

LEGISLATIVE ASSEMBLY OF THE
NORTHWEST TERRITORIES
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REGULATIONS RESPECTING LAND USE OPERATIONS
IN THE YUKON TERRITORY AND THE NORTHWEST TERRITORIES



Short Title

1. These Regulations may be cited as the Territorial Land Use Regulations.

Interpretation

2. In these Regulations,

"Act" means the Territorial Lands Act;

"crossing" means any temporary bridge, causeway or structure or any embankment, cutting, excavation, land clearing or other work used or intended to be used to enable persons, vehicles or machinery to cross any waters, highway or road;

"Engineer" means

- (a) in the Yukon Territory, the Regional Water and Land Use Engineer of the Department of Indian Affairs and Northern Development at Whitehorse, Yukon Territory, and
- (b) in the Northwest Territories, the Regional Water and Land Use Engineer of the Department of Indian Affairs and Northern Development at Yellowknife, Northwest Territories;

"geophysical survey" means any investigation on the surface of the ground by an operator to determine the nature and structure of subsurface formations;

"inspector" means any person designated by the Minister to carry out the duties of an inspector under these Regulations;

"land use operation" means any work or activity on territorial lands that involves one or more of the following:

- (a) the use of explosives,
- (b) the use, except on a public road, of any self-propelled, power driven vehicle that exceeds 2,000 pounds net weight,
- (c) the use of any self-propelled, power driven machine for moving earth or clearing land,
- (d) the use of any stationary power driven machine for drilling, hydraulic prospecting, moving earth or clearing land,
- (e) the establishment of any campsite that is to be used for longer than 21 days, or
- (f) the levelling, grading, clearing or cutting of any line, trail, road or right of way wider than five feet;

"land use permit" means a permit issued under Part II of these Regulations;

"line" means a route used to give surface access to any land for the purpose of carrying out a geophysical survey;

- "Minister" means the Minister of Indian Affairs and Northern Development;
- "monument" means any post, stake, peg, mound, pit, trench, or any other object, thing or device used to mark a boundary of any surveyed land other than a mineral claim and includes any like object, thing or device used, placed or established for any topographic, geodetic or geographic purpose;
- "operator" means a person engaged in a land use operation and includes a permittee under Part II of these Regulations and any one employed by him to conduct a land use operation;
- "permit lands" means lands described in a land use permit;
- "permittee" means the holder of a land use permit issued pursuant to section 19;
- "Surveyor-General" means the Surveyor-General as defined in the Canada Lands Surveys Act;
- "territorial lands" means lands in the Northwest Territories or in the Yukon Territory that are vested in the Crown or of which the Government of Canada has power to dispose and that are under the control, management and administration of the Minister; and
- "waters" means any lake, river, stream or other body that intermittently or continuously contains water.

Application

3. These Regulations do not apply to anything done by a resident of the Yukon Territory or the Northwest Territories in the course of hunting, fishing or trapping.

PART I

GENERAL

4. Subject to section 3, no person shall carry on a land use operation on any territorial lands except in accordance with these Regulations.

5. (1) No operator shall wilfully use machinery or otherwise conduct a land use operation in a manner that harasses wildlife or damages wildlife habitat on territorial lands.

(2) No operator shall, without the prior written authority of the Engineer,

(a) use more than 50 pounds of explosives in any one day or more than 300 pounds of explosives within any 30 day period;

- (b) conduct a land use operation north of the 65th parallel of north latitude between May 1 and October 31 in any year;
- (c) conduct a land use operation within 50 feet of
 - (i) a monument, or
 - (ii) a clearing made solely for the purpose of demarcating a boundary except for the purpose of making a crossing thereof;
- (d) when excavating territorial land within 300 feet of any waters, excavate at a point that is less than 10 feet above the normal high water mark of those waters;
- (e) deposit on the bed of any waters any excavated material; or
- (f) where a fuel or supply cache is to remain for more than 14 days at a place within 300 feet of any waters, place the fuel or supply cache at a point that is less than 10 feet above the normal high water mark of those waters.

Excavation

6. Every operator who has made an excavation shall, on completion of his land use operation, restore any excavated area as far as is practicable to the condition it was in before the excavation was made.

