and a defaulting licensee’s proportionate share of any subsequently defaulting working interest participant’s share of suspension costs, abandonment costs and related reclamation costs;

- (d) to pay for any other costs directly related to the operations of the Board in respect of the orphan fund.

**(2) The Board may**

- (a) designate wells, facilities, facility sites and well sites to be orphan wells, facilities, facility sites or well sites for the purposes of this Part;
- (b) deem to be a defaulting working interest participant a working interest participant who
  - (i) has an obligation under this Act to contribute toward suspension costs, abandonment costs or related reclamation costs,
  - (ii) has not contributed to those costs as required by this Act, and
  - (iii) in the opinion of the Board, does not exist, cannot be located or does not have the financial means to contribute to those costs as required by this Act;
- (b.1) deem to be a defaulting licensee a licensee of a large facility who
  - (i) has an obligation under this Act to contribute toward suspension costs, abandonment costs or related reclamation costs,
  - (ii) has not contributed to those costs as required by this Act, and
  - (iii) in the opinion of the Board, does not exist, cannot be located or does not have the financial means to contribute to those costs as required by this Act;
- (c) authorize money to be paid from the orphan fund for any of the purposes referred to in subsection (1) in accordance with the regulations.

RSA 2000 cO-6 s70;2009 c20 s7

**Effect of payment from fund**

**71(1)** Where the Board makes a payment from the orphan fund to a person in respect of a defaulting working interest participant's share of suspension, abandonment or reclamation costs,

- (a) the defaulting working interest participant is not released from any liability under this Act in respect of those costs, and

- (b) if the person who receives the payment later recovers all or part of the costs from the working interest participant, the person shall forthwith pay to the Board an amount equal to the amount recovered, less the reasonable costs of recovery as determined by the Board.

(2) Where the Board makes a payment from the orphan fund to a person in respect of a defaulting licensee's share of suspension, abandonment or reclamation costs,

- (a) the defaulting licensee is not released from any liability under this Act in respect of those costs, and
- (b) if the person who receives the payment later recovers all or a part of the costs from the defaulting licensee, the person shall forthwith pay to the Board an amount equal to the amount recovered, less the reasonable costs of recovery, as determined by the Board.

RSA 2000 cO-6 s71;2009 c20 s7

#### **Ordinary remedies available**

**72** A debt to the Board to the account of the orphan fund shall, for the purpose of enforcement of payment of the debt, be treated the same as any other debt to the Board, and all the same remedies under this Act are available to the Board for that purpose.

2000 c12 s1(19)

#### **Orphan fund levy**

**73(1)** The Board may, in respect of each fiscal year of the Board, by regulation prescribe

- (a) classes of wells, facilities (other than pipelines) and unreclaimed sites and the rates of the orphan fund levy applicable to each class,
- (b) the date as of which the licensees of the wells, facilities and unreclaimed sites are to be determined, and
- (c) the date by which the levy prescribed under clause (a) and penalties payable under section 74(2) must be paid to the Board to the account of the orphan fund.

(2) In prescribing the orphan fund levy for a fiscal year, the Board shall provide for a total levy that will be sufficient to cover

- (a) the costs referred to in section 70(1) for the fiscal year, as estimated by the Board,

- (b) any deficiency arising out of the operations of the fund from the previous fiscal year, and
  - (c) any surplus for emergency and non-budgeted expenditures that the Board considers is necessary.
- (3) Orphan fund levies in respect of large facilities shall be held and accounted for separately in the orphan fund and used only to pay for a purpose referred to in section 70(1)(c.1).
- (4) The Board may authorize money to be paid in respect of a purpose referred to in section 70(1)(c.1) only from the orphan fund levies collected in respect of large facilities.

RSA 2000 cO-6 s73;2009 c20 s7

**Payment of levy**

**74(1)** An orphan fund levy prescribed with respect to a well, facility or unreclaimed site in a fiscal year is payable to the Board by the person who was the licensee of the well, facility or unreclaimed site on the date referred to in section 73(1)(b).

**(1.1)** Where the Board has prescribed an orphan fund levy in respect of a large facility, each working interest participant in the large facility is responsible for paying its share of the levy to the licensee in proportion to its share in the facility.

**(2)** Unless the Board directs otherwise, a licensee that fails to pay the orphan fund levy by the date referred to in section 73(1)(c) must pay to the Board a penalty in an amount equal to 20% of the levy.

RSA 2000 cO-6 s74;2009 c20 s7

**Notice of levy**

**75(1)** After it has made a regulation under section 73(1), the Board shall give a notice in accordance with subsection (2) to each person who was, according to the records of the Board, the licensee of a well, facility or unreclaimed site of a prescribed class on the date referred to in section 73(1)(b).

**(2)** The notice shall

- (a) set out, in respect of each class of wells, facilities and unreclaimed sites, a brief description of the wells, facilities and unreclaimed sites of which the person to whom the notice is given was the licensee on the date referred to in section 73(1)(b) according to the records of the Board,

- (b) set out the amount of the orphan fund levy in respect of each well, facility and unreclaimed site described in the notice, and
- (c) contain a demand for the payment of the total amount of the orphan fund levy and specify the date by which the levy must be paid.

2000 c12 s1(19)

**Appeal of levy**

**76(1)** A person to whom a notice is given under section 75(1) may appeal to the Board on any one or more of the following grounds:

- (a) that the person was not the licensee of a well, facility or unreclaimed site described in the notice on the date referred to in section 73(1)(b);
- (b) that the orphan fund levy set out in the notice for one or more of the wells, facilities or unreclaimed sites is incorrect;
- (c) any other ground provided for in the regulations.

