

Discussion Document on proposed amendments to the *Oil and Gas Act* and the *Oil and Gas Disposition Regulations*

Background

The Government of Yukon recognizes the potential benefits of an active and responsibly regulated oil and gas industry in Yukon. Recently, one exploration company spent over \$100 million dollars on drilling and seismic exploration activity over a three-year period. To promote economic prosperity and job creation, Yukon must attract and retain interest in Yukon's oil and gas industry. Length of tenures and terms and conditions of rent paid on dispositions are two areas where we can enhance our competitive position.

Compared to Alberta or British Columbia, where tens of thousands of wells are drilled, there have been 76 oil and gas wells drilled in Yukon. To learn more about the potential of oil and gas resources in the territory, Yukon government wants to encourage exploration activity while maintaining regulatory confidence. As more wells are drilled, more data is gathered on the geology and sub-surface. Better data helps companies focus on the areas with highest potential.

In a frontier jurisdiction such as Yukon, infrastructure, logistics and supply chains, access to markets, underlying geological knowledge and skilled labour may be limited. These factors combined means exploration activities require more time compared to areas, such as Alberta or British Columbia, with a mature oil and gas industry. Thus, permit conditions need to reflect the more challenging conditions found in a frontier jurisdiction such as Yukon.

As a result of these current circumstances, the Government of Yukon is considering amendments to the *Oil and Gas Act* and the *Oil and Gas Disposition Regulations*.

The proposed changes outlined in this document aim to achieve the following objectives:

1. Ensure Yukon remains able to attract and retain industry interest;
2. Strengthen the ability to protect people and the environment;
3. Improve transparency and clarity of information and processes; and
4. Make administrative updates to the legislation.

This discussion document is to help explain the proposed amendments and seek your feedback. The document is divided into the four objectives listed above and explains in detail the rationale behind the proposed changes. Separate areas have been provided for outlining your response.

Objective 1: Ensure Yukon Remains Able to Attract and Retain Industry Interest

Topic: Extending term of a permit

Under the *Oil and Gas Act* (OGA), the most common dispositions are permits and leases. An oil and gas permit, in concert with regulatory approvals, grants the right to explore and drill for oil and gas in a defined area. Once oil or gas reserves are proven, a production lease for a specific smaller area within the permit may be issued. The term of a permit is usually set at a maximum of 10 years (section 31(2) OGA). Once a permit is issued, there is currently no way to change the length of term in an existing permit except in a few exceptional and restricted circumstances (sections 28(d) and 35 OGA).

The length of term of a permit is determined by considering the amount of time companies require to explore and prove a resource. If a term is too short, there will not be sufficient time for a company to explore for oil and gas. Conversely, if the term is too long, a company may not have incentive to actively work towards proving a resource, and the rights to certain lands are not available for other companies to acquire and explore.

Under the current regime, operators typically receive 10-year permits comprised of two terms – an initial term of six years followed by a renewal term of four years. An operator may receive an extension to their initial term, but this will result in a corresponding reduction in the length of the renewal term. Extensions to the initial term of a permit will effectively delay the start of the renewal term, as well as postpone payment of rent.

Proposed changes:

The first proposed change will require a deposit be paid to secure an extension to the initial term. This deposit will be refunded when the renewal term is initiated. The requirement for a deposit to obtain an extension to the initial term will encourage continued activity on the disposition.

The second proposed change will enable an existing permit to be extended by two years, but this can only be granted one time for any permit.

Question #1:

Should an operator be able to obtain an extension on their initial term, with the requirement that a deposit be paid? Why or why not?

Question #2:

Do you think that a one-time extension of up to two years should be available? Why or why not?

**Objective 1: Ensure Yukon Remains Able to Attract and Retain
Industry Interest**

Topic: Rent

Under the *Oil and Gas Disposition Regulations*, companies are required to pay rent as outlined in their permit but only during the renewal phase of the permit. Rent is determined by policy. The *Oil and Gas Disposition Regulations* also outline that if a permit is issued, a work deposit must be provided to Yukon government. This deposit will be held as security for carrying out the work commitment made by the company. A schedule of allowable expenditures forms part of the permit and describes in general terms the kind of expenditures that may be approved as allowable expenditures. As allowable expenditures are incurred during the initial term of a permit, the work deposit is refundable in accordance with section 12 of the *Disposition Regulations*.