Water Crossings

7. Every operator shall
- (a) when constructing a crossing of any waters
 - (i) take all practicable precautions to avoid disturbing the adjacent ground surface or vegetation, and
 - (ii) choose a location for the crossing that causes the least disturbance to the shores, banks and bed of the waters;
 - (b) when abandoning a crossing of waters
 - (i) remove all debris and fill used in constructing the crossing, and
 - (ii) restore the shores, banks and bed of the waters, as far as is practicable, to their previous condition; and
 - (c) when abandoning a crossing built on ice, remove all logs, timber or debris used in the construction of the crossing.

Highway and Road Crossings

8. When constructing a crossing of a highway or road, no operator shall

- (a) leave trees, brush, debris or other material, or clear or grade lands or construct ditches on the right of way of that highway or road; or
- (b) leave the surface, shoulders or ditches of any highway or road across which he has constructed a crossing damaged or rutted.

Lines, Trails and Rights of Way

9. (1) No operator shall
- (a) clear a new line, trail or right of way where there is an existing line, trail or right of way that he can use;
 - (b) clear a line, trail or right of way wider than 33 feet without the prior written consent of the Engineer; or
 - (c) leave leaners or debris in standing timber.
- (2) When constructing any line, trail, road or right of way, every operator shall
- (a) keep scarring of the ground and removal of surface vegetation to a minimum;
 - (b) avoid excessively steep grades;
 - (c) where the line, trail, road or right of way is to be constructed perpendicular to a grade exceeding five per cent, construct cross ditches not more than 300 feet apart that will divert any surface water on to undisturbed land adjacent to the areas he has cleared;
 - (d) adopt such other measures to control erosion as may be required by an inspector, where, in his opinion, serious erosion may result from any clearing operations;
 - (e) place all cut timber and debris in a windrow; and
 - (f) when making a windrow
 - (i) place the windrow
 - (A) at one side of the clearing, and
 - (B) not less than five feet from any standing timber,
 - (ii) compact the windrow as tightly as possible by running a heavy vehicle over it, and
 - (iii) break the windrow at intervals not exceeding 300 feet.

Monuments

10. (1) Where a monument is damaged, destroyed, moved or altered in the course of a land use operation, the operator shall
- (a) report the fact immediately to the Surveyor-General and pay to the Surveyor-General the costs of
 - (i) the investigation into such damage, destruction, movement or alteration, and
 - (ii) the restoration or re-establishment of the monument to its original condition or in its original place, or
 - (b) at his own expense and with the consent of the Surveyor-General, cause the monument to be restored or re-established.
- (2) The restoration or re-establishment of a monument shall be done by a Dominion Land Surveyor under the instructions of the Surveyor-General.

Campsites and Fuel Storage Facilities

11. (1) All campsites used in connection with a land use operation shall be kept clean and the operator shall eliminate all garbage, waste and debris by removal, burning or burial or in such other manner as an inspector may direct.

(2) Sanitary sewage produced in connection with land use operations shall be handled and disposed of in accordance with the Public Health Ordinance of the Northwest Territories or the Public Health Ordinance of the Yukon Territory, whichever is applicable, and any regulations made under either such Ordinance.

(3) Where quantities of petroleum fuels in excess of 500 gallons are to be stored in any single container for a period exceeding twenty-one days, the prior approval of the Engineer shall be obtained as to the suitability, soundness and location of the storage container and the design and construction of effective facilities or structures for containing the fuel in the case of rupture of or leakage from the storage container.

12. Unless otherwise previously authorized by an inspector, an operator shall, within 30 days of the cessation of the land use operation, remove from territorial lands all buildings, machinery, equipment, materials and fuel drums or other storage containers used in the course of the land use operation.

13. (1) Where an operator fails to comply with sections 7(b), 7(c) and 9(1)(c) or fails to remedy his default within 90 days of receipt of a written notice from the Engineer that specifies the default and requires that it be remedied, the Engineer may order such things to be done as are necessary to remedy the default.

(2) The costs of any action taken or ordered to be taken by the Engineer pursuant to subsection (1) may be recovered from the operator as a debt due to the Crown.

(3) Nothing in this section relieves an operator from prosecution for any violation of these Regulations.

PART II

LAND MANAGEMENT ZONES

Application

14. This Part applies to lands set apart and appropriated as land management zones pursuant to section 3A of the Act.

Permits

15. No person shall conduct a land use operation in a land management zone without a land use permit authorizing that land use operation.

Land Division and Plans

16. Every preliminary plan, progress plan or final plan submitted under this Part shall
- (a) be drawn to a scale that clearly shows the lands the operator proposes to use;
 - (b) show the scale to which the plan is drawn; and
 - (c) show locations either
 - (i) in accordance with sections 5, 6, 7, 8 and 9 of the Canada Oil and Gas Land Regulations, or
 - (ii) by giving the geographic co-ordinates.

