

**LEGISLATIVE ASSEMBLY OF THE  
NORTHWEST TERRITORIES  
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MEMBER OF THE COUNCIL OF THE NORTHWEST TERRITORIES

Northern Land-Use Regulations

The proposed Northern Land-Use Regulations (discussion draft attached) are intended to provide to exploration and development interests operating in the Yukon Territory or the Northwest Territories a set of ground rules or guidelines to follow in the course of their operations which will minimize or eliminate needless damage to the natural environment.

Much publicity has recently been given, for example, to the possibility of long-term and irreparable damage to the northern landscape that could result from the operation of certain heavy equipment on the tundra during the summer months, to the problems associated with abandoning gas drums throughout the Arctic, to the problems associated with garbage and sewage disposal in the far north, etc. These are some of the problems which the Land-Use Regulations will deal with.

The Regulations themselves will set out the framework, based on a system of land-use permits, for implementation. In addition, the Regulations provide for three schedules, to be attached to the Regulations, setting out:

- A. the boundary of land-use zones into which the Yukon and Northwest Territories will be divided on the basis of physical and ecological features
- B. the actual stipulations or operating procedures which an operator must follow within a particular zone
- C. a schedule of land-use fees payable by the operator within the various zones.

At the present time, only the proposed Regulations are available in draft form. A working group, made up of representatives from the Canadian Petroleum Association, the Mining Association of Canada, conservation interests and the Resource and Economic Development Branch of the Department of Indian Affairs and Northern Development, is presently drafting the

actual stipulations which will appear as Schedule B.

Throughout the entire drafting process, the most wide ranging discussions have been held with parties having an interest in or likely to be affected by the proposed Regulations. These include:

The Yukon Chamber of Mines

The Northwest Territories Chamber of Mines

The Yukon Territorial Council

The Canadian Petroleum Association

The Mining Association of Canada

The Canadian Wildlife Service

The Canadian Wildlife Federation

The Yukon Conservation Society

Various experts from the University Community

Those organizations still to be heard from and with which meetings have been arranged include the B.C. - Yukon Chamber of Mines and the Alberta - Northwest Territories Chamber of Mines.

It is with these ideas and with this background in mind that the Department of Indian Affairs and Northern Development would like to discuss the proposed Northern Land-Use Regulations with the Council of the Northwest Territories.

D R A F T

Regulations Respecting Land-Use Operations  
In the Yukon Territory and the Northwest Territories

Short Title

1. These Regulations may be sited as the Northern Land-Use Regulations.

Interpretation

2. In these Regulations
  - (a) "affected land" means that land surface area that is directly subject to or used in land-use operations;
  - (b) "Director" means, with respect to land-use operations carried on in the Yukon Territory, the Regional Director of Resources, Department of Indian Affairs and Northern Development at Whitehorse, Y.T. and with respect to land-use operations carried out in the Northwest Territories, the Regional Director of Resources, Department of Indian Affairs and Northern Development at Yellowknife, N.W.T.;
  - (c) "Inspector" means any officer of the Department of Indian Affairs and Northern Development or other person authorized by the Minister to carry out an inspection pursuant to these Regulations;
  - (d) "Land-use operation" and "operation" means any work or activity, carried out on public lands that involves one or more of the following:
    - (i) the use of explosives where more than 300 pounds are used within a one square mile area within any 30 day period, providing that not more than 50 pounds are used within any one day;

- (ii) the use, except on a public road, of self propelled, power driven equipment (other than aircraft) exceeding 20,000 pounds net vehicle weight, except in zones 4 and 5, where the weight of the equipment shall not exceed 5,000 lbs. net vehicle weight when operated between May 1 and September 30;
- (iii) the use of self propelled, power driven equipment (irrespective of weight) for earth moving or land clearing purposes;
- (iv) the use of stationary power driven equipment, excluding drills, for hydraulic prospecting, earth moving or land clearing purposes;
- (v) the establishment, of a camp for living accommodation, where more than 15 men are housed for a period of up to 7 days;
- (vi) the leveling, grading, clearing or cutting of any line, trail, road or right of way in excess of five feet in width.