The overall policy objective of this proposal is to facilitate activity that generates greater knowledge of Yukon’s resources while potentially achieving production of the resource. The greatest benefits to Yukon residents and governments are achieved during production.

Proposed changes:

Allowable expenditures may be applied against work deposits in the initial term. The proposed change will authorize allowable expenditures to be applied against rent in the renewal term. The ability to claim allowable expenditures against rent in the second term encourages activity and keeps the regime competitive with other jurisdictions such as NWT where this allowed.

Question #3:

Should operators be able to apply expenditures against rent in the renewal term of their permit? Why or why not?

Objective 2: Strengthen the Ability to Protect People and the Environment

Topic: Well Abandonment

In the oil and gas industry, abandonment is the term used for properly preparing a well to be closed permanently. The activities associated with abandonment are typically:

- Safely and permanently plugging wells;
- Removal of well equipment, production tanks and associated installations; and
- Remediation of the surface.

The act and regulations work together to ensure financial liability for the protection of people and the environment remains with industry.

Proposed changes:

There are a number of proposed changes regarding well abandonment:

- a) The current legislation does not allow Yukon government to impose post-abandonment obligations on the licensee after the licence has been cancelled. The proposed change will ensure that liability for the well continues after the licence is cancelled.
- b) There is no ability for the Chief Operations Officer (COO), Yukon government’s oil and gas regulator, to issue an order to re-abandon a well in the interest of public or environmental safety. The proposed change will give the COO the authority to order a well be re-abandoned.

- c) Recovery of well abandonment costs currently only applies to leases, though wells may be drilled on several types of dispositions. The proposed change will broaden the provision to cover all possible wells.
- d) The legislation allows Yukon government to recover re-abandonment costs from licencees but there is no corresponding provision for working interest owners. The proposed change will enable recovery of costs from both licencees and working owners.

Question #4:

Do you agree with increasing these requirements regarding well abandonment? Why or why not?

Objective 2: Strengthen the Ability to Protect People and the Environment

Topic: Ensure the regulator has the right enforcement tools

The Chief Operations Officer (COO) is Yukon government’s primary regulator of oil and gas activities under the act. The COO requires more diverse and appropriate tools to ensure the safety of people and protection of the environment. The COO’s job is to ensure an activity is done safely, with minimal risk to people and the environment, and that the oil and gas is not wasted.

Currently, contraventions to the act may occur through lack of action which is difficult to address through the current wording of the provision which deals with “activities and facilities”. The COO requires the authority to act on any contravention under their jurisdiction, and not be limited to activities and facilities.

For example, broadening the powers to cancel a well licence as a consequence of a contravention of the act is a strong tool for the COO to use to achieve compliance. This would not let the operator or owners avoid liability, but would give them incentive to comply rather than lose access to the well.

Proposed changes:

The COO currently has the ability to impose prescribed penalties, but is not able to cancel a licence. The proposed change will authorize the COO to cancel a licence as a consequence of contraventions to the act.

Question #5:

Should the COO be granted this expanded authority to ensure compliance? Why or why not?

Objective 3: Improve Transparency and Clarity of Information and Processes

Topic: Benefit Agreement Dispute Resolution

The act outlines a process for creating a benefits agreement between the company, Government of Yukon and First Nations in whose Traditional Territory the proposed activity is located. For the purposes of these benefits agreements, if the project is on Category A Settlement Land, the First Nation is the owner and Yukon government is the non-owner. If the project is on Yukon land, the owner is Yukon government and the affected First Nation is the non-owner. The current process needs to be clarified to ensure there continues to be full and fair consideration of all views and the process advances without unnecessary delays.

Proposed changes:

The benefits agreement provisions, which were formed through a collaborative process with First Nations, were not intended to delay the process of negotiation. The proposed change, to allow either the owner or non-owner to initiate the dispute resolution process, will apply equally to situations where either Yukon or a First Nation government is the owner.

Question #6:

Do you agree that either the owner or non-owner should be able to initiate the dispute resolution process? Why or why not?

Objective 3: Improve Transparency and Clarity of Information and Processes

Topic: Improving transparency

Section 103 of the act protects the confidentiality of much of the information submitted under the *Oil and Gas Act*. Section 103 also provides for the regulations to specify information which does not need to be kept confidential. In an effort to be more transparent, it is proposed that Yukon government be allowed to release some information collected under the act and regulations. For example, the release of names of the lease owners is not allowed even though it is standard practice in all other Canadian jurisdictions.