Application for a Land Use Permit

17. (1) An applicant for a land use permit shall submit an application in duplicate to the Engineer in the form set out in Schedule A.
- (2) Every application for a land use permit shall be accompanied by a preliminary plan showing
- (a) the lands proposed to be used and an estimate of their acreage; and
 - (b) the approximate location of all
 - (i) existing lines, trails, rights of way and cleared areas proposed to be used in the land use operation;
 - (ii) new lines, trails, rights of way and areas proposed to be cleared or used during the land use operation;
 - (iii) buildings, campsites, air landing strips, fuel and supply storage sites, waste disposal sites, excavations and other works and places proposed to be constructed or used during the land use operation; and
 - (iv) bridges, dams, ditches, railroads, highways and roads, transmission lines, pipe lines, survey lines and monuments, air landing strips, waters and all other features, structures or works that may be affected by the land use operation.
- (3) The Engineer may require the applicant for a land use permit to submit to him such further information and material as he may direct.

- (4) An applicant for a land use permit shall be:
 - (a) the holder of the interest to be benefitted by the land use operation; or
 - (b) if there is more than one such holder and they have entered into an exploration or operating agreement designating one of them as manager of operations, then such manager; or
 - (c) if there is more than one such holder and they have not entered into an exploration or operating agreement designating one of them as manager of operations, or if there is no holder of an interest to be benefitted, then any person who contracts to have the land use operation carried out.

Inspection Before Issue of Permit

18. (1) Before issuing a permit, the Engineer may order an inspection of the proposed permit lands.
- (2) Where an inspector makes an inspection under subsection (1), he shall investigate and report to the engineer concerning
- (a) the physiographic and ecological characteristics of the proposed permit lands and surrounding lands;
 - (b) any effect that the proposed land use operation could have on the proposed permit lands and surrounding lands and the ecological balance thereof; and
 - (c) the manner in which the effect of the proposed land use operation referred to in paragraph (b) may be minimized and controlled.
- (3) The Engineer shall send a copy of the inspector's report to the applicant on request.

Issue of Land Use Permit

19. (1) The Engineer shall, within 30 days after he has received an application for a land use permit that complies with section 17,

- (a) issue the permit without conditions;
- (b) issue the permit subject to any conditions stated therein;
- (c) refuse to issue the permit and notify the applicant in writing of his refusal and the reasons therefor;
- (d) notify the applicant in writing that he has ordered an inspection of the proposed permit lands and state in the notice the date when he will issue the permit without conditions, issue the permit subject to conditions or refuse to issue the permit.

(2) Where the Engineer receives an application that does not comply with section 17, he shall, within 14 days thereafter, notify the applicant in writing that his application cannot be accepted and give the reasons therefor.

(3) The Engineer shall give each land use permit a number which the operator shall display on such vehicles and equipment and at such places as the Engineer may require.

Terms and Conditions of Permits

20. (1) The Engineer may include in any land use permit conditions respecting

- (a) the location and the area of lands that the operator may be allowed to use;
- (b) the times at which any work or activity forming part of the land use operation may be carried out;
- (c) the type and size of equipment that may be used in the land use operation;
- (d) the methods and techniques to be employed by the operator in carrying out the land use operation;
- (e) the type, location, capacity and operation of all facilities to be used by the operator in the land use operation;
- (f) the methods of controlling or preventing flooding, erosion, slides and subsidences of land;
- (g) the methods of controlling and isolating toxic materials used in or resulting from the land use operation;
- (h) the protection of wildlife and its habitat;
- (i) the protection of objects and places of recreational, scenic, historic and ecological value;
- (j) the deposit, in accordance with section 24, of a guarantee deposit; and
- (k) such other matters not inconsistent with these Regulations as the Engineer thinks necessary for the protection of the physical characteristics and ecological balance of the land management zone.

(2) A land use permit shall be valid for a period extending from the date of commencement of the land use operation set out in the permit until either the date of completion of the land use operation or the expiration of two years from the date of commencement set out in the permit, whichever is the earlier day.

(3) Every land use permit shall state the period for which it is valid.

(4) Upon receipt from an applicant of an application in writing for an extension of the duration of a land use permit, the Engineer may extend the duration of that permit, subject to such conditions and for such period not exceeding one year, as he thinks fit.

