



Province of Alberta

## MINES AND MINERALS ACT

# **MINES AND MINERALS ADMINISTRATION REGULATION**

### **Alberta Regulation 262/1997**

With amendments up to and including Alberta Regulation 45/2014

### Office Consolidation

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(Consolidated up to 45/2014)

**ALBERTA REGULATION 262/97**

**Mines and Minerals Act**

**MINES AND MINERALS ADMINISTRATION REGULATION**

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**Definitions**

- 1 In this Regulation,
  - (a) “Act” means the *Mines and Minerals Act*;
  - (b) “amount owing to the Crown” means a money amount owing to the Crown under the Act, the regulations or an agreement;

- (c) repealed AR 89/2013 s18;
- (d) “designated representative”, in relation to an agreement, means
  - (i) the person who is designated as the representative of the lessee or lessees of the agreement, according to the notice of the designation given to the Minister pursuant to section 29 of the Act, or
  - (ii) the lessee of the agreement, if the agreement is held by only one lessee who has not given the Minister a notice of a designation of a representative pursuant to section 29 of the Act or has given the Minister a notice of the revocation of a previous designation of a representative;
- (e) “due date”, in relation to the payment of an amount owing to the Crown, means
  - (i) the due date for the payment prescribed by the Act, the regulations or an agreement, unless the payment is made pursuant to a monthly invoice arrangement that provides for a different due date for the payment,
  - (ii) the due date for the payment specified in the monthly invoice arrangement, if the payment is made pursuant to a monthly invoice arrangement, or
  - (iii) the due date for the payment specified in an invoice or notice sent by the Minister, if no due date for the payment is prescribed by the Act, the regulations or an agreement;
- (f) “official service address”, in relation to any person, means that person’s official service address shown in the current notice given by that person to the Minister pursuant to section 30 of the Act;
- (g) “petroleum and natural gas lease” means a lease granting rights to petroleum or natural gas or both;
- (h) “petroleum and natural gas licence” means a licence granting rights to petroleum or natural gas or both;
- (i) “prescribed”, in relation to a fee or rental, means prescribed by this Regulation;
- (j) “regulations” means this Regulation or any other regulations under the Act;
- (j.1) “Regulator” means the Alberta Energy Regulator;

- (k) “royalty amount” means an amount owing to the Crown
- (i) on account of a money royalty,
  - (ii) in respect of the Crown’s royalty share of a mineral when disposed of by an agent, or
  - (iii) on account of royalty compensation;
- (l) “spacing unit” means
- (i) in relation to a well drilled or being drilled,
    - (A) the drilling spacing unit for the well prescribed by or pursuant to the *Oil and Gas Conservation Rules* (AR 151/71), or
    - (B) where the Regulator has issued an order suspending the operation of Part 4 of the *Oil and Gas Conservation Rules* (AR 151/71) in respect of the area in which the well is drilled or being drilled, the area that was, immediately before the effective date of the order, the drilling spacing unit prescribed for the well by or pursuant to those Rules,
- or
- (ii) the area that would be the drilling spacing unit prescribed for a well by or pursuant to the *Oil and Gas Conservation Rules* (AR 151/71) if the well were drilled and in the absence of any order of the Regulator suspending the operation of Part 4 of those Rules in respect of that area.

AR 262/97 s1;251/2001;254/2007;89/2013;45/2014

## Designated Representatives, Notices and Applications

### Designation of representative

**2(1)** Subject to subsections (2) and (3), the following documents given to the Minister pursuant to section 29 of the Act shall be in a form determined or approved by the Minister:

- (a) a notice of the designation of a representative;
- (b) a notice of the replacement of the designation of a representative;
- (c) a notice by the sole lessee of an agreement of the revocation of the lessee’s designation of a representative.

