

BILL

No. 147

An Act to amend *The Oil and Gas Conservation Act*

(Assented to _____)

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 Oil and Gas Conservation Amendment Act, 2018*.

RSS 1978, c O-2 amended

2 *The Oil and Gas Conservation Act* is amended in the manner set forth in this Act.

Section 2 amended

3 **Subsection 2(1) is amended:**

(a) **by adding the following clause after clause (a.01):**

“(a.02) **‘approved’** means approved by the minister”;

(b) **by adding the following clause before clause (d):**

“(c.1) **‘drainage area’** means the area allocated by the minister to one or more horizontal wells, for the purpose of drilling for and producing oil and gas, and includes subsurface areas bounded by the vertical planes in which the surface boundaries lie”;

(c) **by repealing clause (d) and substituting the following:**

“(d) **‘drainage unit’** means the area allocated by the minister to one or more wells, excluding horizontal wells, for the purpose of drilling for and producing oil and gas, and includes subsurface areas bounded by the vertical planes in which the surface boundaries lie”; **and**

(d) **by repealing clauses (f) and (g) and substituting the following:**

“(f) **‘illegal gas’** means gas produced in contravention of this Act or any regulation or order made pursuant to this Act from any well in Saskatchewan;

“(g) **‘illegal oil’** means oil produced in contravention of this Act or any regulation or order made pursuant to this Act from any well in Saskatchewan”.

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New section 6

4 Section 6 is repealed and the following substituted:**“Jurisdiction and authority of minister**

6(1) The minister is responsible for matters over which the Legislature has jurisdiction, not by law assigned to any other ministry, branch or agency of the Government of Saskatchewan, relating to the conservation and development of oil and gas resources in Saskatchewan.

(2) Subject to the regulations, for the purposes of carrying out the minister’s responsibilities pursuant to this Act, the minister may make or cause to be made an inquiry or investigation into any matter or thing with respect to oil and gas resources in Saskatchewan at the time and in the manner that the minister considers appropriate, including:

- (a) drilling for oil or gas;
- (b) production of oil or gas; and
- (c) transportation, distribution, disposition and processing of oil or gas or products derived from oil or gas.

(3) Subject to the regulations, the minister may make any order or take any other action that the minister considers necessary or expedient for the exercise of any duty, function or power imposed or conferred on the minister by this Act.

(4) The minister may include in an order made pursuant to subsection (3) any terms and conditions that the minister considers advisable”.

New section 7.9

5 Section 7.9 is repealed and the following substituted:**“Immunity**

7.9 No action or proceeding lies or shall be commenced against the Crown in right of Saskatchewan, the minister, an officer, employee or agent of the Crown in right of Saskatchewan, an inspector, the board, a member of the board or an officer, employee or agent of the board where that person is acting pursuant to the authority of this Act or the regulations, for anything in good faith done, caused or permitted or authorized to be done, attempted to be done or omitted to be done, by that person or by any of those persons 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 order made pursuant to this Act or any duty imposed by this Act or the regulations”.

Section 9 amended

6 Subclause 9(1)(a)(i) is amended by striking out “and the regulations” and substituting “, the regulations and any orders made pursuant to this Act”.

Section 10 amended

7 Subclause 10(3)(a)(i) is amended by striking out “and the regulations” and substituting “, the regulations and any orders made pursuant to this Act”.

Section 10.1 amended

8 Subclause 10.1(3)(a)(i) is amended by striking out “and the regulations” and substituting “, the regulations and any orders made pursuant to this Act”.

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Section 15 amended

9 Subsection 15(1) is amended in the portion preceding clause (a) by striking out “pursuant to this Act, the regulations” and substituting “pursuant to this Act, the regulations, an order made pursuant to this Act”.

Section 17 amended

10(1) Subclause 17(1)(a)(ii) is amended by adding “or drainage areas” after “drainage units”.

(2) Subsection 17(2) is repealed.

