

House of Assembly



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BILL NO. 24

(as introduced)



*1st Session,
61st General
Assembly
Nova Scotia
58 Elizabeth II,
2009*

Government Bill

Pipeline Act (amended)

The Honourable Bill Estabrooks, MB
Minister of Energy

[First Reading](#): September 29, 2009

[\(Explanatory Notes\)](#)

Second Reading: October 26, 2009

[Third Reading](#): November 2, 2009 (LINK TO BILL AS PASSED)



Explanatory Notes

[Clause 1](#) changes the long title of the Pipeline Act.

[Clause 2](#)

(a) repeals the definition of "gas pipeline";

(b) repeals the definition of "installation";

(c) changes the definition of "oil";

(d) changes the definition of "pipeline" and adds a definition of "pipeline system"; and

(e) repeals the definition of "transmission" and adds definitions of "transportation" and "well".

[Clause 3](#) removes the specific reference to a gas pipeline from the power of the Governor in Council to exempt pipelines from the application of the Act.

[Clause 4](#) removes from Section 5 of the Act a reference to pipelines excluded from the application of the Act that specifies that the Act does not apply to certain types of pipelines.

[Clause 5](#) removes the specific reference to a gas pipeline from the reference to pipelines over which the Utility and Review Board controls construction, testing, operation and maintenance.

[Clause 6](#) adds Sections to the Act respecting the powers of the Utility and Review Board to make and enforce various types of orders and directions.

[Clause 7](#) changes the provisions respecting applications for permits.

[Clause 8](#) replaces references to "transmission" of substances with "transportation".

Clause 9 removes references to "oil, gas, water or other" substances from Section 18 of the Act and changes a reference from "facilities" to "pipeline".

Clause 10 changes the provision that a holder of a license shall not "suspend or discontinue" operation of a pipeline to a provision that the holder shall not "deactivate" operation of a pipeline.

Clause 11 adds two Sections to the Pipeline Act to provide for entry on lands for the purpose of assessing the feasibility of a pipeline route.

Clause 12 changes the provision respecting the finality of decisions of the Utility and Review Board to reflect new definitions used in this Act.

Clause 13 replaces a reference to "transmission" of substances with "transportation".

Clause 14 amends various regulation-making powers to

(a) replace a reference to the "transmission" of substances with "transportation";

(b) add the power for the Utility and Review Board to determine charges of common carriers;

(c) repeal powers respecting procedures and forms for applications, hearings or inquiries and forms generally, and respecting fees pertaining to any matter under the Act or regulations; and

(d) striking out references to installations and equipment in several provisions and adding new regulation-making powers respecting gathering lines, gas distributions systems, pipelines for gas or gas-free liquids and the establishment of a schedule of administrative penalties by the Utility and Review Board.

Clause 15 provides that this Bill comes into force upon proclamation.



An Act to Amend Chapter 345

of the Revised Statutes, 1989, the Pipeline Act

Be it enacted by the Governor and Assembly as follows:

1 The title of Chapter 345 of the Revised Statutes, 1989, is changed from "An Act Respecting the Transmission of Oil and Gas" to "An Act Respecting the Transportation of Oil and Gas".

2 Subsection 3(1) of Chapter 345, as amended by Chapter 12 of the Acts of 2000 and Chapter 15 of the Acts of 2001, is further amended by

(a) striking out clause (c);

(b) striking out clause (e);

(c) striking out clause (i) and substituting the following clause:

(i) "oil" means a mixture composed mainly of pentanes and heavier hydrocarbons, that may contain sulphur compounds, is recovered or recoverable at a well from a pool and is liquid in the conditions under which its volume is measured or estimated, but does not include natural gas liquids;

(d) striking out clause (k) and substituting the following clauses:

(k) "pipeline" means a line that is used or to be used for the transportation of petroleum industry fluids and includes

(i) pipe, components and any appurtenances attached thereto, including the isolating valves used at stations and other facilities,

(ii) a gathering line,

(iii) a flow line,

(iv) a service line,

(v) a transmission line, and

(vi) a gas distribution system;

