

2009 Bill 28

Second Session, 27th Legislature, 58 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 28

ENERGY STATUTES AMENDMENT ACT, 2009

MR. MCFARLAND

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 28
Mr. McFarland

BILL 28

2009

ENERGY STATUTES AMENDMENT ACT, 2009

(Assented to , 2009)

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

Alberta Utilities Commission Act

Amends SA 2007 cA-37.2

1(1) The *Alberta Utilities Commission Act* is amended by this section.

(2) Section 8(7) is amended by striking out “section 90” and substituting “section 75”.

Coal Conservation Act

Amends RSA 2000 cC-17

2(1) The *Coal Conservation Act* is amended by this section.

Explanatory Notes

Alberta Utilities Commission Act

1(1) Amends chapter A-37.2 of the Statutes of Alberta, 2007.

(2) Section 8(7) presently reads:

(7) The Commission may delegate any of the powers, duties and functions conferred or imposed on it under this or any other enactment to any member or any other person unless the regulations under section 90 prohibit the delegation.

Coal Conservation Act

2(1) Amends chapter C-17 of the Revised Statutes of Alberta 2000.

(2) Section 24 is amended by adding the following after subsection (2):

(3) The authorization of the Lieutenant Governor in Council is not required in respect of

- (a) an amendment to an approval issued under this section, or
- (b) a consolidation of an approval issued under this section and one or more amendments to that approval.

(3) Section 29 is amended by adding the following after subsection (3):

(4) The authorization of the Lieutenant Governor in Council is not required in respect of

- (a) an amendment to a permit granted under this Part, or
- (b) a consolidation of a permit granted under this Part and one or more amendments to that permit.

Energy Resources Conservation Act

Amends RSA 2000 cE-10

3(1) The *Energy Resources Conservation Act* is amended by this section.

(2) Section 24 presently reads:

24(1) No approval relating to a coal processing plant capable of treating more than 45 000 tonnes of coal per year by normal continuous working shall be issued by the Board pursuant to this Part unless the Lieutenant Governor in Council has first authorized the issue of the approval.

(2) The Lieutenant Governor in Council may make the Lieutenant Governor in Council's authorization under subsection (1) subject to any terms and conditions the Lieutenant Governor in Council considers necessary or desirable.

(3) Section 29 presently reads:

29(1) On receipt of an application for a permit together with any information prescribed or required by the Board, the Board may,

(a) if so authorized by the Lieutenant Governor in Council, grant a permit for the use of coal or products derived from coal proposed in the application on the terms and conditions set out in the permit, or

(b) refuse the application.

(2) The Board may hold a hearing with respect to an application under this Part.

(3) The Board shall not grant a permit under this Part unless in its opinion it is in the public interest to do so having regard to, among other considerations,

(a) the efficient use without waste of coal or products derived from coal, and

(b) the present and future availability of coal in Alberta.

Energy Resources Conservation Act

3(1) Amends chapter E-10 of the Revised Statutes of Alberta 2000.

(2) Section 27.2 is amended

(a) in subsection (1)

(i) by adding the following after clause (a):

(a.1) “coal project” means a mine or operation that is the subject of a licence under the *Coal Conservation Act*;

(ii) in clause (d) by adding “, coal project” after “oil sands project” wherever it occurs;

(b) in subsection (2) by adding “, coal project” after “oil sands project”;

(c) in subsection (3)

(i) in clauses (a) and (d) by adding “, coal projects” after “oil sands projects”;

(ii) in clause (e) by adding “, coal project” after “oil sands project” wherever it occurs;

(d) in subsection (4) by adding “, coal project” after “oil sands project” wherever it occurs;

(e) by adding the following after subsection (4):

(5) The Board may shut in a facility, oil sands project, coal project or well of an operator if the operator fails to pay an administration fee by the prescribed date.

(2) Section 27.2 presently reads:

27.2(1) In this section,

- (a) “administration fee” means an amount imposed as an administration fee under this section;*
- (b) “facility” means any scheme or operation that is under the jurisdiction of the Board or is subject to any enactment that is administered by the Board;*
- (c) “oil sands project” means a scheme or operation that is the subject of an approval under the Oil Sands Conservation Act;*
- (d) “operator” means, in relation to any facility, oil sands project or well,*
 - (i) the person who is the actual operator of the facility, oil sands project or well, or*
 - (ii) the person who holds an approval, licence or permit issued by the Board or to whom or in respect of whom an order is granted by the Board;*
- (e) “prescribed date” means, in relation to any year, the date or dates prescribed by the regulations under subsection (3) as the prescribed date or dates for that year for the purposes of this section;*
- (f) “well” has the meaning given to it in the Oil and Gas Conservation Act.*

(2) The Board may in respect of any fiscal year impose and collect an administration fee with respect to any facility, oil sands project or well on a basis that will produce a sum sufficient to defray a portion or all of the estimated net expenditures of the Board in that fiscal year.