Section 17.01 amended

11 Subsection 17.01(1) is amended:

(a) in clause (a) by striking out “, structure test hole, oil shale core hole”; and

(b) in clause (b) by striking out “, structure test hole, oil shale core hole” wherever it appears.

Section 17.04 amended

12 Subsection 17.04(1) is amended:

(a) in clause (a) by striking out “, structure test hole, oil shale core hole”; and

(b) in clause (b) by striking out “, structure test hole, oil shale core hole” wherever it appears.

Section 17.05 amended

13(1) Subsections 17.05(1) to (4) are repealed and the following substituted:

“(1) In this section and in sections 17.051 and 17.052:

(a) ‘Act’ includes the regulations and any orders made pursuant to this Act;

(b) ‘property’ includes computer software;

(c) ‘record’ includes any information that is recorded or stored in any medium or by means of any device, including a computer or electronic media.

“(2) The minister may designate any person as an inspector for any or all of the following purposes:

(a) determining whether a licensee is in compliance with this Act;

(b) conducting a compliance audit of the practices of the licensee in relation to the construction, alteration, operation, discontinuation or abandonment of any well, flowline or facility owned by the licensee that is subject to this Act;

(c) determining the cause of any incident required to be reported to the minister pursuant to this Act.

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“(3) Subject to subsection 17.051(4), in carrying out the duties specified in subsection (2), an inspector may do all or any of the following:

- (a) enter any land or site where a well, flowline or facility is or was located, or any lands affected by any well, flowline or facility, whether or not the land is included in a surface lease;
- (b) enter at any reasonable time premises containing any records or property required to be maintained pursuant to this Act or related to the design, construction, alteration, operation or abandonment of a well, flowline or facility or the discontinuation of the operation of a well, flowline or facility and inspect those records or that property;
- (c) require any person and any agent, representative, partner, director, officer or employee of the person to:
 - (i) answer any questions that may be relevant to the inspection or audit; and
 - (ii) provide the inspector with all reasonable assistance, including using any computer hardware or software or any other data storage, processing or retrieval device or system to produce information;
- (d) take any samples or carry out any tests or examinations that the inspector considers necessary while at any of the places or premises mentioned in clause (a) or (b);
- (e) use any machinery, equipment, appliance or thing that the inspector considers necessary while at any of the places or premises mentioned in clause (a) or (b);
- (f) in order to produce information, use any computer hardware or software or any other data storage, processing or retrieval device or system that is used in connection with the business or activities of any person governed by this Act;
- (g) remove for examination and copying anything that may be relevant to the inspection or audit, including information contained in any computer system.

“(4) For the purpose of obtaining any information that is required to determine compliance with this Act or that is otherwise required for the performance of the duties or the exercise of the powers of the inspector, the inspector may direct any person to provide the inspector with any information in any form and manner and within any time that the inspector may specify”.

(2) Subsection 17.05(6) is amended by striking out “If the minister demands any records or property pursuant to this section, the minister” and substituting “If an inspector demands any records or property pursuant to this section, the inspector”.

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(3) Subsection 17.05(7) is repealed and the following substituted:

“(7) If an inspector requires a person to answer questions, to produce a record or other property or to provide assistance in accordance with this section, the person shall do so in the manner and within the period specified by the inspector”.

(4) Subsection 17.05(8) is amended:

(a) in the portion preceding clause (a) by striking out “The minister” and substituting “An inspector”;

(b) in clause (a) by striking out “the minister” and substituting “the inspector”; and

(c) in clause (b) by striking out “the minister” and substituting “the inspector”.

Section 17.051 amended

14(1) Subsection 17.051(2) is amended:

(a) in the portion preceding clause (a) by striking out “the minister” and substituting “an inspector”;

(b) in clause (c) by striking out “the minister” and substituting “the inspector”; and

(c) in clause (d) by striking out “the minister” and substituting “the inspector”.

(2) Subsection 17.051(3) is amended:

(a) in the portion preceding clause (a) by striking out “the minister” and substituting “an inspector”; and

(b) in clause (b) by striking out “the minister” and substituting “the inspector”.

