

BILL

No. 126

An Act respecting Energy Exports

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(Assented to)

Preamble

WHEREAS the Legislative Assembly recognizes the importance of oil, gas and refined products to growing and maintaining Canada's economy;

AND WHEREAS the Legislative Assembly recognizes that maximizing the value of oil, gas and refined products is in the public interest of Saskatchewan and of Canada;

AND WHEREAS the Legislative Assembly acknowledges the valuable role that industry plays in Saskatchewan;

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

Short title

1 This Act may be cited as *The Energy Export Act*.

Definitions

2 In this Act:

“condensate” means a liquid hydrocarbon product that existed in the reservoir in a gaseous phase at original conditions and that is recovered from a gas stream when pressure and temperature are reduced to not lower than those at atmospheric conditions;

“gas” means, subject to the regulations, natural gas, both before and after it has been subjected to absorption, purification, scrubbing or other treatment or process, and includes all liquid hydrocarbons and condensate, but does not include oil;

“minister” means the member of the Executive Council to whom for the time being the administration of this Act is assigned;

“oil” means, subject to the regulations, crude petroleum oil and any other hydrocarbon, regardless of density, that is or is capable of being produced from a well in liquid form, but does not include condensate;

“permit” means a permit issued pursuant to this Act;

“prescribed” means prescribed in the regulations;

“refined product” means a commodity made from oil or gas and includes:

- (a) refined crude oil, crude tops, topped crude, processed crude, processed crude oil, residue from crude oil, cracking stock, uncracked fuel oil, fuel oil, treated crude oil, residuum, gas oil, casinghead gasoline, natural-gas gasoline, lubricating oil, blends or mixtures of oil with one or more liquid products or by-products derived from oil or gas and blends or mixtures of two or more liquid products or by-products derived from oil or gas; and
- (b) any other prescribed product made from oil or gas.

Application of Act

3(1) This Act applies to all persons, or classes of persons, who:

- (a) export from Saskatchewan oil, gas or refined products; and
- (b) are designated by the Lieutenant Governor in Council on the recommendation of the minister.

(2) This Act does not apply to any class of oil, gas or refined products designated by the Lieutenant Governor in Council for any period that may be set out by the Lieutenant Governor in Council.

(3) In making a recommendation for the purposes of this section, the minister:

- (a) may consult any persons or groups of persons who, in the minister’s opinion, may be affected by a proposed designation and any other persons or groups of persons whom the minister considers appropriate; and
- (b) must have regard to whether the proposed designation is, in the minister’s opinion, in the public interest, considering all or any of the following matters:
 - (i) whether adequate pipeline capacity exists to maximize the return on oil and gas produced in Saskatchewan;
 - (ii) whether adequate supplies and reserves of oil, gas and refined products will be available for Saskatchewan’s present and future needs;
 - (iii) the economic benefits to Saskatchewan and Canada;
 - (iv) any other matters that the minister considers appropriate or necessary.

Permit required

4(1) In addition to any other licence, permit or approval required by an Act or law but subject to subsection 3(2), no person mentioned in subsection 3(1) shall export any oil, gas or refined products from Saskatchewan without holding a valid permit.

(2) Any person who intends to obtain a permit must:

- (a) apply to the minister in a form and manner approved by the minister; and
- (b) provide the minister with any information and documents that the minister may reasonably require.

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- (3) On receipt of an application for a permit, the minister may:
- (a) if the minister is satisfied that the application complies with this Act and the regulations and that it is in the public interest to do so, issue the permit, subject to any terms and conditions that the minister considers appropriate, including:
 - (i) terms and conditions respecting the term of the permit; and
 - (ii) terms and conditions respecting reports that the permit holder must provide to the minister and the manner and periods in which the records must be provided; or
 - (b) refuse to issue the permit.
- (4) Before the minister acts pursuant to clause (3)(b), the minister must provide the person submitting the application with:
- (a) written notice of the minister's intended action and the reasons for that intended action; and
 - (b) an opportunity to make written representations to the minister, within a period set by the minister, as to why the intended action should not be taken.
- (5) The minister is not required to give an oral hearing to any person to whom a notice has been provided pursuant to subsection (4).
- (6) After considering the representations mentioned in subsection (4), the minister shall give written notice of the decision with reasons and shall serve a copy of the decision on the person who made the representations.
- (7) This section applies, with any necessary modification, to an application to renew a permit.

Matters respecting permits

- 5(1)** When issuing a permit, the minister may consider issuing a permit for a lesser quantity of oil, gas or refined products to be exported from Saskatchewan than had been proposed in the application for the permit.
- (2) For the purposes of section 4, the minister may impose different terms and conditions for different types of oil, gas or refined product.