(3) The Board may make regulations

- (a) prescribing the rates of the administration fees applicable to facilities, oil sands projects or wells or any classes of facilities, oil sands projects or wells;*
- (b) prescribing a date or dates in the calendar year during which a regulation is made under clause (a) as the prescribed date or dates for that year for the purposes of this section;*

Gas Resources Preservation Act

Amends RSA 2000 cG-4

4(1) The *Gas Resources Preservation Act* is amended by this section.

(2) Section 22(3) is repealed and the following is substituted:

(3) A regulation or order made under this section must be published in The Alberta Gazette and comes into force on the day on which it is published unless another date is specified in the regulation or order.

- (c) *respecting the imposition and payment of administration fees;*
- (d) *prescribing, in any manner the Board considers appropriate, classes of facilities, oil sands projects or wells;*
- (e) *respecting the exemption of any facility, oil sands project or well or any class of facility, oil sands project or well from the imposition of an administration fee;*
- (f) *respecting the imposition and payment of penalties for the late payment of administration fees;*
- (g) *respecting appeals with respect to the determination or imposition of administration fees and penalties.*

(4) An administration fee prescribed in a fiscal year with respect to a facility, oil sands project or well is payable to the Board by the person who was the operator of the facility, oil sands project or well on the prescribed date or dates.

Gas Resources Preservation Act

4(1) Amends chapter G-4 of the Revised Statutes of Alberta 2000.

(2) Section 22 presently reads:

22(1) Notwithstanding anything in this Act, the Lieutenant Governor in Council, on the recommendation of the Board, may, by general regulations or special order, exclude from the application of this Act, under any conditions the Lieutenant Governor in Council prescribes, any propane that is removed or that is intended to be removed from Alberta by pipeline or other means.

(2) A regulation or order made under this section

(a) does not extend the term of any permit authorizing the removal of propane from Alberta

(i) that was issued before the effective date of, and

(ii) that would have been in effect during

the period of exclusion prescribed in the regulation or order, and

Mines and Minerals Act

Amends RSA 2000 cM-17

5(1) The *Mines and Minerals Act* is amended by this section.

(2) Section 5(1) is amended by adding the following after clause (w):

- (w.1) governing the development, use and retention of documents and information in electronic form by
 - (i) the Department, and
 - (ii) persons dealing with the Department
in carrying out the business processes of the Department, including, without limitation, regulations
 - (iii) requiring that documents or types or classes of documents be in an approved electronic format and respecting the manner in which that format is determined or approved,
 - (iv) governing the methods and means of transmission of approved electronic documents or classes of approved electronic documents, including the

(b) may provide that when the period of exclusion is terminated, a permit that would have authorized the removal of propane from Alberta is, on the effective date of termination of the exclusion, effective to authorize the removal of propane from Alberta during any unexpired portion of its term that remains after the termination of the period of exclusion.

(3) A regulation or order made under this section

(a) shall be published in The Alberta Gazette and comes into force on the day of publication or another day fixed in the regulation or order, and

(b) shall be tabled in the Legislative Assembly within 15 days after the commencement of the next session after the making of the regulation or order.

Mines and Minerals Act

5(1) Amends chapter M-17 of the Revised Statutes of Alberta 2000.

(2) Lieutenant Governor in Council may make regulations.

establishment of rules, procedures and guidelines for their transmission,

- (v) governing the means by which the identity and authority of persons who create, submit or send approved electronic documents are verified, and
 - (vi) respecting electronic signatures on approved electronic documents and the legal effect of such signatures;
- (w.2) providing that a provision in a regulation made under any of clause (w.1)(iii) to (vi) supersedes and applies in place of another enactment of Alberta in respect of the same subject-matter;
- (w.3) governing the legal effect and enforceability of approved electronic documents, certified copies of approved electronic documents and endorsements made on approved electronic documents, including
- (i) giving an approved electronic document the same effect as if it were in writing and signed, and
 - (ii) exempting an approved electronic document from any requirement at law that a document must be in writing or signed;
- (w.4) authorizing the Minister to refuse to accept documents that are not approved electronic documents or do not meet the requirements of or created under the regulations under clauses (w.1) to (w.3) in respect of the documents;
- (w.5) authorizing the Minister to establish rules respecting the acknowledgment of receipt of approved electronic documents;
- (w.6) authorizing the Minister to exempt a document or type or class of document from any requirement of or created under a regulation under clauses (w.1) to (w.5), subject to any terms and conditions the Minister considers appropriate;

(w.7) generally governing the applicability of regulations under clauses (w.1) to (w.6) to the business processes administered by divisions, branches, units or parts of the Department;

(3) Section 38 is amended

(a) in subsection (2) by adding the following after clause (e.1):

(e.2) any consideration or charges instead of consideration referred to in section 16(3) or (5) of the *Petroleum Marketing Act* that are made subject to this section by the regulations;

(b) in subsection (4)(a)(ii) by adding “, (e.2)” after “(e.1)”.