(3) Subsection 17.051(4) is amended by striking out “The minister” and substituting “An inspector”.

Section 17.1 repealed

15 Section 17.1 is repealed.

Section 17.2 amended

16 Section 17.2 is amended by striking out “section 17, 17.01 or 17.1” and substituting “section 17 or 17.01”.

Section 18 amended

17 Section 18 is amended:

(a) in subclause (a)(i) by adding “and drainage areas” after “units”;

(b) by repealing clauses (h) to (h.2);

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(c) in clause (j) by striking out “for infraction of this Act or any regulation or order” **and substituting** “for a contravention of this Act, the regulations or any order made pursuant to this Act”;

(d) by repealing subclause (n)(ii) and substituting the following:

“(ii) the shutting down of the operation of any facility described in subclause (i) for a contravention of this Act, the regulations or any order made pursuant to this Act”;

(e) in clause (n.1) by striking out “this Act, the regulations or a ministerial approval” **and substituting** “this Act, the regulations or any order made pursuant to this Act”;

(f) in clause (z) by striking out “or the regulations,” **and substituting** “, the regulations or any order made pursuant to this Act,”; **and**

(g) in clause (cc):

(i) in subclause (i) by striking out “, structure test hole, oil shale core hole”; **and**

(ii) in subclause (ii) by striking out “, structure test hole, oil shale core hole”.

New sections 30 and 31

18 Sections 30 and 31 are repealed and the following substituted:

“Pooling of interests in drainage unit or drainage area

30(1) If two or more separately owned tracts are located within a drainage unit or drainage area, or if there are separately owned interests in all or part of a drainage unit or drainage area, the owners of those tracts or interests may pool their interests for the development and operation of the drainage unit or drainage area.

(2) In the absence of voluntary pooling, any person who the minister is satisfied is interested may apply to the minister for an order directing that all interests in a drainage unit or drainage area be pooled for the development and operation of the drainage unit or drainage area.

(3) An application pursuant to subsection (2) must be made in the manner specified by the minister and be accompanied by:

(a) a proposed pooling plan containing the terms and provisions that the applicant desires to have included in a pooling order; and

(b) a statement setting forth the reasons why voluntary pooling cannot be effected.

(4) Before the minister makes a decision pursuant to this section, the minister shall:

(a) give notice of the application to all parties who the minister is satisfied are interested; and

(b) give those parties an opportunity to make written submissions within the period specified by the minister.

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- (5) The applicant shall provide the minister with any other information or material that the minister may require.
- (6) On receipt of an application pursuant to subsection (2) and on reviewing any submissions and materials provided pursuant to this section, the minister may:
- (a) make an order, subject to any terms and conditions that the minister considers appropriate, pooling all interests within the drainage unit or drainage area for the development and operation of the drainage unit or drainage area; or
 - (b) refuse to make an order.
- (7) If the minister refuses to make an order pursuant to clause (6)(b), the minister shall provide written notice of the minister's decision together with written reasons to the applicant and to any party who made submissions.

“Contents of pooling order

31(1) Every pooling order made pursuant to section 30 must provide for:

- (a) the appointment of a person as operator for the purposes of the pooling order;
 - (b) the drilling and operation of a well in the drainage unit or drainage area or, if a well has been drilled in the drainage unit or drainage area before the making of the order, the operation of that well;
 - (c) the payment by the owners of the actual cost of the drilling and operation of the well and the manner in which the payment shall be made, but, if the well has been drilled before the making of the order, the minister shall determine the cost or value to be attributed to the well for the purpose of the pooling order;
 - (d) the payment, by an owner who fails within the time specified in the order to pay the portion of the cost of drilling and completing the well payable by the owner pursuant to the order, of the surcharge that may be determined by the minister, but not exceeding two times that portion; and
 - (e) the allocation to each owner of the owner's share of production from the drainage unit or drainage area.
- (2) The minister shall cause the pooling order to be given to all parties who the minister is satisfied are interested”.