Cancellation, amendment, alteration or suspension of permit

- 6(1)** The minister may cancel, amend, alter or suspend any permit, in whole or in part, if:
- (a) the person to whom the permit was issued has failed to comply with the terms and conditions imposed on the permit;
 - (b) the person to whom the permit was issued has contravened this Act, the regulations or any order made pursuant to this Act or the regulations;
 - (c) the person to whom the permit was issued has made any false or misleading statement in any application, information, materials or plans supplied in support of an application for the permit;
 - (d) the permit was issued as a result of a clerical or administrative error or mistake;
 - (e) changes or alterations are made to the activities that are the subject of the permit without the approval of the minister; or
 - (f) the minister is satisfied that it is in the public interest to do so having regard to all or any of the matters mentioned in clause 3(3)(b).

(2) Before the minister does any of the things mentioned in subsection (1), the minister shall give the person mentioned in subsection (1):

(a) written notice of the minister's intended action and the reasons for that intended action; and

(b) an opportunity to make written representations to the minister, within 30 days after the written notice mentioned in clause (a) is served, as to why the intended action should not be taken.

(3) The minister is not required to give an oral hearing to any person to whom a notice has been given pursuant to subsection (2).

(4) After considering the representations mentioned in subsection (2), the minister shall give written notice of the decision with reasons and shall serve a copy of the decision on the person who made the representations.

(5) A person to whom a permit has been issued may apply to the minister to cancel, amend or alter the permit.

(6) Notwithstanding subsections (1) to (3), the minister may immediately cancel, amend, alter or suspend a permit without giving an opportunity to make written representations if, in the opinion of the minister, it is necessary and in the public interest to do so, but must give the permit holder an opportunity to make written representations within 15 days after the date of the cancellation, amendment, alteration or suspension.

Reconsideration of minister's decision

7 In accordance with the regulations, the minister may reconsider any decision made by the minister pursuant to this Act.

Order to cease transporting

8(1) In this section:

“commercial vehicle” means a commercial vehicle as defined in the regulations;

“operator” means:

(a) the holder of a licence for a pipeline issued pursuant to *The Pipelines Act, 1998*;

(b) a person who has received an operating authority certificate for a railway issued pursuant to *The Railway Act*; or

(c) an owner, lessee or driver of a commercial vehicle;

“pipeline” means a pipeline within the meaning of *The Pipelines Act, 1998*.

(2) The minister may act pursuant to subsection (3) if the minister determines that a person is not complying with:

(a) this Act or the regulations;

(b) a term or condition of a permit; or

(c) an order of the minister made pursuant to this Act.

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- (3) In the circumstances mentioned in subsection (2), the minister may make an order directing an operator to cease transporting oil, gas or a refined product in the operator's pipeline, or by the operator's railway or commercial vehicle, for the account of or on behalf of the person mentioned in subsection (2):
- (a) commencing on the date on which the order is served on the operator; and
 - (b) continuing until the minister notifies the operator in writing that the order is rescinded.
- (4) The minister must serve on the person concerned a copy of the order made pursuant to subsection (3), and of any subsequent notice given to the operator pursuant to that subsection, as soon as possible after it is made or given.
- (5) An order pursuant to subsection (3) does not operate:
- (a) to frustrate or otherwise render ineffective any agreement between:
 - (i) the person concerned and the operator to whom the order is given; or
 - (ii) the person concerned and any other person if the agreement relates to the transportation of oil, gas or refined products by pipeline, railway or commercial vehicle within Saskatchewan; or
 - (b) to relieve the person concerned from any liability:
 - (i) to the operator to whom the order is given; or
 - (ii) to a party under an agreement mentioned in subclause (a)(ii) for the payment of any amount that would in any event have been payable in the absence of the order.

Effect of order excluding oil, gas or refined products

9 A order made pursuant to subsection 3(2):

- (a) does not extend the term of any permit authorizing the export from Saskatchewan of oil, gas or refined products that:
 - (i) was issued before the effective date of the order; and
 - (ii) would have been in effect during the period of exclusion fixed in the order; and
- (b) may provide that when the period of exclusion is terminated, a permit that would have authorized the export from Saskatchewan of oil, gas or refined products is, on the effective date of termination of the exclusion, effective to authorize the export from Saskatchewan of oil, gas or refined products during any unexpired portion of the permit's term.