(3) Section 38(2) and (4) presently read:

(2) Where the Minister considers it appropriate to do so, the Minister may, in accordance with this section, calculate, recalculate or make additional calculations of any of the following:

- (a) the Crown's royalty share of a mineral;*
- (b) any royalty proceeds;*
- (c) any credit or other deduction permitted by the regulations from the Crown's royalty share of a mineral or from royalty proceeds;*
- (d) any reduction or exemption from payment permitted by the regulations of the Crown's royalty share of a mineral or of royalty proceeds;*
- (e) any offset compensation;*
- (e.1) any consideration or charges instead of consideration referred to in section 36(2)(c.1), (c.2) or (c.3) that are made subject to this section by the regulations;*
- (f) any interest or penalty arising or imposed under the regulations.*

(4) A calculation, recalculation or additional calculation of any amount referred to in subsection (2) may be made,

- (a) subject to subsection (6), within 4 years after the end of the calendar year in which*
 - (i) the mineral that is the subject of the calculation, recalculation or additional calculation was recovered in a case to which subsection (2)(a) applies,*
 - (ii) the amount referred to in subsection (2)(b), (e), (e.1) or (f), as the case may be, became owing, or*

(4) Section 39.1(3), (4) and (5) are amended by adding “or an overpayment of an amount” before “referred”.

(5) Subsection (3) comes into force on Proclamation.

(iii) *the amount of any credit, deduction, reduction or exemption referred to in subsection (2)(c) or (d) was first determined by the Minister,*

or

(b) *notwithstanding clause (a), at any time if the calculation, recalculation or additional calculation is made necessary by reason of*

(i) *fraud, or*

(ii) *misrepresentation attributable to neglect, carelessness or wilful default*

in the filing or submission of any report or other information under this Act.

(4) Section 39.1(3), (4) and (5) presently read:

(3) No proceedings may be commenced by the Crown or any other person for a remedial order in respect of a claim for an amount referred to in subsection (2)(a) more than 3 years after the end of the calculation period for that amount.

(4) Subsection (3) does not apply in respect of a claim by the Crown for an amount referred to in subsection (2)(a) where the calculation period for the amount arises under section 38(4)(b).

(5) No proceedings may be commenced by the Crown or any other person for a remedial order in respect of a claim for an amount referred to in subsection (2)(b) more than 2 years after the date on which the direction to pay was issued under section 55 in respect of the amount.

(5) Coming into force.

Natural Gas Price Administration Act Natural Gas Pricing Agreement Act

Repeals

6 The *Natural Gas Price Administration Act*, RSA 1980 cN-3, and the *Natural Gas Pricing Agreement Act*, RSA 1980 cN-4, are repealed.

Oil and Gas Conservation Act

Amends RSA 2000 cO-6

7(1) The *Oil and Gas Conservation Act* is amended by this section.

(2) Section 1(1) is amended by adding the following after clause (aa):

- (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;

(3) Section 10(1) is amended by adding the following after clause (uu):

- (uu.1) exempting wells from the application of Part 11;
- (uu.2) exempting pipelines from the application of Part 11;

**Natural Gas Price Administration Act
Natural Gas Pricing Agreement Act**

6 Repeals 2 Acts that are spent.

Oil and Gas Conservation Act

7(1) Amends chapter O-6 of the Revised Statutes of Alberta 2000.

(2) Definition of “large facility”.

(3) Section 10(1)(uu) presently reads:

10(1) The Board may make regulations

(uu) exempting facilities from the application of Part 11;

(4) The following is added after section 26:

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.

(5) The following is added after section 31:

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.

(4) Working interest participants required to pay their share of any security deposit.

(5) Deemed licensee.

(6) Section 43 is amended by adding the following after subsection (6):

(6.1) The authorization of the Lieutenant Governor in Council is not required in respect of an amendment to a permit granted under this section.

(6) Section 43 presently reads in part:

43(1) In this section,

- (a) “energy resource” means gas, methane, ethane, propane, butanes, pentanes plus, condensate or crude oil or any primary derivative of them or any of them;*
- (b) “gas product” means any constituent of gas extracted by processing including methane, ethane, propane, butanes and pentanes plus but not including sulphur or any sulphur compound.*

(2) No energy resource produced in Alberta shall be used in Alberta as a raw material or fuel in any industrial or manufacturing operation unless the Board, on application, has granted a permit authorizing that use for that purpose in accordance with this section.

(3) Notwithstanding subsection (2), a permit under this section is not required when

- (a) the industrial or manufacturing operation is wholly in performance of a scheme or operation approved under section 39 or is a power plant as defined in the Hydro and Electric Energy Act, or*
- (b) the total quantity of energy in the energy resource used in any year as a raw material or fuel, or both, in the industrial or manufacturing operation does not exceed one petajoule, and the quantity of energy in the energy resource used in that year as a raw material in the industrial or manufacturing operation does not exceed 100 terajoules.*

(4) On receipt of an application pursuant to subsection (2) together with any information prescribed or required by the Board, the Board may

- (a) if so authorized by the Lieutenant Governor in Council, grant a permit for the use of the energy resource proposed in the application, or*
- (b) refuse the application.*

(5) The Board may hold a hearing with respect to an application under this section.