**(2)** The Board shall hear and determine appeals under this section in accordance with the regulations.

2000 c12 s1(19)

**Special orphan fund levy**

**76.1(1)** The Board may, in respect of each fiscal year of the Board, by regulation prescribe

- (a) a special orphan fund levy against non-producer licensees in respect of oilfield waste management facilities,
- (b) the date as of which the non-producer licensees of oilfield waste management facilities are to be determined, and
- (c) the date by which the levy prescribed under clause (a) and penalties payable pursuant to the regulations must be paid to the Board to the account of the orphan fund.

**(2)** In prescribing a special orphan fund levy for a fiscal year, the Board shall provide for a levy that will be sufficient to cover the costs referred to in section 70(1) in respect of orphan oilfield waste management facilities.

**(3)** The Board may prescribe a special orphan fund levy under subsection (1) only for the first 5 fiscal years of the Board that commence immediately after the coming into force of this section.

- (4) The total amount levied under subsection (1) may not exceed \$2 000 000.
- (5) Nothing in this section prohibits the Board from also prescribing a levy against non-producer licensees under section 73.
- (6) The Board may make regulations
- (a) defining “non-producer licensee” for the purposes of this section;
  - (b) respecting the payment of a special orphan fund levy;
  - (c) prescribing penalties for failure to pay a special orphan fund levy;
  - (d) requiring the Board to give notice of a special orphan fund levy to non-producer licensees, and respecting the form and contents of the notice;
  - (e) respecting appeals with respect to the imposition of a special orphan fund levy.

2009 c20 s7

**Regulations**

- 77(1)** The Lieutenant Governor in Council may make regulations
- (a) respecting the establishment or designation of delegated authorities;
  - (b) delegating to one or more delegated authorities any of the Board’s powers, duties or functions under this Act or the regulations in respect of suspension, abandonment and reclamation of orphan wells, facilities, facility sites and well sites or related to or incidental to the orphan fund, other than the power to make regulations and the power to delegate;
  - (c) authorizing a delegated authority to make bylaws and respecting the subject-matters on which the bylaws may be made;
  - (d) authorizing the Board or a delegated authority to disclose
    - (i) information acquired in the course of or as a result of the operations of the delegated authority,
    - (ii) information respecting the operations of the delegated authority, and

- (iii) information respecting the officers or employees of the delegated authority;
- (e) authorizing the Board to pay any or all of the money in the orphan fund from time to time to a delegated authority for the purpose of the delegated authority's carrying out the powers, duties and functions in respect of the orphan fund that are delegated to it;
- (f) respecting all matters related to the making of payments referred to in clause (e) to the delegated authority including, without limitation, the power to enter into agreements in respect of the payments, the imposition of terms and conditions, the times at which and the manner in which payments are to be made and the repayment of unused or improperly used money;
- (g) respecting, in regard to the delegation of authority, with necessary modifications, any matter in respect of which the Lieutenant Governor in Council may make regulations under section 2 of Schedule 10 to the *Government Organization Act* in regard to a delegation under that Schedule;
- (h) making applicable, in regard to the delegation of authority, any of the other provisions of Schedule 10 to the *Government Organization Act*, with necessary modifications.

(2) Where money is paid to a delegated authority pursuant to regulations under subsection (1)(e), that money is to be considered to be part of the orphan fund for the purpose of the interpretation of provisions in this Act and the regulations as they relate to the delegated authority's carrying out its powers, duties and functions in respect of the orphan fund.

(3) The *Financial Administration Act* does not apply to a delegated authority with respect to a power, duty or function delegated to it under this Act.

2000 c12 s1(19)

## Part 12 Unit Operation

### Definitions

**78** In this Part,

- (a) "owner", when used in connection with a tract, includes the person who has the right or an interest in the right to drill for, produce and dispose of any oil or gas from the

tract or who would have that right or interest in the absence of any contract, statute, regulation or order governing the disposition of the production;

- (b) “tract” means an area within a drilling spacing unit or a pool, as the case may be, within which an owner has the right or an interest in the right to drill for and produce oil or gas;
- (c) “unit” means that part of the pool or pools to which a unit operation applies that is within the unit area;
- (d) “unit area” means the area described in an agreement filed under section 79 and being the area subject to the plan of unit operation;
- (e) “unit operation” means the operation in accordance with a scheme or plan for combining the interests of owners in a common source of supply of oil or gas in any field or pool or part of a field or pool so that
  - (i) the operation may be conducted as if there were only one operator and one tract, and
  - (ii) the cost or expenses of the operation and the oil or gas produced by it are distributed among the owners or tracts according to a formula or a schedule of participation;
- (f) “unit tract” means a part of a unit to which a share of the production of the unit is allocated by the terms of an agreement or order filed or made under this Part.

RSA 1980 cO-5 s70

### **Agreement to Establish Unit**

#### **Agreement to establish unit**

**79(1)** The Board shall encourage efforts initiated by owners of oil and gas interests in any pool to consolidate, merge or otherwise combine their interests for the purpose of accomplishing the more efficient and more economical development and production of the oil and gas resources of the pool, irrespective of whether that purpose is accomplished by unit operation, co-operative development or joint participation.

**(2)** Two copies of the forms of each unit agreement and unit operating agreement shall be filed with the Board before or within one month after their effective date.