- (g) "land use permit" and "permit" means a permit authorizing the carrying out of a land use operation issued pursuant to Section 6 of these Regulations;
- (h) "Minister" means the Minister of Indian Affairs and Northern Development;
- (i) "Monument" means a post, stake, peg, mound, pit, trench or any other object or device used pursuant to the Canada Lands Surveys Act, the Dominion Lands Survey Act, the Land Titles Act, the Territorial Lands Act, or other Acts, Regulations or Orders to mark a legal boundary of lands or territories and also means such like objects or devices used by the Geodetic Survey of Canada, the Topographic Survey of Canada and the Surveyor General of Canada to mark points in the national system of control surveys;
- (j) "operator" means any person authorized by a permittee to carry out land use operations on his behalf;
- (k) "permittee" means the holder of a valid and subsisting land use permit;
- (l) "public lands" means lands, other than occupied public lands, belonging to Her Majesty in right of Canada and includes land which the Government of Canada has power to dispose;
- (m) "occupied public lands" means public lands, the exclusive right to surface possession of which, is vested in any person other than the Crown;
- (n) "stream" means any surface water course containing water and includes lakes, rivers, creeks, marshes and swamps.

3. These Regulations apply to all land use operations conducted on public land in the Yukon Territory and the Northwest Territories.

### Land Use Permit

4. (1) No person or company may carry out any land use operations on public lands without first obtaining a permit from the Director.

#### Application for a Land Use Permit

5. (1) Every applicant for a permit to carry out land use operations shall submit an application in triplicate to the Director containing

- (a) the name and permanent address of the applicant, and in the case where the applicant is a registered company, the address of the head office of the company in Canada;
- (b) the names and permanent addresses of any and all operators who will be conducting the proposed land use operations on behalf of the applicant;
- (c) the intended date of commencement, the approximate time scheduling of the land use operation and the estimated completion date of the land use operation;
- (d) the type of equipment to be used in the operations;
- (e) a description of the techniques to be used in the operation; and
- (f) an estimate of the number of acres of affected land involved in the proposed operation.

(2) Every application for a permit shall be accompanied by a sketch plan drawn to a scale so selected as to indicate clearly the entire operation applied for, showing

- (a) the affected lands referenced to grid areas and sections as described in Sections 5, 6 and 7 of the Canada Oil and Gas Land Regulations, or referenced to the Universal Transverse Mercator grid system appearing on all current National Topographic Series maps;

- (b) the approximate location of
  - (i) existing lines, trails and roadways to be used to gain access to the affected lands,
  - (ii) existing trails and lines that could be used in the land use operation,
  - (iii) proposed trails, lines and areas to be cleared or bulldozed,
  - (iv) campsites, air landing strips, waste disposal areas, and all other principle works to be constructed,
  - (v) the point (s) where proposed lines, trails, roads or cleared areas intersect or cross existing rights-of-way or streams,
  - (vi) bridges, ditches, railroads, highways, transmission facilities, rivers, lakes, or other features or works, which may be affected by the proposed operation, and
  - (vii) ~~affected lands owned, legally occupied, or administered by a person other than the Minister and proof of consent, in a form satisfactory to the Minister, as required under subsection (2) of Section 4.~~

(3) Every application for a permit shall be filed with the Minister by delivering or mailing it to the Director.

(4) (a) With respect to any application for a permit received by the Minister, the Minister may require an inspector to make an inspection of the affected lands prior to the issuance of a permit.

(b) The inspection referred to in paragraph (a) shall take into account the need for

- (i) the protection of other natural resources,
- (ii) the control of erosion, flooding and pollution of water,



- (iii) the isolation of toxic materials resulting from the proposed operation,
  - (iv) the prevention of slides,
  - (v) the protection of vegetation and fish and wildlife and their habitat,
  - (vi) the prevention of hazards to public health and safety,
- (c) Where the Minister, in accordance with subsection (2), deems that an inspection is required prior to the issuance of a permit, he shall so notify the applicant within two weeks of the date of the applicant filing the application.

Issuance of Permit

6. The ~~Minister~~ <sup>Director</sup> shall issue a permit for the carrying out of the proposed land use operation when he is satisfied that it is in the best interest of resources development on the affected lands and is in the public interest, consideration being given to both present conditions and future requirements.
7. (1) With respect to any application for a land use permit, the ~~Minister~~ <sup>Director</sup> shall, within 10 days of the date of filing of the application,
- (a) issue a permit subject to such conditions as the Minister deems necessary,
  - (b) refuse the applicant a permit and state the reasons for the refusal
  - (c) notify the applicant that an inspection is required pursuant to subsection (2) of section 5 prior to the issuance of a permit and state the subsequent date upon which either a permit will be issued or the applicant refused.
- (2) The Director shall notify the applicant whether a permit has been issued or refused or whether an inspection is required and any notice given by the Director under this

section may be given by mail and shall be deemed to be served on the applicant on the date it is mailed.