(5) The Engineer may grant further extensions of the duration of a permit but in no case shall he extend the duration of a land use permit beyond three years from the date when the land use operation began.

Fees

21. (1) Each application for a land use permit shall be accompanied by an application fee of \$5.00.

(2) Where the proposed permit lands exceed four acres, the applicant shall pay a land use fee for each additional acre of

(a) \$8.00, where he proposes to use lands south of the 65th parallel of north latitude, or

(b) \$5.00, where he proposes to use lands north of the 65th parallel of north latitude.

(3) Where land is used for a line, trail or right of way, the width of the line, trail or right of way shall, for the purpose of subsection (2), be deemed to be 33 feet.

(4) The land use fee referred to in subsection (2) shall accompany each application for a land use permit and shall be calculated on the estimated acreage of permit lands as set out in the application.

(5) Within 30 days after the Engineer has received the final plan required by section 23, he shall calculate the land use fee based on the actual acreage of permit lands and shall either refund any excess payment to the permittee, or claim, by a notice in writing to the permittee, any deficiency in payment.

(6) Where an application for a land use permit is refused, the land use fee shall be refunded to the applicant.

(7) An application fee shall not be refunded.

(8) All fees payable under these Regulations shall be paid in cash or by certified cheque drawn on a chartered bank in Canada and payable to the Receiver General.

Progress Reports

22. A permittee shall file with the Engineer on or before the last day of each month a report and a progress plan in a form required by the Engineer describing that month's operations.

Final Plan

23. (1) A permittee shall, within 60 days after the expiry of his land use permit, file a final plan with the Engineer showing

- (a) the permit lands and the acreage and physiography thereof; and
- (b) the location of
 - (i) lines, trails, rights of way and cleared areas that were used by the permittee during the land use operation, distinguishing those that were cleared by the permittee and those that existed before the land use operation,
 - (ii) buildings, campsites, air landing strips, fuel and supply storage sites, waste disposal sites, excavations and other works and places that were constructed or used by the permittee during the land use operations, and
 - (iii) bridges, dams, ditches, railroads, highways and roads, transmission lines, pipe lines, survey lines and monuments, air landing strips, waters and all other features, structures or works that were affected by the land use operation.

- (2) The final plan shall be
 - (a) certified by the permittee or his agent authorized for that purpose as to the accuracy of
 - (i) locations, distances, acreages and elevations, and
 - (ii) the representation of the land use operation; or
 - (b) drawn from and accompanied by positive prints of vertical aerial photographs showing the permit lands after completion of the land use operation.

(3) Upon application in writing by the permittee the Engineer may extend the time for filing the final plan by not more than 60 days.

(4) The Engineer shall reject a final plan if, in his opinion, it does not comply with this section and shall by written notice require the permittee to submit an accurate final plan.

Guarantee Deposit

24. (1) In order to ensure that the permittee complies with the terms and conditions of the land use permit and with these Regulations, the Engineer may include in a land use permit a condition that the permittee deposit with the Minister a guarantee deposit computed at the rate of \$1,000 per acre of permit lands up to a maximum of \$100,000.

(2) Where a land use permit includes a condition requiring a guarantee deposit, the permittee shall not begin the land use operation until the guarantee deposit has been deposited with the Minister.

- (3) A guarantee deposit shall be in the form of
- (a) a promissory note guaranteed by a chartered bank payable to the Receiver General;
 - (b) a certified cheque drawn on a chartered bank in Canada payable to the Receiver General;
 - (c) bearer bonds of or guaranteed by the Government of Canada; or
 - (d) a combination of the forms described in paragraphs (a), (b) and (c).

(4) A guarantee deposit shall be refunded by the Minister when he is satisfied that the permittee has completed the land use operation and has complied with the terms and conditions of the land use permit and these Regulations.

(5) Where the permittee has not complied with the terms and conditions of the land use permit or these Regulations, the guarantee deposit, or such part of it as the Minister may determine, shall be forfeited to the Crown.

Cancellation of Land Use Permit

25. (1) The Minister may cancel a land use permit if he is satisfied that the permittee has not complied with any of the terms and conditions of the land use permit or with these Regulations.

(2) The cancellation of a land use permit shall not relieve the permittee from any obligation arising under the terms and conditions of the land use permit or under these Regulations up to the time of cancellation or from the obligation to comply with any notice, direction or order given by an inspector or by the Engineer.