- (3) When the forms of a unit agreement and unit operating agreement have been filed with the Board, the unit operator shall,
- (a) immediately on the coming into effect of the agreements or on the filing of the forms of the agreements, whichever is later, advise the Board as to what tracts have been qualified for inclusion in the unit area, and
  - (b) immediately on any change in the unit area coming into effect, advise the Board of each addition to or deletion from the unit area,

and shall file, as soon as possible, with the Board, copies of any amendments to either of the agreements.

- (4) When a pool or part of a pool is
- (a) subject to a unit agreement and unit operating agreement filed with the Board,
  - (b) within a block, or
  - (c) within a holding,

the Board, on application, may order that any provision of this Act or the regulations regarding the development and production of the oil or gas resources be varied or suspended in the pool or the part of the pool for the duration of the unit operation, block or holding.

(5) If, by a unit agreement or unit operating agreement filed under subsection (2), the owners of oil and gas interests and the operators agree that a designated person shall be their agent with respect to their powers, duties, functions, obligations and responsibilities under this Act, the performance or non-performance of them by that designated person is, subject to section 90, deemed conclusively to be the performance or non-performance by the owners or operators otherwise responsible for them under this Act.

(6) This section does not apply to an agreement for the pooling of tracts within a drilling spacing unit.

RSA 1980 cO-5 s71;1988 c37 s9;1991 c26 s7

## Pooling

### Pooling

**80(1)** The owner of a tract within a drilling spacing unit may apply to the Board for an order that all tracts within the drilling spacing unit be operated as a unit to permit the drilling for or the production of oil or gas from the drilling spacing unit.

(2) The applicant shall state in the application

- (a) the legal description of each tract within the drilling spacing unit and the ownership of that tract,
- (b) the formation to which the applicant proposes to drill or from which the applicant proposes to produce,
- (c) that an agreement to operate the tracts as a unit cannot be made on reasonable terms,
- (d) particulars of the efforts made by the applicant to obtain agreement to the operation as a unit of all tracts within the drilling spacing unit,
- (e) if there is a well on the drilling spacing unit, the name of the well and its producing formation or formations, and
- (f) if there is not a well on the drilling spacing unit to the formation referred to in clause (b), that if an order is made by the Board the applicant is prepared to drill a well to a specified depth or that formation and, in the event that no production of oil or gas is obtained, the applicant will pay all costs incurred in the drilling and abandonment of the well.

**(3)** The Board may order that the tracts within the drilling spacing unit be operated as a unit with respect to the formation referred to in subsection (2)(b).

**(4)** An order made under subsection (3) shall provide for the following matters:

- (a) for the drilling and operation of a well on the drilling spacing unit, or, if a well that is capable of, or that can be made to be capable of, production from the formation in respect of which the order is made has been drilled on the drilling spacing unit before the making of the order, for the future operation of that well;
- (b) for the appointment of an operator to be responsible for the drilling, operation or abandonment of the well whether drilled before or after the order;
- (c) for the allocation to each tract of its share of the production of oil or gas from the drilling spacing unit, which allocation shall be on an area basis unless it can be shown to the Board that that basis is inequitable;
- (d) for the payment of the actual cost of the drilling of the well whether drilled before or after the making of the order, and for the payment of the actual costs of the operation and abandonment of the well, but the share of

the cost of drilling, operating and abandonment of the well and penalty, if any, as provided for by subsection (5) and payable by any owner who fails to pay the owner's share by the time specified in the order, shall be recoverable only out of that owner's share of production from the drilling spacing unit;

- (e) for the sale by the operator of any oil and gas allocated to a tract under clause (c) when the owner of it does not take or dispose of that production and for the deductions to be made by the operator out of the proceeds of the sale.

(5) The Board in its order may specify that, in the event production of oil or gas is obtained and the owner of a tract fails to pay the owner's share of the actual cost of drilling the well by the time specified in the order, then the amount payable by that owner shall include, in addition to that tract's share of the actual cost of drilling, a penalty payable to the operator in an amount equal to not more than 2 times that tract's share of the actual cost of drilling.

(6) Subsection (5) does not apply to an owner of a tract who is missing and untraceable.

(7) When an order is made under subsection (3),

- (a) the drilling for or the production of oil or gas from the designated formation in the drilling spacing unit and all operations incidental to the drilling or production pursuant to the order are for all purposes deemed to be carried on or conducted by the several owners respectively on their separately owned tracts in the drilling spacing unit, and
- (b) that portion of the production allocated to each tract, and only that portion, is deemed to have been produced from the tract.

RSA 2000 cO-6 s80;2009 c20 s7

#### **Well on tract in drilling spacing unit**

**81(1)** When a well capable of production has been drilled and is capped or shut in, the Board on application may order that the tracts within the drilling spacing unit be combined as a unit for future operations, and section 80 applies with all necessary modifications.

(2) When a well that is capable of production, or that can be made capable of production, has been drilled and is capped or shut in and the well is subject to an order made under subsection (1), or section 80(3), the well is deemed to be drilled and located on each tract within the drilling spacing unit, irrespective of when the future operations are conducted.

RSA 1980 cO-5 s73

#### **Application to vary pooling order**

**82(1)** Where an order has been made under section 80 or 81, the Board

- (a) shall consider an application made by owners of at least 25% of the working interests in the drilling spacing unit affected by the order, calculated on an area basis, and
- (b) may, if it is satisfied that it is appropriate to do so, consider an application made by any owner

to vary, amend or terminate the order.

(2) When the Board, at any time after making an order pursuant to section 80 or 81, is of the opinion that

- (a) the pooling of all tracts subject to the order is not necessary to make up the drilling spacing unit of a well named or referred to in the order,
- (b) a well required by the order to be drilled is not drilled within 6 months of the date of the order, or
- (c) a well drilled pursuant to the order obtains production of a kind other than that for which the order was made,

the Board may hold a public hearing to consider in what manner the order should be varied, amended or terminated.

