

OIL SANDS CONSERVATION ACT

Chapter O-7

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

Interpretation

Interpretation

1(1) In this Act,

- (a) “Board” means the Energy Resources Conservation Board under the *Energy Resources Conservation Act*;
- (b) “contractor” means a person who undertakes to perform any drilling, mining, service or other operation at an oil sands site by agreement
 - (i) directly with the operator of the oil sands site, or
 - (ii) with a person who has entered directly into an agreement with the operator;
- (c) “crude bitumen” means a naturally occurring viscous mixture, mainly of hydrocarbons heavier than pentane, that may contain sulphur compounds and that, in its naturally occurring viscous state, will not flow to a well;
- (d) “declared oil sands” means those hydrocarbon substances declared to be oil sands under section 7(2);
- (e) “discard” means solid or liquid material, whether naturally occurring or introduced during operations at a mine site, an in situ operation site or a processing plant, that does not have an immediate use and is removed or rejected during recovery or processing operations or during the operation of an associated power plant;
- (f) “discard site” means an area within which discard is stored, either temporarily or permanently;
- (g) “experimental scheme” means a scheme or operation
 - (i) for the recovery of oil sands or crude bitumen, or
 - (ii) for the processing of crude bitumen, derivatives of crude bitumen or declared oil sandsnot designed for commercial purposes, utilizing methods that may be untried or unproven in a particular application and includes, but is not limited to, test and pilot schemes;
- (h) “in situ operation” means
 - (i) a scheme or operation ordinarily involving the use of well production operations for the recovery of crude bitumen from oil sands, or
 - (ii) a scheme or operation designated by the Board as an in situ operationbut does not include a mining operation;
- (i) “in situ operation site” means an area within which an in situ operation is being conducted or that is the subject of an approval under this Act for an in situ operation, and includes a discard site and any area within which any facilities or equipment used in connection with the in situ operation are located;

- (j) “mine site” means an area within which mining operations are being conducted or that is the subject of an approval under this Act for a mining operation, and includes a stockpile area, a discard site and any area within which facilities or equipment used in connection with a mining operation are located;
- (k) “mining operation” means
 - (i) a surface or underground operation for the recovery of oil sands, or
 - (ii) an operation designated by the Board as a mining operation;
- (l) “oil sands” means
 - (i) sands and other rock materials containing crude bitumen,
 - (ii) the crude bitumen contained in those sands and other rock materials, and
 - (iii) any other mineral substances, other than natural gas, in association with that crude bitumen or those sands and other rock materials referred to in subclauses (i) and (ii);
- (m) “oil sands products” means any products obtained
 - (i) by processing oil sands, crude bitumen or derivatives of crude bitumen, or
 - (ii) by reprocessing a product referred to in subclause (i),

and includes any products obtained by any subsequent reprocessing of the products obtained under subclauses (i) and (ii);
- (n) “oil sands site” means an in situ operation site, a mine site or a processing plant, or any one or more of them;
- (o) “operator” means the holder of an approval under this Act;
- (p) “permit” means an industrial development permit issued under section 12;
- (q) “permittee” means the holder of a permit;
- (r) “processing plant” means a facility
 - (i) for obtaining crude bitumen from oil sands that have been recovered, or
 - (ii) for obtaining oil sands products from oil sands, crude bitumen or derivatives of crude bitumen that have been recovered;
- (s) “waste”, in addition to its ordinary meaning, means wasteful operations;
- (t) “wasteful operations” means
 - (i) the establishment, construction, operation, suspension or abandonment of an oil sands site in a manner that results or tends to result in a reduction
 - (A) in the quantity or quality of oil sands, crude bitumen or derivatives of crude bitumen ultimately recovered from an oil sands deposit, or
 - (B) in the quantity or quality of oil sands products obtained from oil sands, crude bitumen or derivatives of crude bitumen

relative to that which would otherwise be recovered or obtained under sound engineering and economic principles,

- (ii) the locating, drilling, equipping, completing, operating or producing of a well in a manner that causes or tends to cause excessive loss or destruction of crude bitumen, derivatives of crude bitumen or declared oil sands,
- (iii) the inefficient storing on the surface or underground of oil sands, crude bitumen, derivatives of crude bitumen or oil sands products, or
- (iv) the production of oil sands, crude bitumen, derivatives of crude bitumen or oil sands products in excess of proper storage facilities or transportation and marketing facilities or of market demand for them;

(u) “zone” means a geological formation, member or zone.