Responsibility

26. A permittee is responsible for any default in compliance with the terms and conditions of the land use permit or of these Regulations whether the default is caused by himself or his employee or any other person carrying out the land use operation authorized by the permit.

PART III

Duties and Powers of Inspector

27. (1) An inspector may, at any reasonable time, enter any place or premises on territorial lands, other than a private dwelling, and make such inspections as he thinks necessary to determine whether any terms and conditions of a land use permit or any provisions of these Regulations have been or are being violated.

(2) An inspector shall be furnished with a certificate of his appointment as an inspector and on entering any place or premises pursuant to subsection (1) shall, if so requested, produce the certificate.

(3) Every person in any place or premises entered by an inspector pursuant to subsection (1) shall give the inspector such assistance and furnish him with such information as the inspector may, for the purpose of carrying out his duties under these Regulations, reasonably require him to give or furnish.

28. (1) Where an inspector is of the opinion that an operator has defaulted in compliance with the terms and conditions of a land use permit or with these Regulations, the inspector may order the operator to suspend the land use operation until the default is corrected and the operator shall thereupon suspend the land use operation.

(2) When an inspector has ordered a land use operation to be suspended he shall report the suspension to the Engineer.

(3) An inspector may lift a suspension ordered under subsection (1) when he is satisfied that the default has been corrected.

29. No person shall wilfully obstruct or hinder an inspector in the carrying out of his duties under these Regulations.

30. No person shall knowingly make any false or misleading statement, either verbally or in writing to any inspector engaged in carrying out his duties under these Regulations.

Appeals

31. (1) An applicant for a land use permit or an operator (in this section referred to as "the appellant") may, within 30 days, appeal to the Minister from any decision, direction or order made by the Engineer or an inspector.

(2) An appeal referred to in subsection (1) shall be by notice in writing setting forth

- (a) the decision, direction or order appealed from;
- (b) the relevant circumstances surrounding the giving of the decision, direction or order; and
- (c) the reasons for the appeal.

(3) An appellant shall provide the Minister with such further information as the Minister may require.

(4) The Minister may set aside, confirm or vary a decision, direction or order referred to in subsection (1) or may remit it to the Engineer for reconsideration with such instructions as the Minister deems proper.

(5) Pending the decision of the Minister or an officer appointed by him pursuant to subsection (6), a decision, direction or order appealed from remains in full force and effect.

(6) The Minister may authorize a senior officer of the Department, other than the Engineer, to exercise the Minister's powers in respect of any appeal pursuant to this section.

Notice

32. (1) Any direction, notice or order given to a permittee under these Regulations shall be sufficiently given if sent by registered mail to, or left at, the permittee's address as stated in his application for a land use permit, and shall be deemed to have been given to the permittee on the date it was so mailed or left.

(2) Where a direction, notice or order is given to a permittee verbally or by telephone or radio, it shall immediately be confirmed in writing.

Department of Indian Affairs
and Northern Development
TERRITORIAL RELATIONS BRANCH

SCHEDULE A

APPLICATION FOR A LAND USE PERMIT

Sections 19 & 21 of the Northern Land

Use Regulations P.C. 1970-

LAND MANAGEMENT ZONE _____

_____, 1970
Date

1. Name of Applicant

2.(a) Mailing address of applicant (See section 32)

2.(b) If incorporated company, address of head office in Canada

2.(c) Address of operations manager in the field

3. Qualification of applicant (See subsection 17(4))

4. Names and addresses of all contractors and sub-contractors to be involved in the proposed land use operation (briefly state the type of work each would undertake)

5. Purpose of proposed land use operation (briefly state nature and purpose of proposed operation)

6. Time schedule of proposed land use operation
Proposed commencement date

Proposed completion date

7. Approximate area of permit lands
(include area required for access route)

8. Location of proposed land use operation (section 16)

9. Type, quantities and purpose of equipment to be used

10. Location of proposed campsites and air landing strips

11. Arrangements planned for disposal of refuse, garbage and
sanitary wastes

12. List all lines, trails, rights of way or any other facility that would be used, crossed, disrupted or otherwise affected by the proposed land use operation.

13. Amount of the land use fee accompanying this application
(See subsection 21(2))

Estimated acres _____ x \$ _____ land use fee

Signature of Applicant _____

(Print Name) Applicant's Representative

FOR USE OF LAND USE MANAGEMENT STAFF

1. Date Received: _____ Application No. _____

2. Application fee received by: _____