Offences and penalties

10(1) No person shall:

- (a) make or cause to be made a false statement or provide false information to the minister or any person acting on behalf of the minister in any application, report, document or other form of communication required pursuant to this Act, the regulations or an order made pursuant to this Act;
- (b) omit or cause to be omitted full, true and correct information in any report, document or other form of communication required pursuant to this Act, the regulations or an order made pursuant to this Act;

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- (c) omit to state a fact that is required to be stated or that is necessary to make a statement not misleading in light of the circumstances in which it was made to the minister or any person acting on behalf of the minister;
 - (d) destroy, mutilate, alter, falsify or remove from Saskatchewan any report, document, records or other form of communication required by this Act, the regulations or an order made pursuant to this Act or cause any information to be destroyed, mutilated, altered, falsified or removed from Saskatchewan;
 - (e) obstruct or interfere with the minister or any person acting on behalf of the minister in the exercise of any of the powers conferred by this Act, the regulations or an order made pursuant to this Act; or
 - (f) fail to comply with this Act, the regulations, a term or condition of a permit or an order made pursuant to this Act.
- (2) Every person who contravenes a provision of this Act, the regulations or an order made pursuant to this Act is guilty of an offence and liable on summary conviction to:
- (a) in the case of an individual:
 - (i) a fine not exceeding \$1,000,000 for each day or part of a day during which the offence continues;
 - (ii) imprisonment for a term not exceeding 3 years; or
 - (iii) both that fine and imprisonment; or
 - (b) in the case of a corporation, a fine not exceeding \$10,000,000 for each day or part of a day during which the offence continues.
- (3) If a corporation commits an offence pursuant to this Act, any officer or director of the corporation who directed, authorized, assented to, acquiesced in or participated in the commission of the offence is guilty of the offence and liable on summary conviction to the penalties mentioned in this section whether or not the corporation has been prosecuted or convicted

Limitation on prosecutions

11 No prosecution for a contravention of this Act is to be commenced more than 2 years after the facts on which the alleged contravention is based first came to the knowledge of the minister.

Minister may apply for compliance order

12(1) The minister may apply to a judge of the Court of Queen's Bench for all or any of the following:

- (a) an order compelling a person to comply with this Act, the regulations, an order made pursuant to this Act or the terms and conditions of a permit;
 - (b) an order enjoining any person from proceeding contrary to this Act, the regulations, an order made pursuant to this Act or the terms and conditions of a permit.
- (2) On an application pursuant to this section, the judge of the Court of Queen's Bench may make the order requested or any other order that the judge considers appropriate on any terms and conditions that the judge considers appropriate.

Immunity

13 No action or other proceeding lies or shall be commenced against the minister, any person acting on behalf of the minister, the Crown in right of Saskatchewan or officers and employees of the Crown in right of Saskatchewan for any loss or damage suffered by a person by reason of anything in good faith done, caused, permitted or authorized to be done, attempted to be done or omitted to be done by any one or more of them, pursuant to or in the exercise or supposed exercise of any power conferred by this Act or the regulations or in the carrying out or supposed carrying out of any function or duty imposed by this Act or the regulations.

Service of notice or documents

14(1) Any notice, decision or other document required by this Act or the regulations to be given or served is to be served:

- (a) personally;
- (b) by ordinary or registered mail to the last known address of the person being served; or
- (c) by any other prescribed means.

(2) A document served by ordinary mail or registered mail is deemed to have been received on the tenth business day following the day of its mailing, unless the person to whom it was mailed establishes that, through no fault of the person, the document was not received or was received at a later date.

(3) Irregularity in the service of a notice, decision or other document does not affect the validity of an otherwise valid notice, decision or other document.

Regulations

15 The Lieutenant Governor in Council may make regulations:

- (a) defining, enlarging or restricting the meaning of any word or expression used in this Act but not defined in this Act;
- (b) for the purposes of the definition of “refined product” in section 2, prescribing products;
- (c) for the purposes of section 4, prescribing requirements for applications;
- (d) for the purposes of section 7, respecting circumstances in which the minister may reconsider decisions;
- (e) for the purposes of section 8, defining commercial vehicle;
- (f) for the purposes of section 14, prescribing other means of serving notices, decisions or other documents;
- (g) respecting and requiring the payment of fees respecting permits and any other matters governed by this Act;
- (h) respecting records that permit holders must retain for the purposes of this Act and the regulations;
- (i) respecting inspections and investigations of permit holders required for the purposes of administering and enforcing this Act and the regulations;

(j) prescribing any matter or thing that is required or authorized by this Act to be prescribed in the regulations;

(k) respecting any other matter or thing that the Lieutenant Governor in Council considers necessary to carry out the intent of this Act.

Coming into force and expiry

16(1) This Act comes into force on proclamation.

(2) This Act expires on January 31, 2019.

SECOND SESSION

Twenty-eighth Legislature

SASKATCHEWAN

B I L L

No. 126

An Act respecting Energy Exports

Received and read the

First time

Second time

Third time

And passed

Honourable Bronwyn Eyre