(7) Section 68 is amended

(a) by adding the following after clause (b):

- (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);

(b) in clause (d)

(i) by repealing subclauses (i) to (iv);

(ii) by adding the following after subclause (vii):

- (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*;

(iii) by adding the following after subclause (viii):

- (ix) any pipeline listed in the regulations as specifically exempted from this Part;

(c) by adding the following after clause (g):

- (g.1) “well” has the same meaning as it has in section 1(1)(eee) except that it does not include any well listed in the regulations as specifically exempted from this Part;

(8) Section 70 is amended

(6) The Board shall not grant a permit under this section unless in its opinion it is in the public interest to do so having regard to, among other considerations,

- (a) the efficient use without waste of the energy resource, and*
- (b) the present and future availability of hydrocarbons in Alberta.*

(7) Section 68(d) presently reads:

68 In this Part,

- (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) a processing plant or processing plant site as defined in the Oil Sands Conservation Regulation (AR 76/88);*
 - (ii) a gas processing plant that has sulphur recovery and sulphur storage facilities;*
 - (iii) an oilfield waste management facility;*
 - (iv) a processing plant designated by the Board as a straddle plant for the purposes of section 35;*
 - (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;*
 - (viii) any facility listed in the regulations as specifically exempted from this Part;*

(8) Section 70 presently reads:

70(1) The purposes of the orphan fund are

(a) in subsection (1)

(i) in clause (c) by adding “except in respect of a large facility,” **before** “to pay”;

(ii) by adding the following after clause (c):

(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;

(b) in subsection (2) by adding the following after clause (b):

(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;

- (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) *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;*
 - (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;*

(9) Section 71 is amended by renumbering it as section 71(1) and by adding the following after subsection (1):

(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.

(10) Section 73 is amended by adding the following after subsection (2):

(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.

- (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.*

(9) Section 71 presently reads:

71 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.*

(10) Section 73 presently reads:

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*

(11) Section 74 is amended by adding the following after subsection (1):

(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.

(12) The following is added after section 76:

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.

(c) any surplus for emergency and non-budgeted expenditures that the Board considers is necessary.

(11) Section 74 presently reads:

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).

(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.

(12) Imposition of special orphan fund levy in respect of oilfield waste management facilities.

(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.

(13) Section 98 is amended by striking out “laterally” wherever it occurs.

(13) Section 98 presently reads:

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 laterally 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 laterally 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 laterally adjoining, or

(b) in computing the distance from a producing well.

(14) The following provisions are amended by striking out
“, with the approval of the Lieutenant Governor in Council,”:

section 48(1);
section 50(1);
section 51(1);
section 53(1);
section 80(3);
section 82(3).

(14) Removes requirement for Lieutenant Governor in Council approval for certain AEUB actions. The relevant sections read in part:

48(1) On application the Board, with the approval of the Lieutenant Governor in Council, 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.

50(1) On application the Board, with the approval of the Lieutenant Governor in Council, 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.

51(1) On application the Board, with the approval of the Lieutenant Governor in Council, 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.

53(1) On application the Board, with the approval of the Lieutenant Governor in Council, 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.

80(3) The Board may, with the approval of the Lieutenant Governor in Council, 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).

82(3) On an application or hearing under subsection (1) or (2), the Board, with the approval of the Lieutenant Governor in Council, 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.*

Oil Sands Conservation Act

Amends RSA 2000 cO-7

8(1) The *Oil Sands Conservation Act* is amended by this section.

(2) Section 13(2) is repealed and the following is substituted:

(2) The prior authorization of the Lieutenant Governor in Council is not required in respect of

- (a) an amendment to an approval or permit referred to in subsection (1), or
- (b) a consolidation of an approval or permit referred to in subsection (1) and one or more amendments to that approval or permit, as the case may be.

Petroleum Marketing Act

Amends RSA 2000 cP-10

9(1) The *Petroleum Marketing Act* is amended by this section.

(2) Section 1 is amended

(a) by renumbering clause (a) as clause (a.1) and by adding the following before clause (a.1):

- (a) “agreement” has the same meaning as in the *Mines and Minerals Act*;

(b) by adding the following after clause (b):

- (b.1) “goods” means goods specified in the regulations;

(c) by adding the following before clause (c):

- (b.2) “hydrocarbon substance” means any substance that is composed primarily of one or more types of hydrocarbons, and includes any other substance specified as a hydrocarbon substance in the regulations;

Oil Sands Conservation Act

8(1) Amends chapter O-7 of the Revised Statutes of Alberta 2000.

(2) Section 13 presently reads in part:

(2) The prior authorization of the Lieutenant Governor in Council is required in respect of an amendment under this section unless

(a) an authorization was not required in respect of the application under section 10, 11 or 12, as the case may be, or

(b) the amendment is, in the opinion of the Board, of a minor nature that does not warrant the authorization.

Petroleum Marketing Act

9(1) Amends chapter P-10 of the Revised Statutes of Alberta 2000.

(2) Definitions.