New section 33**19 Section 33 is repealed and the following substituted:****“Effect of pooling order**

33 If a drainage unit or drainage area is covered by a pooling order:

- (a) operations incidental to the drilling of a well in any portion of the drainage unit or drainage area are for all purposes deemed to be operations carried on or conducted by the several owners respectively on their separately owned tracts in the drainage unit or drainage area; and
- (b) that portion of the production allocated to each tract is deemed to have been produced from the tract by a well drilled on that tract”.

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New section 33.1**20 The following section is added after section 33:****“Amendment or cancellation**

33.1(1) If an application is made to the minister by a person who the minister is satisfied is an interested person, the minister may amend or cancel the pooling order.

(2) Section 30 applies, with any necessary modification, to an application to amend or cancel the pooling order”.

New sections 34 and 35**21 Sections 34 and 35 are repealed and the following substituted:****“Recommendation of minister**

34(1) On the minister’s own motion or on the application of any person who the minister is satisfied is interested, the minister may review the motion or application to consider the need for the operation as a unit of an entire field or pool or a portion of a field or pool.

(2) An application made pursuant to subsection (1) must be made in the manner specified by the minister and be accompanied by a proposed plan of unit operation containing the terms and provisions that the applicant desires to have included in a unit operation order.

(3) Before the minister makes a recommendation pursuant to this section, the minister shall:

(a) give notice of the proposed application to all parties who the minister is satisfied are interested; and

(b) give those parties an opportunity to make written submissions within the period specified by the minister.

(4) The applicant shall provide the minister with any other information or material that the minister may require.

(5) Following the review, the minister may:

(a) recommend that the field or pool or a portion of the field or pool be operated as a unit; or

(b) refuse to recommend that the field or pool or portion of the field or pool be operated as a unit.

(6) If the minister refuses to recommend that the field or pool or portion of the field or pool be operated as a unit, the minister shall provide written notice of the minister’s decision together with written reasons to the applicant, if any, and to any party who made submissions.

“Order of Lieutenant Governor in Council for unit operation

35(1) On the recommendation of the minister, the Lieutenant Governor in Council may order that the field or pool or portion of the field or pool be operated as a unit.

(2) An order made pursuant to subsection (1) is to contain any matters that are specified in the regulations”.

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New section 40

22 Section 40 is repealed and the following substituted:**“Change to unit operation order**

40(1) An order made pursuant to section 35 may provide for a review by the minister on the application of any interested party on or after a future date specified in the order.

(2) On the recommendation of the minister following a review mentioned in subsection (1), the Lieutenant Governor in Council may:

- (a) amend or revise a unit operation order in order to supply any deficiency in the order or to meet changing conditions;
- (b) alter or revoke any provision in the unit operation order that the Lieutenant Governor in Council considers to be unfair or inequitable; and
- (c) add any area that the minister believes to be underlaid by the pool or one of the pools underlying the unit area to the unit area described in the unit operation order”.

Section 53.1 repealed

23 Section 53.1 is repealed.

New Part VII.1

24 The following Part is added after Part VII:

**“PART VII.1
Greenhouse Gas Emissions**

“Interpretation of Part

53.61 In this Part:

- (a) **‘greenhouse gas’** means:
 - (i) carbon dioxide;
 - (ii) methane; or
 - (iii) any other prescribed gas or compound;
- (b) **‘greenhouse gas emission regulation’** means a regulation made pursuant to this Act for the purpose of managing the emission of a greenhouse gas into the atmosphere that is designated pursuant to section 53.62.

“Designation of regulations

53.62 The Lieutenant Governor in Council may:

- (a) designate a regulation made pursuant to this Act as a greenhouse gas emission regulation;

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- (b) specify an implementation date on and after which this Part, or any prescribed provision of this Part, applies to that greenhouse gas emission regulation; and
- (c) specify that any penalty for contravening a greenhouse gas emission regulation is a penalty for the purposes of section 53.68.