8. (1) A land use permit shall contain
- (a) the number of the permit issued
  - (b) the time period for effectiveness of the land use permit which shall coincide with the proposed date of commencement and the estimated completion date of the land use operation as set out in the application
  - (c) the date on which outstanding land use fees shall be paid in accordance with provisions of section \_\_ of these regulations
  - (d) such stipulations, conditions and provisions for the reclamation of affected lands, that are not inconsistent with these Regulations, as the Minister may impose.

(2) Where by reason of unforeseen difficulties or special causes beyond his control, a permittee, has been prevented from completing the land use operation within the time period set out in the permit, the Minister may, upon application in writing being made by the permittee, grant an extension of the time period for effectiveness of the permit, but such extension shall in no case exceed 12 months.

(3) Every permit is subject to these Regulations as they may be amended from time to time.

#### Appeal from Minister's Decisions

9. A section outlining procedure for appealing Minister's decisions respecting

- (a) granting of a permit
- (b) refusing a permit
- (c) conditions and stipulations contained in a permit.

Appeal should be to the Governor in Council.

### Guarantee Deposit

10. (1) Where, in the opinion of the Minister, the operations described in the application for a land use permit are likely to require reclamation measures when the operation is completed, the Director shall require the applicant to forward a guarantee deposit, completed upon the estimated cost of the reclamation work as determined by the Minister.

(2) A guarantee deposit required under this section shall be in the hands of the Director before a land use permit is issued and shall in no case exceed \$25,000.00.

(3) A guarantee deposit shall be in the form of

(a) a certified cheque drawn on a bank incorporated under the Bank Act or the Quebec Savings Bank Act, or;

(b) bonds or other securities of or guaranteed by the Government of Canada.

(4) The guarantee deposit shall be refunded by the Director to the permittee when the reclamation work has been completed to the satisfaction of the Minister and the Minister is the final arbiter of the satisfactory completion of the reclamation work.

(5) When the permittee fails to complete, to the satisfaction of the Minister, the reclamation requirements set forth in his permit, the guarantee deposit, or such part thereof as the Minister may determine, shall be forfeited to the Crown.

### Monthly Plans

11. In the case of a land use operation which involves an area greater than 20 acres of affected lands or which continuously extends in any one month a distance of more than 5 miles from the point at which the operation commenced in that month, a permittee shall file with the Director a plan:

- (a) drawn on a scale so selected as to clearly show upon a single sheet the entire month's operations;
  - (b) suitably referenced to grid areas and sections as described in section 5, 6 and 7 of the Canada Oil and Gas Land Regulations or referenced to the Universal Transverse Mercator grid system appearing on current National Topographic series maps acceptable to the Minister;
  - (c) showing the location of all affected lands resulting from the month's operations; and
  - (d) showing the number of the permit under which the operations were carried out.
11. (1) A permittee shall file a final plan with the Director for the approval of the Minister not later than 60 days following the expiry date of the permit.
- (2) The final plan shall be filed by delivering or mailing it to the Director.
  - (3) The final plan shall
    - (a) show the area in which the operations were undertaken and show the location of all affected lands by reference to grids and sections, or by reference to the Universal Transverse Mercator grid system appearing on the current National Topographic Series maps;
    - (b) show the approximate location of the existing roads used to gain access to the operations;
    - (c) show the location of
      - (i) access roads constructed or cleared during the operations,
      - (ii) trails and lines existing at the commencement of the operations and used during the operations,

- (iii) trails, lines and areas cleared or bulldozed in the course of the operations,
  - (iv) campsites, air landing strips, waste disposal areas, excavations, and all other principle works constructed during the operations, and
  - (v) affected lands owned, legally occupied or administered by a person other than the Minister;
- (d) be drawn on a scale of not less than 1 inch equals 1 mile;
  - (e) show the name of the permittee filing the plan under which the operations were authorized;
  - (f) show the names of the operators who conducted the operations; and
  - (g) with respect to the information required under paragraph (c) be either
    - (i) certified as to accuracy by a registered engineer or surveyor,
    - (ii) certified as to accuracy by the permittee or his agent authorized for that purpose, or
    - (iii) based on vertical aerial photography of the completed operation and accompanied by positive prints of the photographs from which the plan is derived.

12. The Minister may from time to time grant extensions of the time prescribed by subsection (1) of Section 9 for the filing of the final plan.