(3) On an application or hearing under subsection (1) or (2), the Board may terminate the order or may

- (a) vary, amend or revise the order to supply any deficiency in it or to meet changing conditions, and
- (b) alter or revoke any provision that it considers to be unfair or inequitable.

(4) Notwithstanding subsection (3), no order shall be varied, amended or revised and no provision shall be altered or revoked so that it results in a change in

- (a) the allocation to each tract of its share of the production, or
- (b) the basis for determining an owner's share of the cost of drilling, operation or abandonment of the well,

unless all owners of tracts within the drilling spacing unit agree to that alteration or revocation.

(5) Notwithstanding anything in this section, if an order pursuant to section 80 requires a well to be drilled within a time specified in the order and the well is not then drilled, the Board may terminate the order without hearing or notice.

RSA 2000 cO-6 s82;2009 c20 s7

#### **Drilling costs**

**83(1)** For the purpose of section 80 or 81, the actual cost of drilling a well shall include the cost of drilling the well to, and completing it in, the formation named in the order under section 80 or 81.

(2) If, for the purpose of an order under section 80 or 81, a dispute arises as to the actual cost of drilling a well, the actual cost shall be determined by the Board.

RSA 1980 cO-5 s75

#### **Inclusion of drilling spacing unit in unit area**

**84(1)** A drilling spacing unit that is subject to an order made under section 80 or 81 may be included in a unit area as a single unit tract, in which event the order is after that inclusion deemed to be amended so that

- (a) the provisions in it for operating a well on the drilling spacing unit are replaced by the provisions for unit operation in the filed unit agreement, which provisions shall have like effect for the purpose of sections 80(7) and 81(2),
- (b) the share of the unit production that is allocated to the drilling spacing unit shall in turn be allocated to the separately owned tracts in the drilling spacing unit on the same basis and in the same proportion as production actually obtained from the drilling spacing unit would have been allocated under the order under section 80 or 81 before giving effect to this subsection, and with the same effect for the purposes of section 80(7) insofar as it relates to the production of oil or gas, and

- (c) the share of the costs and expenses of the unit operation that is allocated to the drilling spacing unit is shared and borne by the owners of the working interests in the drilling spacing unit on the same basis and in the same proportion that those owners would, under the order under section 80 or 81, have shared and borne any costs and expenses before giving effect to this subsection.

(2) In addition to those amendments deemed to be made as provided in subsection (1), the Board may make any further amendments to an order under section 80 or 81 that it considers necessary or desirable for the purpose of making the order conform with the provisions for unit operation in the filed unit agreement.

RSA 1980 cO-5 s76

## General

### Missing or untraceable tract owner

**85** If an owner of a tract is missing and untraceable, an order under this Part may provide that the operator or unit operator shall

- (a) sell the share of production to which the missing owner is entitled under the order,
- (b) pay out of the proceeds of sale the costs and expenses payable under the order by the owner, and
- (c) pay the balance of the proceeds to the Public Trustee to be held by the Public Trustee as custodian of the property of the missing owner in accordance with section 8 of the *Public Trustee Act*.

RSA 1980 cO-5 s77;1998 c23 s20

### Dispute re production

**86(1)** If a dispute arises as to the person entitled to receive the production allocated to a tract in accordance with an order of the Board made pursuant to this Part, the operator or unit operator

- (a) shall sell the production with respect to which the dispute has arisen,
- (b) may pay out of the proceeds of sale the costs and expenses payable with respect to the tract, and
- (c) shall pay the balance of the proceeds to the Minister to be held by the Minister in trust pending an order of the Court of Queen's Bench or until a settlement has been reached by the parties.

(2) When money is paid to and held by the Minister under subsection (1),

- (a) the owner is not entitled to any interest or penalty, and
- (b) the payment of the money for the purposes of any contract or other arrangement is deemed to have been made when the money was paid to the Minister.

RSA 2000 cO-6 s86;2006 c23 s60

#### **Operation of unit area**

**87** Operations carried on under and in accordance with an order made under this Part are, for all purposes, deemed to be carried on on each tract and the portion of unit or pooled production allocated to each tract, and only that portion, is, for all purposes, deemed to have been produced from that tract within the meaning of the terms and provisions of each lease or other contract applicable to that tract.

RSA 1980 cO-5 s79

#### **Operating expenses**

**88** Subject to section 30(3), the obligation or liability of each owner who is responsible for paying a tract's share of the operating expenses of the unit is at all times several and not joint, and in no event is such an owner chargeable with, obligated or liable, directly or indirectly, for more than the amount apportioned, assessed or otherwise charged to the owner's interests in the tract pursuant to the plan of unit operation.

RSA 1980 cO-5 s80;1994 c26 s12

#### **Alteration of orders**

**89** Notwithstanding anything to the contrary in this Act, an order made under this Part, except an order under section 79(4), shall not be amended, revised, altered or revoked otherwise than in the manner provided in this Part.

RSA 1980 cO-5 s81

#### **Effect of agreement**

**90** An agreement filed or an order made under this Part does not affect the duties and liabilities of any person under Part 10.