(b.3) “lessee” means the holder of an agreement according to the records of the Department;

(d) by adding the following after clause (c):

(d) “services” means services specified in the regulations;

(e) “supplier” means a person specified in the regulations as a supplier.

(3) The heading “Part 1 Alberta Petroleum Marketing Commission” is repealed.

(4) Section 2 is amended

(a) in subsection (1) by striking out “Lieutenant Governor in Council” and substituting “Minister”;

(b) in subsection (2)

(i) by striking out “Lieutenant Governor in Council” and substituting “Minister”;

(ii) in clause (c) by striking out “shall” and substituting “may”;

(c) in subsection (3) by striking out “shall” and substituting “may” and by striking out “the bylaws” and substituting “a resolution”.

(5) Section 3(1) is repealed and the following is substituted:

Commission meetings

3(1) Subject to subsection (2),

(a) if there are 3 members of the Commission in office, 2 members constitutes a quorum at a meeting of the Commission, and

(3) Repeals unnecessary heading.

(4) Section 2 presently reads in part:

2(1) There is hereby created a corporation with the name “Alberta Petroleum Marketing Commission” that shall consist of not more than 3 members appointed by the Lieutenant Governor in Council.

(2) The Lieutenant Governor in Council

- (a) shall designate one of the members of the Commission as chair and another as vice-chair;*
- (b) may prescribe the term of office of any member or the term of office of the chair or vice-chair;*
- (c) shall prescribe the rates of remuneration to be paid by the Commission to the members of the Commission.*

(3) The members of the Commission shall be paid by the Commission their reasonable travelling and living expenses while absent from their ordinary place of residence and in the course of their duties as members of the Commission, in accordance with the bylaws of the Commission.

(5) Section 3(1) presently reads:

3(1) Subject to subsection (2), a majority of the members of the Commission constitutes a quorum at a meeting of the Commission.

- (b) if there are one or 2 members of the Commission in office, one member constitutes a quorum at a meeting of the Commission.

(6) Section 4 is repealed and the following is substituted:

Offices

4 The Commission may establish offices in any locations that it considers appropriate for the purpose of conducting its business and affairs.

(7) Section 5(2) is repealed.

(8) Section 6(2) is repealed and the following is substituted:

(2) The Commission may engage the assistance of any persons it considers necessary for the purpose of conducting its business and affairs.

(9) Section 11 is amended

- (a) in subsection (1) by striking out** “that the Lieutenant Governor in Council may require” **and substituting** “required by the regulations”;
- (b) by repealing subsection (2).**

(10) Section 12 is amended

- (a) in subsections (1), (2) and (4) by striking out** “Provincial Treasurer” **wherever it occurs and substituting** “Minister of Finance and Enterprise”;

(6) Section 4 presently reads:

4(1) The head office of the Commission shall be at a place in Alberta designated by the Lieutenant Governor in Council.

(2) The Commission may establish any other offices and agencies it considers expedient.

(7) Section 5(2) presently reads:

(2) The Regulations Act applies to bylaws of the Commission.

(8) Section 6(2) presently reads:

(2) The Commission may obtain the services of any agents or advisors or persons providing technical or professional services of a kind required by the Commission in connection with its business and affairs.

(9) Section 11 presently reads:

11(1) The Commission shall annually, after the end of its fiscal year, prepare a general report summarizing its transactions and affairs during its last fiscal year and showing the revenues and expenditures during that period, an audited balance sheet and any other information that the Lieutenant Governor in Council may require.

(2) When the report is prepared, the Minister shall lay a copy of it before the Legislative Assembly if it is then sitting and if not, within 15 days after the commencement of the next sitting.

(10) Section 12 presently reads in part:

12(1) The Provincial Treasurer shall pay to the Commission the money voted by the Legislature for the purposes of the Commission

(b) by repealing subsection (5) and substituting the following:

(5) The Commission shall, when requested to do so by the Minister of Finance and Enterprise, pay to the Minister of Finance and Enterprise for deposit in the General Revenue Fund the net profit of the Commission for a fiscal year or a part of that net profit specified by the Minister of Finance and Enterprise.

(11) Section 13(2) is repealed.

(12) The heading “Part 2 Marketing of the Crown’s Royalty Share of Crude Oil” is repealed.

in equal monthly instalments unless otherwise agreed between the Commission and the Provincial Treasurer.

(2) If the money voted by the Legislature for the purposes of the Commission is not sufficient for the Commission to meet its obligations as they become due, the Lieutenant Governor in Council may authorize the Provincial Treasurer to make payments to the Commission from the General Revenue Fund.

(4) The Lieutenant Governor in Council may authorize the Provincial Treasurer to guarantee on behalf of the Crown in right of Alberta the repayment of any money borrowed by the Commission pursuant to subsection (3) and interest on that money.

(5) After the end of each fiscal year of the Commission, the Commission shall, when requested to do so by the Provincial Treasurer and in accordance with the Provincial Treasurer's directions, pay to the Provincial Treasurer for deposit in the General Revenue Fund the net profit of the Commission for the preceding fiscal year or the part of that net profit specified by the Provincial Treasurer.