(ka) "pipeline system" means pipelines, stations and other facilities used for the measurement, processing, storage and transportation of petroleum industry fluids;

and

(e) striking out clauses (o) and (p) and substituting the following clauses:

(o) "transportation" includes storage within a pipeline system, but does not include storage in

(i) a storage reservoir, as defined in the Underground Hydrocarbons Storage Act, or

(ii) a storage tank system as defined in the Petroleum Management Regulations made under the Environment Act;

(p) "well" means an opening in the ground, whether being drilled or completed

(i) as an exploratory well for petroleum,

(ii) for the production of petroleum, or

(iii) for injection of fluids into an underground formation.

3 Clause 4(1)(b) of Chapter 345 is amended by striking out "including a gas pipeline" in the third line.

4 Section 5 of Chapter 345, as amended by Chapter 12 of the Acts of 2000, is further amended by

(a) striking out the semicolon at the end of clause (d) and substituting a period; and

(b) striking out clause (e).

5 Clause 6(a) of Chapter 345 is amended by striking out "including gas pipelines" in the second line.

6 Chapter 345 is further amended by adding immediately after

Section 6 the following Sections:

6A Where it appears to the Board that any person is not complying with any provision of this Act or the regulations, with the terms or conditions of any permit or licence or with an order made under this Act, notwithstanding the imposition of any penalty in respect of such non-compliance and in addition to any other remedy available to the Board, the Board may, by order,

(a) require the person to take such action as the Board considers necessary to ensure compliance with this Act, the regulations or such permit, licence or order; or

(b) prohibit the person from carrying on any action that the Board considers to be contrary to this Act, the regulations or such permit, licence or order.

6B Where under this Act the Board may make or issue any order or direction or prescribe any terms or conditions or do any other thing in relation to any person, the Board may do so either generally or in any particular case or class of cases.

6C (1) Without limiting the generality of any provision of this Act that authorizes the Board to impose terms and conditions with respect to a permit, licence or order, the Board may direct that

(a) any permit, licence or order or part thereof come into force at a future time or on the happening of any event, contingency or condition, or upon the satisfactory performance of a requirement imposed by the Board that is set out in the permit, licence or order; and

(b) the whole or any part of a permit, licence or order has force for a limited time or until the happening of a specified event.

(2) The Board may, instead of making an order final in the first instance, make an interim order and may reserve its decision pending further proceedings in connection with any matter.

6D On any application made to the Board, the Board may make a decision or order granting the whole or part only of the application, or may grant such further or other relief in addition

to or in place of that applied for as the Board considers appropriate, to the same extent as if the applications had been for such partial or related relief.

6E The Board may review, vary or rescind any permit or licence issued by it or any decision or order made by it, and may rehear any application before deciding it.

6F An order of the Board may be enforced in the same manner as an order of the Supreme Court of Nova Scotia.

7 Section 8 of Chapter 345 is repealed and the following Section substituted:

8 (1) Any person may apply in the prescribed manner to the Board for a permit to construct a pipeline or a part thereof.

(2) Where a person applies to the Board to construct or expand a gas distribution system, the permit issued by the Board may be for pipeline construction within all or part of the applicant's distribution franchise area and may be for such duration as the Board determines.

8 (1) Subsection 14(1) of Chapter 345 is amended by striking out "transmission" in the second line and substituting "transportation".

(2) Subsection 14(2) of Chapter 345, as amended by Chapter 15 of the Acts of 2001, is further amended by striking out "transmission" in the second line and substituting "transportation".

9 Section 18 of Chapter 345, as amended by Chapter 15 of the Acts of 2001, is further amended by

(a) striking out "oil, gas, water or other" in the third line; and

(b) striking out "facilities" in the seventh line and substituting "pipeline".

10 Section 19 of Chapter 345, as amended by Chapter 15 of the Acts of 2001, is further amended by striking out "suspend or discontinue" in the first and second lines and substituting "deactivate".