- (2) A statement respecting the designation of a representative in relation to an agreement included in
- (a) the application for the agreement made pursuant to section 16(a) of the Act,
  - (b) the tender for the agreement, where the agreement is sold by way of a sale by public tender pursuant to section 16(b) of the Act,
  - (c) the registered transfer of part of the location of an agreement that led to the issuance of the agreement, or
  - (d) a registered transfer of the agreement from a sole lessee who at the time of registration had not designated a representative for the agreement, to another person who on registration of the transfer became the sole lessee of the agreement,

constitutes a notice to the Minister of the designation of that representative in relation to that agreement pursuant to section 29 of the Act.

(3) A statement respecting the replacement of the designation of a representative in relation to an agreement included in a registered transfer affecting that agreement constitutes a notice to the Minister of the replacement of the representative in relation to the agreement pursuant to section 29(4)(a) of the Act.

(4) Not more than one person may be designated pursuant to section 29 of the Act as a representative in relation to the same agreement.

(5) A notice of the designation of a representative given to the Minister

- (a) in a form determined or approved pursuant to subsection (1)(a) or (b), or
- (b) in accordance with subsection (2) or (3),

is, as against the Crown, binding on the lessees or the lessee, as the case may be, of the agreement to which the designation relates.

AR 262/97 s2;251/2001

#### **Official service address**

**3(1)** A notice of a person's official service address given to the Minister under section 30(1) of the Act

- (a) shall be in the form determined or approved by the Minister, and

- (b) shall not show more than one official service address for that person.

(2) Repealed AR 154/2004 s2.

AR 262/97 s3;251/2001;154/2004

#### **Giving of notices, etc. by the Minister**

**4(1)** Any notice that the Minister is required or authorized to give to any person under the Act, the regulations or an agreement may be given in any of the following ways:

- (a) by mail addressed to that person's official service address or, if that person has no official service address, to that person's last known address according to the records of the Department;
- (b) by delivery of the notice to that person's official service address or, if that person has no official service address, to that person's last known address according to the records of the Department;
- (c) by fax or e-mail transmission to that person in accordance with an arrangement made between the Minister and that person pursuant to subsection (3).

(2) If a notice is given by the Minister by mail in accordance with subsection (1)(a),

- (a) section 23 of the *Interpretation Act* does not apply to the notice, and
- (b) the notice shall be considered as being given on the day on which it is delivered to the Canada Post Corporation.

(3) The Minister may make an arrangement with a person under which that person agrees

- (a) that the Minister may give all or any specified class of notices to that person under the Act, the regulations or an agreement by
  - (i) fax transmission to that person, to a fax number specified by that person, or
  - (ii) e-mail transmission to that person, at an e-mail address specified by that person,

and

- (b) that transmission of a notice to that person by fax or e-mail in accordance with clause (a) will constitute sufficient service of the notice on that person.

(4) Subsections (1) and (2) also apply, with the necessary changes, to any letter, request, notification, invoice, demand or other document that the Minister is required or authorized by the Act, the regulations or an agreement to give, send or furnish to a designated representative or other person.

AR 262/97 s4;251/2001

#### **Giving of notices, etc. to the Minister**

**5(1)** Where a person is required or authorized by the Act, the regulations or an agreement to give a notice to the Minister, the notice may be given to the Minister in any of the following ways:

- (a) by physical delivery to an office of the Department;
- (b) by mail addressed to the Department;
- (c) by fax transmission to the Department, to a fax number specified by the Minister for notices of that kind;
- (d) by e-mail transmission to the Department, at an e-mail address specified by the Minister for notices of that kind.

(2) If a notice is given to the Minister by mail in accordance with subsection (1)(b),

- (a) section 23 of the *Interpretation Act* does not apply to the notice, and
- (b) the notice shall be considered as being given by mail to the Minister on the day on which it is received in an office of the Department.

(3) Where a provision of the Act, the regulations or an agreement authorizes a person to give a notice to the Minister within a prescribed period or before a prescribed deadline, a notice given by that person shall be considered as being given to the Minister only if it is received by the Department within that period or before that deadline.