(11) Section 13 presently reads:

13(1) The Commission has the capacity and, subject to this Act, the rights, powers and privileges of a natural person.

(2) The Commission, in the conduct of its business and affairs, may exercise its rights, powers and privileges in the course of

(a) carrying on the business of acquiring, selling and exchanging crude oil, condensate and synthetic crude oil and products of any of them and engaging in activities related or incidental to that business,

(b) exercising and performing its functions under this or any other enactment, and

(c) acting in any other circumstances as an agent of the Crown in right of Alberta.

(12) Repeals unnecessary heading.

(13) Section 14 is repealed and the following is substituted:

Definition

14(1) In section 16, “crude oil” means the crude oil component of petroleum.

(2) This section is repealed on Proclamation.

(14) Section 15 is repealed and the following is substituted:

Dealing with Crown’s royalty share

15 Subject to the regulations, the Commission shall

- (a) accept delivery of the Crown’s royalty share of a hydrocarbon substance required to be delivered to the Commission pursuant to an agreement, a contract under section 9(a) of the *Mines and Minerals Act* or an enactment, and
- (b) deal with the Crown’s royalty share of the hydrocarbon substance in a manner that is, in the Commission’s opinion, in the public interest of Alberta.

(15) Section 16 is repealed and the following is substituted:

Direction to provide goods and services

16(1) The Commission may, in accordance with the regulations, direct a supplier to provide goods or services or both.

(2) The Commission may include in a direction under subsection (1) any terms and conditions that it considers appropriate.

(3) The Commission may pay consideration for the provision of the goods or services in accordance with the regulations.

(13) Section 14 presently reads:

14 In this Part,

- (a) “agreement” means a lease, licence, permit or reservation of petroleum and natural gas rights or petroleum rights issued pursuant to the Mines and Minerals Act or its predecessors and to which section 86 of the Mines and Minerals Act applies;*
- (b) “crude oil” means the crude oil component of petroleum;*
- (c) “lessee” means the holder of an agreement according to the records of the Department.*

(14) Section 15 presently reads:

15 Subject to the regulations, the Commission

- (a) shall accept delivery within Alberta of the Crown’s royalty share of the crude oil recovered pursuant to an agreement and required to be delivered to it by section 86 of the Mines and Minerals Act, and*
- (b) shall sell the Crown’s royalty share of crude oil at a price that is in the public interest of Alberta.*

(15) Section 16 presently reads:

16(1) When the Commission wishes to arrange for the storage of crude oil delivered to it pursuant to section 15, the Commission may

- (a) direct the operator of a pipeline to transmit the crude oil by the operator’s pipeline to a storage facility in Alberta designated by the Commission or to a point in Alberta designated by the Commission that is en route to a storage facility, or*
- (b) subject to subsection (2), direct the owner of any storage facility in Alberta to accept the crude oil for storage and to store it in that storage facility,*

(4) A supplier who receives a direction under subsection (1) shall comply with

- (a) the direction, and
- (b) any regulations relating to the provision of the goods or services.

(5) Where the Commission gives a direction under subsection (1) and the Commission is unable to reach an agreement with the supplier as to the just and reasonable consideration to be paid by the Commission for the goods or services, the Alberta Utilities Commission may, on the application of the Commission or the supplier, fix charges instead of consideration in accordance with the regulations.

(6) No compensation is payable for goods or services provided under this section other than consideration or charges instead of consideration that are paid or fixed under this section.

(7) A supplier who contravenes subsection (4) is guilty of an offence and is liable to a fine of not more than \$5000 for each day that the contravention continues.

(8) Where a supplier contravenes subsection (4), the Commission may, whether or not the supplier has been convicted of an offence in respect of the contravention, apply to the Court of Queen's Bench for an order requiring the supplier to comply with the direction or the regulations, as the case may be.

(9) Where

- (a) a supplier is the lessee under an agreement, and
- (b) a direction is given to the supplier under subsection (1) calling for goods or services to be provided in respect of a hydrocarbon substance that is, in whole or in part, the Crown's royalty share of a mineral payable pursuant to the agreement,

a contravention of subsection (4) by the supplier is, for the purposes of section 45(1)(c)(i) of the *Mines and Minerals Act*, deemed to be a failure to comply with that Act in relation to the

subject to the payment of compensation for it by the Commission in accordance with subsection (3) or (4).

(2) The Commission shall not make a direction under subsection (1)(b) in respect of a storage facility consisting of an underground formation unless an approval has been previously obtained from the Energy Resources Conservation Board pursuant to section 39(1)(d) of the Oil and Gas Conservation Act.

(3) When a direction is made by the Commission under subsection (1)(a) and the Commission is unable to reach an agreement with the owner or operator of the pipeline as to the just and reasonable charges to be paid by the Commission for the transmission of the crude oil by that pipeline, section 110 of the Public Utilities Board Act applies.

(4) When a direction is made by the Commission under subsection (1)(b) and the Commission is unable to reach an agreement with the owner or operator of the storage facility as to the just and reasonable charges to be paid by the Commission for the storage of the crude oil, the Public Utilities Board may, on the application of the Commission or the other party to the dispute, fix those storage charges.