11 Chapter 345 is further amended by adding immediately after Section 31 the following Sections:

31A (1) No person may enter upon any Nova Scotia lands, including lands owned by the Province, for the purpose of assessing the feasibility of the use of those lands or adjacent lands for a pipeline route, without the consent of the owner or lawful occupier of the surface of such lands.

(2) Where such consent cannot be obtained, the person wishing to enter the lands for the purpose described in subsection (1) may apply to the Minister and the Minister may grant an order for entry upon such terms, including the payment of compensation, as the Minister considers appropriate.

(3) Such order shall be made in accordance with the provisions of Section 31B.

31B (1) Except as otherwise provided in this Act, every order made pursuant to Section 31A is final and conclusive.

(2) Before making any order under Section 31A, the Minister shall give notice in writing to the persons affected thereby of not less than fourteen days, or such other period as the Minister considers appropriate in the circumstances, specifying the nature of the order proposed to be made.

(3) Where the Minister cannot in writing conveniently notify every person affected, or cannot identify with certainty the persons affected, the Minister shall give notice in such manner as the Minister considers appropriate in the circumstances.

(4) Within the period specified in the notice given under subsection (2) or (3), any person receiving the notice may, in writing, request a hearing and, on receipt of such request, the Minister shall appoint a time and place for a hearing and give notice thereof of not less than seven days, or such other period as the Minister considers appropriate in the circumstances, to the person who requested the hearing.

(5) If a hearing is not requested within the period specified in the notice, the order is final and conclusive.

(6) Any person to whom notice is required to be given under subsection (2) or (3) may make representations and introduce documents and witnesses at any hearing held under this

Section, and in making any order in respect of which the hearing has been held, the Minister

(a) shall consider any representations made and evidence introduced at the hearing;

(b) may adjourn the hearing from time to time as the Minister considers appropriate and may direct such inquiries and reports to be made by such persons as the Minister considers appropriate, and witnesses may be called and examined upon oath;

(c) shall make an order on the merits of the matter as the Minister considers them, and is not bound to follow any previous decisions; and

(d) shall, on request by any such person, publish or make available to that person the reasons for the order.

12 Section 41 of Chapter 345 is repealed and the following Section substituted:

41 A decision of the Board respecting a substance that may be transported in a pipeline or whether a pipeline is a particular type of line is final.

13 Section 43 of Chapter 345, as amended by Chapter 15 of the Acts of 2001, is further amended by striking out "transmission" in the third line and substituting "transportation".

14 Subsection 44(1) of Chapter 345, as amended by Chapter 12 of the Acts of 2000 and Chapter 15 of the Acts of 2001, is further amended by

(a) adding ", including those charged by a common carrier," immediately after "charges" in the third line of clause (a);

(b) striking out "transmission" in the fourth line of clause (a) and substituting "transportation";

(c) striking out "or installation" in the second line of clause (h);

(d) striking out "and equipment" in the third line of clause (n);

(e) striking out "and installations" in the third and fourth lines of clause (n);

(f) adding immediately after clause (o) the following clauses:

(oa) pipelines proposed or built and maintained as gathering lines, flow lines, service lines, transmission lines or gas distribution systems and, without limiting the generality of the foregoing, setting additional or different standards for gathering lines, flow lines, service lines, transmission lines or gas distribution systems;

(ob) pipelines proposed or built and maintained for the purpose of transporting

(i) gas in which the hydrogen sulphide gas content exceeds a prescribed level at the design pressure, or

(ii) gas-free liquids in which the effective hydrogen sulphide exceeds a prescribed level at the design pressure,

and, without limiting the generality of the foregoing, setting additional or different standards for those pipelines as distinguished from other pipelines;

(g) striking out "and installations" in the second line of clause (wc); and

(h) adding immediately after clause (wd) the following clause:

(we) the establishment of a schedule of administrative penalties by the Board for the purpose of encouraging and enforcing compliance with this Act and the regulations;

15 This Act comes into force on such day as the Governor in Council orders and declares by proclamation.



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