13. (1) The Minister may reject a final plan if, in his opinion it does not comply with subsection (3) of section 9 and may by a notice require the permittee to resubmit a proper plan within the time prescribed by the Minister or extensions thereof granted by him.

(2) The Minister shall be deemed to have approved a final plan on the day it is filed pursuant to subsection (1) of section 9 unless he gives notice to the permittee within thirty days of the date of such filing that the plan is rejected pursuant to subsection (1).

Land Use Fees

14. For the purpose of these Regulations, the Yukon Territory and the Northwest Territories shall be divided into land use zones in accordance with the map comprising Schedule A.

15. (1) The permittee shall conduct land use operations in accordance with the procedures set out in Schedule B for the appropriate zone in which the operations are to take place.

(2) Notwithstanding subsection (1), in areas which, in the opinion of the Minister, contain significant volumes of merchantable timber, the Minister may require the permittee to salvage the timber in such a manner as he may direct.

16. (1) A permittee shall pay land use fees on affected lands at a standard rate per acre, this rate varying from zone to zone in accordance with the schedule of rates appearing in Schedule C to these Regulations.

(2) The permittee shall pay stumpage on salvaged timber used by the permittee or his operator in the course of a land use operation in accordance with rates set out in the Territorial Timber Regulations.

17. (1) A land use fee, based on the estimated acreage of affected lands in excess of 20 acres, as set out in the application, shall accompany the application for a land use permit and the rate shall be in accordance with Schedule C.

(2) Following the completion by the permittee of the approved operation and within thirty days of the receipt by the Director of the final plan, the Director will determine the actual amount of land use fees owing by the permittee in accordance with subsections (1) and (2) of section 14 and will so notify the permittee by mail and the permittee shall be deemed to have been so notified on the day such notice is mailed.

(3) In the case where the estimated land use fee accompanying the application was less than the actual fee calculated on the basis of the final plan, the permittee will forward the balance forthwith following notification by the Director.

(4) In the case where the estimated land use fee was more than the actual fee owing, the Director shall return to the permittee the unassessed balance forthwith,

18. The Director may assess penalty fees in excess of the rates set out in Appendix No. 3, where, in the opinion of the Minister, <sup>§.1</sup> permittee in the course of land use operation uses without just cause public lands other than those set out as affected lands in the application, but such rates shall not exceed \$1,000.00 per acre.

19. No permittee shall in the course of land use operations clear a trail, line or right-of-way on public lands

(a) to a width of more than thirty-three feet without the express permission of the Director, or

(b) where it is possible for him to use an existing trail, line or right-of-way in the same vicinity.

20. No permittee, in the course of land use operations, shall do or permit to be done any act that is likely to

(a) permanently interfere with or modify the natural drainage in the affected area; or

(b) interfere with access to property without prior written authority of the Director.

21. (1) In the case of geophysical operation where water or gas is released and comes to the surface during or after the excavation or drilling of a hole

(a) excavation or drilling shall be discontinued;

(b) no explosion charge shall be detonated in the hole; and

(c) the hole shall be plugged without undue delay in a manner that will ensure that the water or gas will be confined to the source aquifer or stratum.

(2) On completion of the operations under subsection (1), the location of the hole and the action taken shall be reported in writing to the Director.

22. (1) Where in the course of operations, a permittee causes damage to any bridge, culvert, fence, gate, power line, telecommunication facility, or other property, he shall

(a) immediately take action to prevent further damage or hazard;

- (b) immediately notify the owner of the damaged property as to the location and type of the damage and hazard; and
- (c) arrange for the repair of such damage as soon as it is possible to do so.

(2) Where a permittee fails to comply with clause (c) of subsection (1), the Director may have the damages repaired and charge the permittee with the cost of such repairs.

23. (1) A permittee shall dispose of or remove all buildings, equipment, refuse, garbage, debris and other materials on affected lands within 30 days of the expiry date of his permit, in a manner satisfactory to the Director, and in accordance with the provisions of the appropriate Territorial Forest Protection Ordinance.

(2) Where a permittee fails to dispose of or remove all buildings, equipment, refuse, garbage, debris and other waste material in accordance with subsection (1), the Director may order that such disposal be carried out and charge the permittee for the costs thereof.

(3) Notwithstanding subsection (1),<sup>(1)</sup> where a permittee constructs buildings of a permanent nature in the course of a land use operation and where the permittee demonstrates that such buildings will be used in future operations, he may obtain, on making written application to the Director, permission to leave the buildings for a specified period of time.