(5) A person who does not comply with a direction given to the person by the Commission under subsection (1) is guilty of an offence and liable to a fine not exceeding \$5000 for each day that the failure of compliance continues.

(6) If a person does not comply with a direction given to the person by the Commission under subsection (1), then, whether or not the person has been convicted of an offence under subsection (5), the Commission may by originating notice apply to the Court of Queen's Bench for an order requiring that person to comply with the direction.

agreement, whether or not the supplier has been convicted of an offence in respect of the contravention.

(16) Section 17 is repealed.

(17) Sections 18 and 19 are repealed and the following is substituted:

Discharge of lessee's liability

18(1) Subject to this section and the regulations, the delivery to the Commission of the Crown's royalty share of a hydrocarbon substance recovered pursuant to an agreement operates to discharge the lessee with respect to the lessee's liability to pay that royalty to the Crown in right of Alberta.

(2) Where money is paid to the Commission pursuant to regulations made under section 19(1)(e) as provided for under section 19(2)(a),

- (a) the money is deemed to be payable under an agreement and is for all other purposes deemed to be a money royalty payable on the hydrocarbon substance under an agreement, and
- (b) the payment of the money operates to discharge the lessee of an agreement with respect to the lessee's liability to pay royalty on the hydrocarbon substance to the Crown in right of Alberta to the extent that the money represents the value of the royalty on the hydrocarbon substance as determined under the regulations.

Regulations

19(1) The Lieutenant Governor in Council may make regulations

- (a) specifying substances or classes of substances as hydrocarbon substances for the purposes of this Act;

(16) Section 17 presently reads:

17 The Commission shall pay the proceeds of sales of crude oil by it under this Part to the Provincial Treasurer for deposit in the General Revenue Fund in accordance with the directions of the Provincial Treasurer.

(17) Sections 18 and 19 presently read:

18(1) Subject to this section, the delivery to the Commission of the Crown's royalty share of crude oil recovered pursuant to an agreement operates to discharge the lessee with respect to the lessee's liability to pay that royalty to the Crown in right of Alberta.

(2) The Lieutenant Governor in Council may make regulations

- (a) respecting information to be furnished to the Commission, the persons required to furnish that information, the form in which that information must be furnished and the time within which the information must be furnished;*
- (b) respecting the imposition of pecuniary penalties payable to the Commission, the circumstances in which the penalties may be imposed, the persons liable to pay the penalties and the time by which the penalties must be paid;*
- (c) respecting the respective rights, powers, liabilities and obligations of the Commission, lessees and others in the event that the quantity of crude oil delivered to the Commission under this Part in a month is less than or greater than the Crown's royalty share of the crude oil actually payable in respect of that month.*

(3) Without limiting the powers of the Lieutenant Governor in Council under subsection (2)(c), regulations may be made under that clause

- (a) respecting the powers of the Commission, in the event of a deficiency in deliveries of the quantity of the Crown's royalty share of crude oil under an agreement in a month, notwithstanding section 86 of the Mines and Minerals Act,*

- (b) respecting other information that must be shown in a general report referred to in section 11;
- (c) respecting information to be furnished to the Commission, the persons required to furnish that information, the form in which that information must be furnished and the time within which the information must be furnished;
- (d) respecting the imposition of pecuniary penalties payable to the Commission, the circumstances in which the penalties may be imposed, the persons liable to pay the penalties and the time by which the penalties must be paid;
- (e) respecting the respective rights, powers, liabilities and obligations of the Commission, lessees and others in the event that the quantity of a hydrocarbon substance delivered to the Commission in a month is less than or greater than the Crown's royalty share of the hydrocarbon substance actually payable in respect of that month;
- (f) providing for any matter in connection with or incidental to the administration of sections 15 to 18.

(2) Without limiting the powers of the Lieutenant Governor in Council under subsection (1)(e), regulations may be made under that subsection

- (a) respecting the powers of the Commission, in the event of a deficiency in deliveries of the quantity of the Crown's royalty share of a hydrocarbon substance under an agreement in a month, notwithstanding any provision to the contrary in the *Mines and Minerals Act* or a regulation under that Act,
 - (i) to accept the payment of money instead of delivery of the deficient quantity, or
 - (ii) to direct the payment to the Commission of an amount of money determined by it in accordance with the regulations as the value to the Crown of the deficient quantity;