Proposed changes:

The act contains a general prohibition against the disclosure of information obtained by Yukon government. The proposed change will make the terminology in the regulations consistent with that of the act.

The proposed change will uphold the spirit of transparency, by identifying which documents can be made publicly available without risk to the competitive advantage held by operators, while fulfilling Yukon’s responsibilities under the *Access to Information and Protection of Privacy Act*.

Question #7:

Do you agree with making more information publicly available? Why or why not?

Objective 3: Improve Transparency and Clarity of Information and Processes

Topic: Eligibility to hold a disposition

Currently, the regulations are silent on when a corporation is ineligible to hold a disposition due to potential conflict of interest between the regulator and the holder of the disposition. Such provisions are necessary to prohibit a corporation from holding a disposition if a Yukon public servant is an officer or director or the holder of its shares unless the shares are listed on a recognized stock exchange.

Proposed amendment:

This proposed change is the addition of an ineligibility provision, similar to provisions of other jurisdictions in Canada.

Question #8:

Do you think an ineligibility provision should be added? Why or why not?

Objective 3: Improve Transparency and Clarity of Information and Processes

Topic: Cancellation of a disposition

If a corporation holds a disposition when it is ineligible to do so, the Minister has the authority to cancel or transfer it to an eligible corporation. However, the preconditions to the exercise of the Minister’s power are not defined.

Proposed amendment:

The proposed change is to outline the preconditions allowing the cancellation a disposition such as failure of a corporation to maintain their status as a legal entity.

Question #9:

Do you think that preconditions to cancellation of a disposition should be added? Why or why not?

Objective 4: Administrative Updates to the Legislation

Topic: Service fees

Legislation requires updating from time to time. For example, some of the service fees charged under Schedule 1 of the *Oil and Gas Disposition Regulations* are so low that administration of the fee can cost more than the fee itself.

Proposed changes:

The proposed change will update fees and remove unnecessary minor fees. This is consistent with the approach applied in other Yukon government legislation.

Question #10:

Do you think fees should be updated to save Yukon government the cost of administration of nominal fees? Why or why not?

Objective 4: Administrative Updates to the Legislation

Topic: Work deposit refunds

Work deposits are made in advance of the initial term of the permit and are based on projected expenditures during that particular term. Currently, an application for refund of all or part of a work deposit may only be made at the end of any year during an initial term. This can result in extended periods before an operator can obtain refunds for completed work. Refunding work deposits more frequently allows for the proponent to immediately re-invest those funds in additional exploration work.

Also, operators may apply to the Minister to “group” permits if the underlying geology is similar. This would allow the operator to drill one well to represent the geology of all the grouped permits rather than drilling a well on each permit. The regulations are silent on work deposit refunds for grouped permits.

Proposed changes:

The proposed change will allow for an application for refund of work deposits to be made at any time, thereby enabling operators to access their work deposits in a timely manner. The proposed amendments will also address work deposit refunds for grouped permits.

Question #11:

Do you think that operators should be able to access their work deposits once work is completed? Why or why not?

Please use this space for any other comments or concerns on the proposed amendments to the *Oil and Gas Act* and the *Oil and Gas Disposition Regulations*:

Thank you for participating and sharing your feedback.

Submitting Feedback

This is 60-day public consultation with a deadline for comments to be submitted **by 5 pm PDT Monday, September 14, 2015**.

Please note: By participating in this public consultation process and submitting comments, you agree that the Yukon government may publish your comments and disclose any personal information these comments contain.

Comments received during the consultation will be compiled and considered in the development of amendments to the *Oil and Gas Act* and *Oil and Gas Disposition Regulations*. A post-consultation report will also be created.

If you wish to have your comments attributed to yourself, you must explicitly indicate so by submitting your contact information below. Please leave blank if you do not want your comments publically attributed to you.

Please submit your contact information here:

Name: _____

Address: _____

Phone: _____

If you have any questions about the collection of this information, please call 867-393-7042 or 1-800-661-0408, ext. 7042.

Your feedback can be submitted to the Oil and Gas Resources Branch by:

E-mail: oilandgasact@gov.yk.ca

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