(4) Subsections (1), (2) and (3) also apply, with the necessary changes, to any application or other document that a person is required or authorized by the Act, the regulations or an agreement to make or furnish to the Minister, except that a transfer, security notice or other document may not be submitted for registration under Part 6 of the Act by fax or e-mail transmission.

(5) If a provision of another regulation is in conflict with or inconsistent with this section, the provision of the other regulation prevails to the extent of the conflict or inconsistency.

AR 262/97 s5;251/2001

#### **Applications to the Minister**

**6** Where the Act, the regulations or an agreement authorizes a lessee of an agreement to make an application to the Minister, then, unless otherwise expressly provided by the regulations, the application may be made only by

- (a) the person who is the designated representative in relation to the agreement, or
- (b) a person authorized by the designated representative to make the application.

### **Agreements**

#### **Issuance of agreement**

**7(1)** For the purposes of the Act,

- (a) an agreement applied for under section 16(a) of the Act is issued when the Minister approves the application and the applicant accepts the conditions, if any, to which the Minister's approval is subject,
- (b) an agreement sold by way of public tender pursuant to section 16(b) of the Act is issued when the Minister publicly announces the name of the successful tenderer for the agreement and the tenderer has complied with the provisions in the sale notice respecting preconditions for the issuance of the agreement, and
- (c) an agreement issued pursuant to section 16(c) of the Act is issued at the time provided for in the procedure determined by the Minister under that section.

**(2)** For the purposes of section 20(5) of the Act, the prescribed date is the date on which the agreement is mailed to the lessee and, in the absence of proof to the contrary, the date of the letter accompanying the agreement is deemed to be the date on which the agreement is mailed to the lessee.

**(3)** Unless the Minister otherwise directs in a particular case, an agreement shall not be issued unless the prescribed issuance fee and the prescribed rental for the first year of the term of the agreement are received by the Minister.

**Agreements issued to 2 or more lessees**

**8(1)** Subject to subsection (2), an agreement shall not be issued to 2 or more lessees unless each of those lessees will be the holder of a specified undivided interest in the agreement.

**(2)** An agreement may be issued to 2 or more lessees other than as holders of specified undivided interests if each of them is an individual.

**(3)** Subsection (1) does not preclude the issuance of an agreement under which 2 or more persons will be the lessees in respect of the same specified undivided interest in the agreement if each of those lessees is an individual.

**Specified undivided interests**

**9(1)** The Minister may refuse to issue an agreement if any of the lessees would hold less than a 1% undivided interest under the agreement.

**(2)** The Minister may refuse to issue an agreement under which any lessee is to hold a specified undivided interest in the agreement if the interest

- (a) is expressed otherwise than in decimal form, or
- (b) is expressed in decimal form but to more than 7 decimal places.

**Term of agreement**

**10** Where an agreement is issued for a term of more than one year,

- (a) the first year of the term commences on the date shown in the agreement as its term commencement date and ends at the expiration of the first anniversary of that term commencement date, and
- (b) each subsequent year of the term is a 12-month period expiring on an anniversary of the term commencement date.

**Surrender of agreement**

**11(1)** The lessee of an agreement may, in accordance with this section,

- (a) surrender the agreement, or

- (b) with the consent of the Minister, surrender the agreement as to part of its location.
- (2) A surrender referred to in subsection (1)
- (a) must be submitted to the Minister in a form determined or approved by the Minister, and
  - (b) is binding on the Crown and the lessee only if it is accepted by the Minister, as evidenced by the Minister's notification to the lessee confirming the acceptance.
- (3) Where a surrender referred to in subsection (1)
- (a) is received by the Minister after an anniversary of the term commencement date of the agreement, or
  - (b) is received by the Minister on or before an anniversary of the term commencement date of the agreement but provides for an effective date occurring after that anniversary date,

the Minister shall not accept the surrender unless the Minister receives payment of the rental for the year of the term following that anniversary date calculated on the basis of the area of the location as it stood on that anniversary date.