RSA 1980 cO-5 s82;1982 c27 s7

## **Part 13**

### **Registers, Records and Reports**

#### **Registered Address of Licensee**

##### **Appointment of agent**

**91(1)** In this section, “resident” means resident as defined in the regulations.

**(2)** Subject to the regulations made under section 10(1)(xx.1), each licensee and approval holder shall register its address with the Board and, in the case of a licensee or approval holder that is resident outside Alberta, shall

- (a) appoint an agent within Alberta to carry out the licensee’s or approval holder’s duties and other responsibilities under this Act,
- (b) notify the Board in writing of the appointment, and
- (c) register with the Board the address in Alberta of the agent, which address shall also be the address for service of the licensee or approval holder in Alberta.

**(3)** A person is not eligible to be appointed or remain as an agent under subsection (2) unless the person meets the requirements of section 20 and the regulations.

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

**(5)** The approval of an appointment by the Board does not relieve the licensee of any duty or responsibility to comply with the Act, regulations or an order of the Board, however, if an agent has been appointed and the licensee fails or is unable to comply with a duty or responsibility, the agent is responsible to comply with the duty or responsibility.

**(6)** The licensee and any agent shall register any change of address with the Board within 15 days after the change.

**(7)** An agent may not be changed or discharged without the consent, in writing, of the Board, which consent may, at the Board’s discretion, be refused.

**(8)** If a unit operation has been established by an agreement filed or an order made under Part 12,

- (a) the unit operator, and in the event of a change in the unit operator, the new unit operator, shall advise the Board of the unit operator's appointment, and
- (b) the unit operator is deemed to be the agent, duly appointed and registered under this section, of the licensee of each well in the unit for purposes relating to that well.

**(9)** When the Board has granted an application under section 92 to permit the keeping of records and the filing of reports for a battery or group of wells, the battery or group operator is deemed to be the agent, duly appointed and registered under this section, of the licensee of each well in the battery or group for purposes relating to that well.

RSA 2000 cO-6 s91;2008 c7 s5

### **Battery Records and Reports**

#### **Battery of wells**

**92** The Board, on application, may permit the keeping of records or the filing of reports for a battery or group of wells at which the product of wells is commingled before measurement, but in that case

- (a) the figures shall be attributed to individual wells in the battery or group in a manner satisfactory to the Board to indicate as nearly as possible the actual production of the individual wells, and
- (b) the attributed figures shall represent the production of each well for all purposes.

RSA 1980 cO-5 s84

#### **Production of records**

**93** Each person who is required by this Act or the regulations to keep records shall produce those records at all reasonable times when requested to do so by any member of the Board or by any person authorized by the Board, and shall afford the member or authorized person facilities for inspecting the records and making copies of and taking extracts from them.

RSA 1980 cO-5 s85

## Part 14 Proceedings Before the Board

### Powers of Board

#### Jurisdiction of Board

**94** Except where otherwise provided, the Board has exclusive jurisdiction to examine, inquire into, hear and determine all matters and questions arising under this Act.

RSA 1980 cO-5 s86

#### Service of notices

**95(1)** Any notice or order that the Board is required or may desire to serve is deemed to have been served on a licensee or approval holder

- (a) on delivery of the notice or order at an address registered under section 91 as the address of the licensee or approval holder, the address for service in Alberta of the licensee or approval holder or the address of the agent of the licensee or approval holder, or
- (b) on the expiration of 24 hours, exclusive of Saturdays and holidays, from the time of sending the notice or order by mail to any such addresses.

**(2)** In the event of non-compliance with section 91 by a licensee or approval holder, all notices or orders required to be served or that the Board desires to serve may be posted in a part of the office of the Board to which the public has access, and must be kept so posted for 24 hours, exclusive of Saturdays and holidays, and on the expiration of that period are deemed to have been served on the licensee or approval holder.

RSA 1980 cO-5 s87;2000 c12 s1(21)

## Part 15 Provisions of General Application

#### Inspection

**96(1)** At any reasonable time, each member of the Board and each person authorized by the Board

- (a) shall have access to all wells, equipment, plant and records,
- (b) is entitled to enter on and inspect any well or any place at which oil or gas is refined, produced, handled, processed or treated or any place used or occupied in connection

with a well or with a place at which oil or gas is refined, produced, handled, processed or treated,

- (b.1) is entitled to enter on and inspect any well, or any place used or occupied in connection with a well, that is used for the storage or disposal of any substance to an underground formation;
- (c) is entitled to inspect all books, documents, records, plant and equipment pertaining to any such well or place or found at the well or place, and
- (d) is entitled to take samples or particulars or to carry out any tests or examinations desired.

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

(3) Any person who is the licensee, contractor or operator of or who is in charge of any of the wells, places, equipment, plant or records mentioned in subsection (1) 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).

(4) A person who prevents, hinders or obstructs or who fails to permit or assist any member of the Board or any person authorized by the Board pursuant to subsection (1) in the exercise of the powers conferred by subsection (1) is guilty of an offence.

RSA 2000 cO-6 s96;2010 c14 s3

#### **Closing area to travel**

**97(1)** When the Board is of the opinion that, because of hazardous conditions relating to

- (a) the exploration and drilling for or production, processing or transportation of oil, gas or synthetic crude oil, or
- (b) the processing, transportation or escape of a substance from a well or any underground formation that the well enters,

it is necessary or expedient to close any area and to shut out from the area all persons except those who are specifically authorized, the Board may make an order in writing setting out and delimiting the closed area and prohibiting anyone during the time the order is in effect from entering, travelling about or remaining in the area without a travel permit issued under the authority of the Board.

(2) An order under subsection (1) may contain any terms and conditions that the Board considers necessary for the prevention of fire in the closed area.

(3) The Board may provide for any notice that is practicable under the circumstances and may cause notice of the order setting out the area closed to be published in any papers that in its opinion will give adequate publicity.