“Report

53.63(1) The minister shall:

- (a) monitor compliance of licensees with:
 - (i) a greenhouse gas emission regulation; and
 - (ii) any other matters that the minister considers appropriate for the purpose of the administration of the greenhouse gas emission regulation; and
- (b) prepare and issue reports respecting any matter governed by this Act that the minister considers to be in the public interest and publish those reports on the ministry’s website and in any other manner that the minister considers appropriate.

(2) The minister may use any indicators that the minister considers relevant in the preparation of a report.

(3) In accordance with section 13 of *The Executive Government Administration Act*, the minister shall lay before the Legislative Assembly each report prepared pursuant to this section.

“Power to enter into agreements

53.64 Subject to the approval of the Lieutenant Governor in Council and for the purposes of furthering, undertaking and enforcing the minister’s powers respecting a greenhouse gas and the administration of a greenhouse gas emission regulation, the minister may enter into agreements on behalf of the Government of Saskatchewan with the Government of Canada.

“Request for investigation

53.65(1) Any resident of Saskatchewan who is at least 18 years old and who is of the opinion that a contravention of a greenhouse gas emission regulation has occurred may apply to the minister for an investigation pursuant to this Act of the alleged contravention.

(2) A person applying for an investigation pursuant to this section shall ensure that the application is accompanied by a solemn or statutory declaration that:

- (a) states the name and address of the applicant;
- (b) states the nature of the alleged contravention and the name of each person alleged to be involved in the commission of the contravention; and
- (c) contains a concise statement of the evidence supporting the allegations of the applicant.

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“Minister may order investigation following application

53.66(1) On receipt of an application pursuant to section 53.65, the minister shall:

- (a) provide the applicant with an acknowledgment of the receipt of the application; and
 - (b) investigate all matters that the minister considers necessary for a determination of the facts relating to the alleged contravention.
- (2) Within 90 days after receiving an application pursuant to section 53.65, the minister shall report to the applicant on the progress of the investigation and the action, if any, that the minister proposes to take.
- (3) The minister may discontinue an investigation if the minister is of the opinion that the alleged contravention does not require further investigation.
- (4) If an investigation is discontinued, the minister shall:
- (a) prepare a written report describing the information obtained during the investigation and stating the reasons for the discontinuation of the investigation; and
 - (b) send a copy of the report to the applicant and to any person whose conduct was investigated.

“Issuance of false statements

53.67 No person shall knowingly make a false statement in a declaration made pursuant to subsection 53.65(2) that, as a result, causes an investigation to be commenced.

“Payment of penalties

53.68 Subject to the direction of the Lieutenant Governor in Council, all administrative penalties payable pursuant to this Act, and all other penalties assessed or imposed, with respect to a contravention of a greenhouse gas emission regulation are to be paid to:

- (a) the general revenue fund; or
- (b) any prescribed fund established pursuant to an Act that may be used for the purposes of reducing or managing the emissions of greenhouse gases”.

Section 59 amended**25 Subsection 59(2) is repealed and the following substituted:**

“(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:

- (a) in the case of an individual, to a fine of not more than \$50,000 for each day or part of a day during which the offence continues, to imprisonment for a term of not more than one year or to both; or
- (b) in the case of a corporation, to a fine of not more than \$500,000 for each day or part of a day during which the offence continues”.

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Section 59.2 amended

26 Section 59.2 is amended by adding “the regulations or an order made pursuant to this Act,” **after** “this Act.”

Section 59.3 amended

27 Section 59.3 is amended by striking out “or the regulations” **and substituting** “, the regulations or an order made pursuant to this Act”.

Section 62 amended

28 Section 62 is amended by striking out “he” **and substituting** “the person”.

New section 65

29 Section 65 is repealed and the following substituted:

“Remedies

65 If the minister has more than one remedy pursuant to this or any other Act or law to enforce any regulation or order or to enforce the payment of money payable pursuant to a regulation or order, the minister may use any or all of those remedies, either concurrently or successively, until:

- (a) the regulation or order has been complied with; or
- (b) the money that is payable, together with all costs and expenses, has been fully paid”.

Coming into force

30 This Act comes into force on proclamation.