- (i) *to accept the payment of money instead of delivery of the deficient quantity, or*
 - (ii) *to direct the payment to the Commission of an amount of money determined by it in accordance with the regulations as the value to the Crown of the deficient quantity;*
 - (b) *respecting the powers of the Commission, in the event of deliveries of crude oil to the Commission in a month in excess of the quantity of the Crown's royalty share of crude oil for that month, to act as the agent of the owner of the excess quantity for the sale and delivery of the excess quantity to a purchaser in accordance with the regulations.*
- (4) *Where money is paid to the Commission pursuant to regulations under subsection (3)(a),*
- (a) *the money is deemed to be payable under an agreement and to be proceeds from the sale of crude oil for the purposes of section 17 and is for all other purposes deemed to be a money royalty payable on crude oil under an agreement, and*
 - (b) *the payment of the money operates to discharge the lessee of an agreement with respect to the lessee's liability to pay royalty on crude oil to the Crown in right of Alberta to the extent that the money represents the value of the royalty on crude oil as determined under the regulations.*
- (5) *A failure to comply with the regulations under this section in respect of an agreement shall, for the purposes of section 45(1)(c)(i) of the Mines and Minerals Act, be deemed to be a failure to comply with that Act in relation to the agreement.*
- (6) *Reports and other information supplied to the Commission pursuant to regulations under this section are, for the purposes of section 38 of the Mines and Minerals Act, deemed to be supplied under that Act.*
- 19 The Lieutenant Governor in Council may make regulations providing for any matter in connection with or incidental to the administration of this Part.*

(b) respecting the powers of the Commission, in the event of deliveries of a hydrocarbon substance to the Commission in a month in excess of the quantity of the Crown's royalty share of the hydrocarbon substance for that month, to act as the agent of the owner of the excess quantity for the disposition and delivery of the excess quantity to a purchaser in accordance with the regulations.

(3) A failure to comply with the regulations under this section in respect of an agreement is, for the purposes of section 45(1)(c)(i) of the *Mines and Minerals Act*, deemed to be a failure to comply with that Act in relation to the agreement, whether or not the lessee has been convicted of an offence in respect of the contravention.

(4) Reports and other information supplied to the Commission pursuant to regulations under this section are, for the purposes of section 38 of the *Mines and Minerals Act*, deemed to be supplied under that Act.

(18) The following is added after section 19:

Regulations re provision of goods and services

19.1(1) The Lieutenant Governor in Council may make regulations

- (a) specifying goods or services or classes of goods or services for the purposes of section 16;
- (b) specifying persons or classes of persons as suppliers for the purposes of section 16;
- (c) respecting the giving of directions to suppliers and respecting the provision of goods or services by suppliers under section 16;
- (d) respecting the consideration to be paid by the Commission under section 16(3) and the fixing of charges instead of consideration by the Alberta Utilities Commission;
- (e) respecting applications to the Alberta Utilities Commission for the purposes of section 16(5);

(18) Regulations re provision of goods and services.

(f) respecting the rights, powers, liabilities and obligations of the Commission, suppliers and others in relation to the provision of goods or services and consideration for goods or services or charges instead of consideration under section 16.

(2) A failure to comply with the regulations under this section in respect of an agreement is, for the purposes of section 45(1)(c)(i) of the *Mines and Minerals Act*, deemed to be a failure to comply with that Act in relation to the agreement, whether or not the lessee has been convicted of an offence in respect of the contravention.

(3) Reports and other information supplied to the Commission pursuant to regulations under this section are, for the purposes of section 38 of the *Mines and Minerals Act*, deemed to be supplied under that Act.

(19) Subsections (2)(b) and (d), (15) and (18) come into force on Proclamation.

Pipeline Act

Amends RSA 2000 cP-15

10(1) The *Pipeline Act* is amended by this section.

(2) Section 1(1)(t)(i) is repealed and the following is substituted:

- (i) a pipe used to convey water other than water used in connection with
 - (A) a facility, scheme or other matter authorized under the *Oil and Gas Conservation Act* or the *Oil Sands Conservation Act*, or
 - (B) a coal processing plant or other matter authorized under the *Coal Conservation Act*,

(19) Coming into force.

Pipeline Act

10(1) Amends chapter P-15 of the Revised Statutes of Alberta 2000.

(2) Section 1(1)(t) presently reads:

1(1) In this Act,

- (t) “pipeline” means a pipe used to convey a substance or combination of substances, including installations associated with the pipe, but does not include*
 - (i) a pipe used to convey water other than water used in connection with a facility, scheme or other matter authorized under the Oil and Gas Conservation Act or the Oil Sands Conservation Act,*
 - (ii) a pipe used to convey gas, if the pipe is operated at a maximum pressure of 700 kilopascals or less, and is not used to convey gas in connection with a facility, scheme or*

Water, Gas and Electric Companies Act

Amends RSA 2000 cW-4

11(1) The *Water, Gas and Electric Companies Act* is amended by this section.

(2) Section 3 is repealed and the following is substituted:

Transmission lines and pipelines

3 This Act does not apply

- (a) to a transmission line as defined in the *Hydro and Electric Energy Act*, or
- (b) to a pipeline as defined in the *Pipeline Act*.

other matter authorized under the Oil and Gas Conservation Act or the Oil Sands Conservation Act, or

(iii) *a pipe used to convey sewage;*

Water, Gas and Electric Companies Act

11(1) Amends chapter W-4 of the Revised Statutes of Alberta 2000.

(2) Section 3 presently reads:

3 This Act does not apply to a transmission line as defined in the Hydro and Electric Energy Act.