(4) In addition to the notice provided by subsection (3), the Board shall advise an appropriate representative of the Department of Transport (Canada) in order that passage of aircraft over the closed area and adjacent areas may be controlled in the interest of public safety.

RSA 2000 cO-6 s97;2010 c14 s3

#### **Offset wells**

**98(1)** When a well is drilled and the well produces oil or gas from a drilling spacing unit, and oil or gas in a drilling spacing unit that adjoins the first mentioned drilling spacing unit is subject to an oil or gas lease that provides for the drilling of an offset well by reason of the kind or nature of the well that produces the oil or gas, then the well is deemed to be in that part of the drilling spacing unit where its presence would give rise to the obligation to drill an offset well in the adjoining drilling spacing unit.

(2) For the purpose of subsection (1), a road allowance is not to be considered

- (a) in determining whether drilling spacing units are adjoining, or
- (b) in computing the distance from a producing well.

RSA 2000 cO-6 s98;2009 c20 s7

#### **Compensation schemes**

**99(1)** At any time on the direction of the Lieutenant Governor in Council the Board shall proceed to prepare a scheme or schemes for the provision of compensation for persons who are injured or suffer a loss by reason of any orders made pursuant to this Act.

(2) On receipt of the direction of the Lieutenant Governor in Council, the Board shall hold a public hearing on not less than 30 days' notice to hear representations of interested persons regarding the proposed scheme.

(3) After the public hearing

- (a) the Board shall send the scheme prepared by it and a transcript of the evidence given at the hearing to the Lieutenant Governor in Council, and
  - (b) the Lieutenant Governor in Council, on the recommendation of the Board, may order the scheme to be established.
- (4)** A scheme established under this section has the same force and effect as if it had been enacted as part of this Act.
- (5)** The Lieutenant Governor in Council, on the recommendation submitted by the Board after a public hearing, may vary, amend or revoke any scheme previously established.
- (6)** The Lieutenant Governor in Council may confer on and vest in the Board any power that is considered necessary or advisable to enable the Board to carry out the provisions of any scheme.
- (7)** A scheme may be general in its application, or may be restricted to those wells or the classification of wells in the part or parts of Alberta that are designated by the scheme.
- (8)** In any scheme, provision may be made for all or any of the following matters:
- (a) the circumstances and conditions under which any person is entitled to receive compensation under the scheme;
  - (b) the matters in respect of which any compensation is payable and the method by which the amount of any compensation is to be ascertained;
  - (c) the manner in which the compensation is to be payable;
  - (d) the persons to whom compensation is to be payable;
  - (e) the apportionment of liability between all the persons by whom compensation is payable, which liability shall be several;
  - (f) any other matters or things that are necessary for carrying out the scheme.
- (9)** For the purpose of raising any money required for the payment of compensation under a scheme, the Board may, if in its opinion it would facilitate the payment or collection of compensation, levy the amount of that money by means of a uniform rate on the dollar on the assessed value of all oil and gas property to which the scheme applies of the persons who are liable under the scheme for the payment of compensation, and all the provisions of Part 10 relating to the levying and collection of any tax imposed pursuant

to Part 10 apply to any levy made pursuant to this section insofar as they are applicable.

**(10)** If a levy under subsection (9) is not made, the amount of compensation payable by any person under a scheme is a debt due and owing and is recoverable by the person entitled to receive the compensation under the provisions of the scheme, by action.

RSA 1980 cO-5 s91

### **Control, completion and operation costs**

**100(1)** Without restricting the generality of section 96, if, in the opinion of the Board, the control, completion or operation of a well or the operation of any facility is not in accordance with an order, direction or requirement of the Board, a member of the Board or any person authorized by it is entitled to have access to and may enter on the site or any structures on the site and do whatever the Board considers necessary because of the failure to comply with the order, direction or requirement.

**(2)** The Board may

- (a) determine the costs of or incidental to work carried out under subsection (1), and
- (b) allocate those costs among any or all of the licensee, approval holder and working interest participants as the Board considers appropriate.

**(3)** Costs allocated under subsection (2) constitute a debt payable to the Board, and a certified copy of the order of the Board allocating those costs may be filed in the office of the clerk of the Court of Queen's Bench and, on being filed and on 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 1980 cO-5 s92,1988 c37 s12;2000 c12 s1(25)

### **Entry on land**

**101(1)** A person carrying out suspension or abandonment operations pursuant to section 27 or 28 is entitled to have access to and may enter on the land and any structures on the land concerned for the purposes of carrying out the suspension or abandonment.

**(2)** A person shall, before entering on any land under subsection (1), give prior written notice of the person's intention to enter to the owner and to the occupant, 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 land owner or occupant for direct expenses and for any damage to the land owner's or occupier'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 cO-6 s101;2009 c53 s123

#### **Sale of equipment, etc.**

**102(1)** When the work of control, completion, operation, suspension or abandonment of a well or facility is conducted by the Board, a member of the Board or person authorized by it, the Board may sell or dispose of in a manner it sees fit any drilling, producing or operating equipment, installation or material found on the site or taken from the well or facility, but the Board shall not sell any equipment, installation or material that it knows is owned by someone other than the licensee, approval holder or working interest participant.

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

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

- (a) apply the money
  - (i) first, to the payment of any unpaid costs and penalty determined by it under section 30 or 100, and
  - (ii) 2nd, if any money remains after complying with subclause (i), to the payment of any other outstanding debt owing to the Board by the licensee, approval holder or working interest participant,

and

- (b) if any money remains after complying with clause (a), forward the remainder to the Minister for payment out to persons who file a claim with the Minister within 6

months after the date of the sale and establish their entitlement to the money.