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

1983 cO-5.5 s1

References to subdivisions of unsurveyed land

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

1983 cO-5.5 s2

Application and Purposes of the Act

Purposes of the Act

3 The purposes of this Act are

- (a) to effect conservation and prevent waste of the oil sands resources of Alberta,
- (b) to ensure orderly, efficient and economical development in the public interest of the oil sands resources of Alberta,
- (c) to provide for the appraisal of Alberta’s oil sands resources,
- (d) to provide for appraisals of oil sands, crude bitumen, derivatives of crude bitumen and oil sands product requirements in Alberta and in markets outside Alberta,
- (e) to assist the Government in controlling pollution in the development and production of the oil sands resources of Alberta,
- (f) to provide for the recording and for the timely and useful dissemination of information regarding the oil sands resources of Alberta, and
- (g) to ensure the observance, in the public interest, of safe and efficient practices in the exploration for and the recovery, storing, processing and transporting of oil sands, discard, crude bitumen, derivatives of crude bitumen and oil sands products.

1983 cO-5.5 s3

Overriding provisions

4(1) A provision of

- (a) this Act,
- (b) the regulations made pursuant to this Act,
- (c) a declaration, order, approval or permit of the Board pursuant to this Act in any matter over which the Board has jurisdiction, or
- (d) an order of the Lieutenant Governor in Council under this Act,

overrides any term or condition of any contract or other arrangement that conflicts with the provision of this Act, the regulations, the declaration, the order, the approval or the permit.

(2) No term or condition of a contract or other arrangement that conflicts with a provision referred to in subsection (1) is enforceable or gives rise to any cause of action by any party against any other party to the contract or arrangement.

1983 cO-5.5 s4

Powers and Duties of the Board

Jurisdiction of the Board

5 Except as otherwise provided in this or any other Act, the Board has exclusive jurisdiction to examine, inquire into, hear and determine all matters or questions arising under this Act.

1983 cO-5.5 s5

Scope of authority to make orders

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

1983 cO-5.5 s6

Board's power to make orders

7(1) The Board may by order

- (a) designate a scheme or operation as an in situ operation;
- (b) designate an operation as a mining operation;
- (c) prescribe official names for oil sands sites.

(2) The Board may by order, with respect to a zone within a specified area set out in the order, declare any hydrocarbon substance, except natural gas and coal, to be oil sands if the Board is satisfied

- (a) that the zone adjoins or is in reasonable proximity to an oil sands deposit, and
- (b) that to do so would be in the interests of the orderly, efficient or economic development of
 - (i) the hydrocarbon substance, or
 - (ii) the oil sands in the oil sands deposit referred to in clause (a).

(3) An oil sands deposit may be designated by the Board

- (a) by describing the surface area vertically above the oil sands deposit and by naming the geological formation, member or zone in which the oil sands deposit occurs, or

(b) by any other method of description that the Board considers appropriate.

(4) Where the Board under subsection (2) declares a hydrocarbon substance in a zone to be oil sands, a reference in this Act to oil sands includes a reference to the hydrocarbon substance in that zone.

1983 cO-5.5 s7

Inspections and investigations

8(1) At any reasonable time, a member of the Board, or a person authorized by the Board, when acting in the performance of any duties or when exercising any powers under this Act,

- (a) shall have access to an oil sands site, and to any facilities used in connection with operations at an oil sands site,
- (b) may make inspections, investigations or tests and take samples at an oil sands site, and
- (c) may examine all books, records and documents pertaining to operations at an oil sands site.

(2) A person authorized by the Board to exercise any powers referred to in subsection (1) shall, when exercising them, produce on demand the person's certificate of authority from the Board.

(3) A Board member, or a person authorized by the Board, may, if the member or authorized person considers that the circumstances so warrant, take possession of any book, record or document referred to in subsection (1)(c) for a period of time that the member or authorized person considers reasonable and proper and shall issue a receipt for the book, record or document so taken.

(4) Every operator, agent or other person at an oil sands site shall provide to a Board member or a person authorized by the Board any reasonable assistance that the member or authorized person requires for the proper exercise of any of the powers conferred on the member or authorized person under subsection (1).

(5) A person

- (a) who prevents any Board member or person authorized by the Board from exercising the powers referred to in subsection (1),
- (b) who hinders or obstructs or fails to assist any Board member or person authorized by the Board in the exercise of the powers referred to in subsection (1), or
- (c) who fails to permit any Board member or person authorized by the Board to exercise the powers referred to in subsection (1)

is guilty of an offence.