**Partial location transfers and divisions and consolidations of agreements**

- 12(1)** In this section,
- (a) "new agreement" means an agreement referred to in subsection (3)(b);
  - (b) "original agreement" means a lessee's agreement referred to in subsection (2).
- (2) A lessee may, on application to and with the consent of the Minister, with respect to the lessee's agreement,
- (a) transfer any part of its location to another person,
  - (b) have the Minister divide it into 2 or more agreements, or
  - (c) consolidate it with one or more other agreements held by the lessee.
- (3) If the Minister consents to the lessee's transfer under subsection (2)(a) or to a division under subsection (2)(b), the Minister shall, as the case may be,

- (a) consequentially amend the original agreement to reflect
    - (i) the transfer so that the lessee will continue to hold under the original agreement only the part of the location not transferred, or
    - (ii) the division so that the lessee will continue to hold under the original agreement only the part of the location that the application states is to remain under the original agreement,
  - and
  - (b) issue an agreement under section 16(a) of the Act
    - (i) to the other person referred to in subsection (2)(a) covering the part of the location transferred, or
    - (ii) to the lessee under which the lessee will hold, following the division, the part of the location of the original agreement not continuing to be covered by the amended original agreement.
- (4)** Notwithstanding subsections (2) and (3), the Minister shall not accept or approve an application for
- (a) the consent of the Minister to a transfer of part of the location of a petroleum and natural gas licence during its initial term,
  - (b) the division of a petroleum and natural gas licence during its initial term, or
  - (c) the consolidation of 2 or more petroleum and natural gas licences during the initial term of any of them.
- (5)** The term of a new agreement is
- (a) deemed, for the purpose only of compliance with any applicable provision of the Act and the regulations that sets a term for a type of agreement issued in respect of a kind or category of mineral for which the new agreement was issued, to have commenced on the date of the commencement of the term of the original agreement, and
  - (b) to end on the expiry date of the original agreement.
- (6)** It is a condition of each consent under subsection (2) and of each approval referred to in section 7(1)(a) respecting a new agreement that

- (a) the lessee of the new agreement is taken to have agreed to the issue of that agreement and to be bound by and is to comply with all its terms and conditions,
- (b) that agreement is to govern all matters arising in relation to the mineral rights divided or transferred, from the date of the division or of the registration of the transfer, as the case may be, and
- (c) the lessee of that agreement is taken to have agreed to assume responsibility for obligations and liabilities accruing or arising under the original agreement in relation to those mineral rights that relate to any period when those rights were covered by the original agreement.

AR 262/97 s12;130/2002

#### **Amendment of agreement**

**13** If, pursuant to the Act or the regulations,

- (a) a description of the location in an agreement is amended, or
- (b) an agreement is amended in respect of the rights granted under it,

the Minister shall send a copy of the amendment to the lessee of the agreement.

#### **Cancellation of agreement**

**14(1)** Where the Minister cancels an agreement pursuant to section 45 of the Act, the Minister shall send to the person who was the designated representative for the agreement immediately before it was cancelled, a notification confirming the cancellation of the agreement.

**(2)** Where the Minister cancels a petroleum and natural gas licence or lease as to part of its location pursuant to section 20(4) of the *Petroleum and Natural Gas Tenure Regulation* (AR 263/97), the Minister shall send a notification to the licensee or lessee, as the case may be, confirming the cancellation in part of the agreement.

AR 262/97 s14;251/2001

#### **Commencement of reinstatement application period**

**15** For the purposes of section 8(1)(e)(i) of the Act, the effective date of the surrender or cancellation of an agreement is prescribed as the date of the notification from the Minister to the lessee confirming the Minister's acceptance of the surrender or confirming the cancellation, as the case may be.

**Persons ineligible as lessees**

**16(1)** Where the lessee or one of the lessees of an agreement is a person ineligible to be a lessee by reason of section 23 of the Act, a notice given by the Minister to the ineligible person pursuant to section 23(4)(a) of the Act must also be given to

- (a) the designated representative in relation to the agreement, and
- (b) each of the other lessees of the agreement, if it is held by 2 or more lessees.