RSA 2000 cO-6 s102;2006 c23 s60

### **Enforcement of lien**

**103(1)** In this section,

- (a) “debtor” means a person who is indebted to the Board for any costs, levy, fee, penalty or other amount;
- (b) “payor” means
  - (i) a purchaser, operator or other person who owes money to or holds or receives money on behalf of a debtor as a result of a sale of the debtor’s proportionate share of any gas, oil or other hydrocarbon produced from a well or facility, and
  - (ii) a person who holds or receives revenue owing to the debtor resulting
    - (A) from the use of a well or facility by another person, or
    - (B) from the provision of services by the debtor.

**(2)** The Board has a lien in respect of a debtor’s debt on the debtor’s interest in any wells, facilities and pipelines, land or interests in land, including mines and minerals, equipment and petroleum substances, and when it arises, the lien has priority over all other liens, charges, rights of set-off, mortgages and other security interests.

**(3)** The Board’s lien arises when the debtor fails to satisfy the debt when due, and expires on full satisfaction of the debt.

**(4)** The Board may enforce its lien by serving on the debtor and the payor a notice of garnishment in the form prescribed by the regulations.

**(5)** On receipt of a notice of garnishment, the payor shall forward to the Board for payment on account of the debt owing to the Board all money and revenue referred to in subsection (1)(b) that is then owing or later becomes owing to the debtor.

**(6)** The obligation to make payments under subsection (5) continues until the Board advises the payor that the debt has been paid in full.

**(7)** Any payment to the Board on the account of the debtor under this section is deemed to be a payment to the debtor and releases

the payor from liability in debt to the debtor to the extent of the payment.

**(8)** A payor who fails to comply with a notice of garnishment is guilty of an offence.

**(9)** A payor who fails to comply with a notice of garnishment or makes payment to a debtor in contravention of the notice of garnishment is indebted to the Board for an amount equal to the amount the payor is required to pay pursuant to the notice of garnishment or the amount of the payment made to the debtor, whichever is less.

1994 c26 s15;2000 c12 s1(28)

### **Escaped substance**

**104(1)** If oil, crude bitumen, water or any other substance, in this section referred to as the “escaped substance”, has escaped or appears to have escaped from a well, facility or pipeline or from an unidentified source and it appears to the Board that the escaped substance may not otherwise be contained and cleaned up forthwith, the Board or its authorized representative may

- (a) direct the licensee, approval holder or operator of a well, facility or pipeline from which the escaped substance appears to have escaped
  - (i) to take steps the Board or its authorized representative considers necessary to contain and clean up the escaped substance and to prevent further escapes, and
  - (ii) to do anything else the Board or its authorized representative considers necessary to ensure the safety of the public and the environment,

or

- (b) enter on the area where the escaped substance has escaped and conduct any operations the Board or its authorized representative considers necessary for the purposes set out in clause (a).

**(2)** When the Board or its authorized representative enters on an area pursuant to subsection (1)(b),

- (a) every person responsible for the escape of the escaped substance, every licensee, approval holder or operator of a well, facility or pipeline from which the escaped substance has escaped or appears to have escaped and any officer or employee of such a person, licensee, approval

holder or operator shall, until the operations to be conducted by the Board or its authorized representative are completed, obey the orders and directions concerning those operations given by the Board or its authorized representative,

- (b) the Board may recover, deal with and dispose of the escaped substance as if it were the property of the Board, and if the escaped substance is sold, may apply the proceeds to pay the costs and expenses of the operations conducted by the Board or its authorized representative, and
- (c) the Board may engage any persons it considers necessary to conduct any of the operations under this section.

**(3)** When operations under this section are conducted

- (a) by a licensee, approval holder or operator under subsection (1)(a) and the licensee, approval holder or operator requests the Board to do so, or
- (b) by or on behalf of the Board under subsection (1)(b),

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

**(4)** Section 100(3) applies with respect to the recovery from a licensee, approval holder or operator of costs and expenses that are the subject of a direction under subsection (3) of this section.

RSA 1980 cO-5 s94;1988 c37 s14;2000 c12 s1(29)

**Enforcement of orders**

**105(1)** For the purposes of the enforcement of any order made by it, the Board may

- (a) take any steps and employ any persons the Board considers necessary,
- (b) forcibly or otherwise enter on, seize and take control of a well or facility, together with the whole or part of the movable and immovable property in, on or about the well or facility or used in connection with or pertaining to the well or facility, together with records of ownership and operation pertaining to the well or facility,
- (c) discontinue all production or take over the management and control of a well or facility,

- (d) in the case of a well, plug the well at any depth and take any steps the Board considers necessary to prevent the flow or escape of oil, gas, crude bitumen, water or any other substance from any stratum that the well enters, and
- (e) in the case of a facility, take any steps the Board considers necessary to prevent the flow or escape of oil, gas, crude bitumen, water or any other substance from the facility.

(2) On the Board's taking control of a well or facility and for so long as the control continues, every officer and employee of the licensee or approval holder of the well or facility, or of any contractor or operator working on the well or facility, shall obey the orders and directions concerning the well or facility given by the Board or by any person that the Board places in charge or control of the well or facility.

(3) On the Board's taking control of a well or facility, the Board may take, deal with and dispose of all oil, gas, crude bitumen, water or other substance produced at the well or handled at the facility as if it were the property of the Board.