1983 cO-5.5 s8

Stop orders

9(1) If it appears to the Board, or a person authorized by the Board, that in respect of any construction or operation at an oil sands site there has been or is a contravention of, or a failure to comply with, any provision of this Act, the regulations or an approval, order, direction, term or condition of the Lieutenant Governor in Council or the Board, or that a method or practice employed or any equipment or facility at the oil sands site is hazardous, inadequate or defective, the Board, or the person authorized by the Board, may, by order, direct that the contractor, operator or owner of the oil sands site shall

- (a) adopt methods or use equipment approved by the Board or take remedial measures before proceeding further with the construction or operation, or
- (b) suspend the construction or operation in whole or in part.

(2) Where the Board, or a person authorized by the Board, makes an order under subsection (1), it or the authorized person shall, as soon as possible, advise the contractor, operator or owner in writing setting out the reasons for its action.

(3) If the Board, or a person authorized by the Board, has made an order under subsection (1), the Board on its own initiative may, or at the request of a person directly affected by the order shall, hold an inquiry within a reasonable time of the date of the making of the order or of the request of that person, as the case may be, to investigate the circumstances leading to the making of the order.

(4) After an inquiry under subsection (3), the Board may

- (a) renew or rescind the order issued under subsection (1), or
- (b) take any other action or make any other order not inconsistent with this Act that it considers to be warranted by the circumstances.

1983 cO-5.5 s9

Approvals and Permits

Approval of scheme or operation

10(1) No person shall

- (a) construct facilities for a scheme or operation, or
- (b) commence or continue a scheme or operation

for the recovery of oil sands or crude bitumen, unless the Board, on application, has granted an approval in respect of the scheme or operation.

(2) The Board shall, on receiving an application referred to in subsection (1), make any investigations or inquiries and hold any hearings that it considers necessary or desirable in connection with the application.

(3) The Board may, with respect to an application referred to in subsection (1),

- (a) if in its opinion it is in the public interest to do so, and with the prior authorization of the Lieutenant Governor in Council, grant an approval on any terms and conditions that the Board considers appropriate,
- (b) refuse to grant an approval,
- (c) defer consideration of the application on any terms and conditions that the Board may prescribe, or
- (d) make any other disposition of the application that the Board considers appropriate.

(4) An authorization of the Lieutenant Governor in Council is subject to any terms and conditions prescribed by the Lieutenant Governor in Council.

(5) Notwithstanding subsections (3) and (4), the authorization of the Lieutenant Governor in Council is not required under this section in respect of

- (a) an approval of an experimental scheme where the total quantity of energy, as estimated by the Board, in the oil sands, crude bitumen or derivatives of crude bitumen recovered in any year will not exceed 12.5 petajoules, or
- (b) an approval of a scheme or operation, other than an experimental scheme, where the total quantity of energy, as estimated by the Board, in the oil sands, crude bitumen or derivatives of crude bitumen recovered in any year will not exceed 5 petajoules.

1983 cO-5.5 s10

Approval of processing plant

11(1) No person shall construct or operate a processing plant unless the Board has, on application, granted an approval in respect of the processing plant.

(2) The Board shall, on receiving an application referred to in subsection (1), make any investigations or inquiries and hold any hearings that it considers necessary or desirable in connection with the application.

(3) The Board may, with respect to an application referred to in subsection (1),

- (a) if in its opinion it is in the public interest to do so, and with the prior authorization of the Lieutenant Governor in Council, grant an approval on any terms and conditions that the Board considers appropriate,
- (b) refuse to grant an approval,
- (c) defer consideration of the application on any terms and conditions that the Board may prescribe, or
- (d) make any other disposition of the application that the Board considers appropriate.

(4) An authorization of the Lieutenant Governor in Council is subject to any terms and conditions prescribed by the Lieutenant Governor in Council.

(5) Notwithstanding subsections (3) and (4), the authorization of the Lieutenant Governor in Council is not required under this section in respect of

- (a) an approval relating to a processing plant associated with an experimental scheme, where the total quantity of energy, as estimated by the Board, of oil sands products obtained in any year will not exceed 12.5 petajoules, or
- (b) an approval, other than an approval relating to a processing plant associated with an experimental scheme, where the total quantity of energy, as estimated by the Board, of oil sands products obtained in any year will not exceed 5 petajoules.

1983 cO-5.5 s11