#### Land Use Operations in Relation to Survey Lines and Monuments

24. (1) No permittee shall construct works or clear a trail, line, right-of-way, or area within twenty feet of

- (a) a surveyed line cleared for the purpose of locating or demarcating a legal boundary;
- (b) the location of a monument.

(2) Paragraph (a) of subsection (1) does not apply where it is necessary for a permittee to clear a trail, line, right-of-way or area that crosses a surveyed line.



(3) Notwithstanding subsection (1), where at the time of the coming into force of these Regulations, a surveyed line cleared for the purpose of locating or demarcating a legal boundary has been cleared for use as a road or trail, an operator may snow-plough or clear out the road or trail, but in no case shall any snow-ploughing or clearing be done within twenty feet of the location of a monument.

25. (1) Where a monument is damaged, destroyed, moved or altered as a result of operations, the permittee shall

(a) report the matter immediately to the Surveyor-General of Canada; and

(b) pay to the Surveyor-General the costs of

(i) investigation into such damage, destruction, moving or alteration, and

(ii) restoration or re-establishment of the monument to its original condition.

(2) Notwithstanding paragraph (b) of subsection (1), where a monument is damaged, destroyed, moved or altered, the permittee may, with the consent of the Surveyor-General, cause the monument to be restored or re-established at the expense of the permittee.

(3) The restoration or re-establishment of a monument shall be done by a Dominion Land Surveyor under the instructions of the Surveyor-General.

26. No hole shall be drilled or excavation made within twenty feet of the location of a monument.

#### Land Use Operations in Relation to Highways and Roads

27. In gaining access to, or in the course of, land use operations, every permittee shall take care to preserve a free and uninterrupted passage along any highway or road by ensuring that

(a) no trees, brush, debris or other material are left by an operator within the right-of-way of a highway or road;

- (b) no clearing, ditching or grading is carried out within the right-of-way of a highway or road; and
- (c) no equipment is left abandoned within the right-of-way of a highway or road.

26. (1) No permittee shall leave a shoulder or ditch of a highway or road in a damaged or rutted condition.

(2) Where conditions are such that a highway or road is likely to be damaged by the use of the permittee's equipment thereon, land use operations shall be suspended until the permittee gives a written undertaking to the Director to accept full responsibility for and to repair any damage caused.

29. Where a section of a highway or road is under construction, no land use operations shall be conducted on the section until the operator has obtained the permission of the resident highway engineer or other person in charge of the construction.

30. (1) Where a permittee has

(a) defaulted in complying with any of the provisions of sections 25, 26, 27 or 29; or

(b) has damaged any highway or public road;

an inspector may direct the permittee to do such acts as are necessary to remedy the default or to repair the damage.

(2) Where an inspector gives a direction pursuant to subsection (1), he shall forward a copy of the direction to the Director.

(3) Where a permittee fails to obey a direction given by an inspector pursuant to subsection (1), the Minister may do such acts as are necessary to remedy the default of the permittee or to repair the damage caused and the permittee shall pay to the Minister the costs of the investigation and the doing of such necessary acts.

31. Before commencing any land use operation, the permittee shall inform the Director of the highways and public roads to be used, and when the operations cease, the permittee shall so inform the Director.

General

32. Any notice or direction required to be served or given pursuant to these Regulations on a permittee shall be sufficiently served if sent by registered mail to or left at the last known address of the permittee.

33. A permittee is responsible for any contravention of these Regulations whether by the permittee or by any person or operator performing any duty or function under the authority of his permit.

34. (1) Where an inspector is satisfied that a permittee is not complying with these Regulations or the terms and conditions of his permit the inspector may suspend the operations of the permittee until the default is remedied.

(2) When an inspector has suspended the operation of a permittee under subsection (1) he shall immediately report the matter to the Director.

(3) The Director upon application may authorize the resumption of operations of the permittee suspended under subsection (1) upon being satisfied that the default is being effectively remedied.

35. (1) The Minister may cancel a permit on the failure of the permittee to comply with any of the provisions of these Regulations.

(2) Except where a condition exists that, in the opinion of the Minister, is a danger to any person or to public or private property, a permit shall not be cancelled under subsection (1) until 30 days after a notice has been given by or on behalf of the Minister to the permittee to rectify the default.

36. No permittee shall apply herbicides, insecticides or other hazardous chemicals to public lands without the prior written authority of the Minister.