(4) The costs and expenses of and incidental to proceedings taken by the Board under this section are in the discretion of the Board and the Board may direct by whom and to what extent they are to be paid.

(5) Where the Board sells oil, gas, crude bitumen, water or any other substance under subsection (3), the Board shall apply the proceeds as follows:

- (a) first, to payment of
  - (i) all costs and expenses of and incidental to the steps taken by the Board under this section, including the costs and expenses arising out of the management, operation and control of the well or facility by the Board, and
  - (ii) all costs and expenses of carrying out investigations and conservation measures that the Board considers necessary in connection with the well or facility,
- (b) second, if any money remains after complying with clause (a), to payment of any outstanding debt owing to the Board from the licensee or approval holder, and
- (c) third, if any money remains after complying with clauses (a) and (b), by forwarding the remainder to the Minister for payment out to persons who file a claim with the

Minister within 6 months after the date of the sale and establish their entitlement to the money.

**(6)** Section 100(3) applies with respect to the recovery from a licensee, approval holder or other person of costs and expenses that are the subject of a direction under subsection (4) of this section.

RSA 2000 cO-6 s105;2006 c23 s60

### **Actions re principals**

**106(1)** Where a licensee, approval holder or working interest participant

- (a) contravenes or fails to comply with an order of the Board, or
- (b) has an outstanding debt to the Board, or to the Board to the account of the orphan fund, in respect of suspension, abandonment or reclamation costs,

and where the Board considers it in the public interest to do so, the Board 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 Board's opinion, were directly or indirectly in control of the licensee, approval holder or working interest participant at the time of the contravention, failure to comply or failure to pay.

**(2)** The Board 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 Board makes a declaration under subsection (1), the Board may, subject to any terms and conditions it considers appropriate,

- (a) suspend any operations of a licensee or approval holder under this Act or a licensee under the *Pipeline Act*,
- (b) refuse to consider an application for an identification code, licence or approval from an applicant under this Act or the *Pipeline Act*,
- (c) refuse to consider an application to transfer a licence or approval under this Act or a licence under the *Pipeline Act*,
- (d) require the submission of abandonment and reclamation deposits in an amount determined by the Board prior to

granting any licence, approval or transfer to an applicant, transferor or transferee under this Act, or

- (e) require the submission of abandonment and reclamation deposits in an amount determined by the Board for any wells or facilities of any licensee or approval holder,

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

2000 c12 s1(31)

## Offences and Penalties

### Waste prohibited

**107(1)** Waste is prohibited and any person who commits waste is guilty of an offence.

(2) No prosecution may be instituted under subsection (1) without the consent in writing of the Board.

(3) In a prosecution under this section, no person is deemed to have committed waste by reason of a wasteful operation referred to in section 1(1)(ddd)(iv) or (v) unless the person has been directed by the Board to do the things, the failure of which constituted the wasteful operation, and has failed to do the things within the time specified in the direction of the Board.

(4) A prosecution under this Act does not deprive any person suffering damages or injury of any cause of action that the person may have.

(5) Notwithstanding any prosecution under this Act, the Board may commence and maintain an action

- (a) to enjoin any person from committing waste, or
- (b) for contravention of any regulation or of any order or direction of the Board.

RSA 1980 cO-5 s96

### Offences

**108(1)** Every person who

- (a) whether as a principal or otherwise, contravenes or defaults in complying with any provision of this Act, the regulations, an order or direction of the Board made under this Act or the regulations or the terms and conditions under an order of the Lieutenant Governor in Council granting an approval or authorization under this Act,
- (b) either alone or in conjunction or participation with others causes any person to contravene or to default in complying with a provision referred to in clause (a), or
- (c) instructs, orders, directs or causes any officer, agent or employee of any person to contravene or to default in complying with a provision referred to in clause (a),

is guilty of an offence.

**(2)** Every person who contravenes or defaults in complying with any provision of this Act or of the regulations, or any order or direction of the Board, or any term or condition of a licence granted under this Act, is guilty of an offence.

RSA 1980 cO-5 s97;1994 c26 s16

#### **Time for complaint**

**109** Every information or complaint for the prosecution of an offence under this Act shall be laid or made within 18 months from the time when the subject-matter of the proceedings arose, and not afterwards.

RSA 1980 cO-5 s98

#### **Fines**

**110(1)** Every person who is guilty of an offence under this Act is liable

- (a) if a corporation, to a fine of not less than \$300 nor more than \$1000, and
- (b) if a person other than a corporation, to a fine of not less than \$50 nor more than \$500 and in default of payment to a term of imprisonment not exceeding 6 months,

and in the case of a continuing offence,

- (c) if a corporation, to a fine of not less than \$300 nor more than \$1000 for the first day on which the offence occurs and of not less than \$100 nor more than \$500 for each subsequent day during which the offence occurs, and

- (d) if a person other than a corporation, to a fine of not less than \$50 nor more than \$500 for the first day on which the offence occurs and of not less than \$25 nor more than \$250 for each subsequent day during which the offence occurs.

(2) A person other than a corporation who defaults in payment of a fine imposed for a continuing offence is liable to a term of imprisonment not exceeding 6 months.

RSA 1980 cO-5 s99

### **Cancellation of Industrial Development Permits and Applications**

#### **Cancellation of permits and applications**

**111** On the coming into force of section 5(4) of the *Energy Statutes Amendment Act, 2011*, all subsisting permits granted under section 43 of this Act as it read immediately before the coming into force of section 5(4) of the *Energy Statutes Amendment Act, 2011* and all subsisting applications for permits under section 43 of this Act as it then read are cancelled.

2011 c11 s5