**(2)** Where the ineligibility of a corporation under section 23 of the Act is the result of the dissolution of the corporation, a notice given by the Minister pursuant to section 23(4)(b) of the Act must be given to the corporation despite its dissolution at

- (a) its official service address if it had given a notice to the Minister containing that address, or
- (b) in any other case, its last known address according to the records of the Department.

**(3)** Unless the Minister otherwise directs in a particular case, an individual under the age of 18 years is eligible to be the lessee or one of the lessees of a metallic and industrial minerals licence under the *Metallic and Industrial Minerals Regulation* (AR 66/93).

AR 262/97 s16;251/2001

**Fees, Penalties, Rentals and Interest****Prescribed fees**

**17** The fee payable to the Minister for any service described in the Schedule to this Regulation is the fee shown in the Schedule for that service.

**Fee accounts**

**18(1)** The Minister may enter into an arrangement with a person under which prescribed fees payable by that person in respect of the class of services specified under the arrangement will be charged to that person's account on a continuing basis and on the conditions determined by the Minister.

**(2)** If a prescribed fee is payable by a person during the period an arrangement under subsection (1) is in effect and not suspended under subsection (3), the fee shall be charged to that person's account.

(3) If the Minister sends an invoice in respect of the amounts charged to a person under an arrangement under this section and the total amount of the invoice is not paid on or before the date specified in the invoice, the Minister may suspend the arrangement with that person until all amounts owing under it are paid in full.

(4) The Minister may terminate an arrangement with any person under this section on the giving of at least one week's notice to that person.

#### **Monthly invoice payments**

**19(1)** In this section "prescribed charge" means

- (a) the annual rental payable pursuant to the terms or conditions of an agreement granting rights in respect of petroleum or natural gas or both of them;
- (b) any fee or penalty prescribed in the Schedule that the Minister determines is to be paid in the manner described in subsection (2);
- (c) interest on late payment of all or a part of an amount referred to in clause (a) or (b) that is payable under section 21.

(2) Notwithstanding any regulation under the Act or any term or condition of any agreement issued under the Act but subject to subsection (3), a person who is liable to pay or has the responsibility for paying a prescribed charge shall pay the prescribed charge

- (a) in accordance and in compliance with monthly invoices issued by the Minister and the terms and conditions of those monthly invoices, and
- (b) on or before the due date for the payment of the prescribed charge that is specified in the monthly invoices.

(3) The Minister may exempt a person or a class of persons from the application of subsection (2) in respect of one or more prescribed charges.

AR 262/97 s19;61/2006;254/2007

#### **Annual rentals**

**20(1)** The lessee of an agreement is liable to the Crown for the payment of a rental for each year of the term of the agreement.

(2) For the purposes of this section,

- (a) a year during which a petroleum and natural gas lease is continued after the expiration of its term is deemed to be a year of the term of the lease, and
  - (b) a year during which a petroleum and natural gas licence is continued after the expiration of its intermediate term is deemed to be a year of the term of the licence.
- (3)** Except in the case of an agreement referred to in section 57(5)(c) or 116 of the Act, a rental for a year of the term of an agreement is payable at the rate of \$3.50 per year for each hectare in the area of the location of the agreement, subject to a minimum of \$50 per year.
- (3.1)** A rental for a year of the term of an agreement under section 115 or 116 of the Act is payable at the rate of \$1.00 per year for each hectare in the area of the location of the evaluation permit or carbon sequestration lease, subject to a minimum of \$50 per year.
- (4)** Subject to subsections (5) and (6), a rental for the 2nd or any subsequent year of the term of an agreement
- (a) is due and payable on the last day of the preceding year of the term of the agreement, and
  - (b) shall be calculated on the basis of the area of the location of the agreement as it stood on that due date.
- (5)** Subsection (4)(a) does not apply if the payment of the rental for the year is to be made pursuant to a monthly invoice arrangement.
- (6)** Notwithstanding anything in an agreement,
- (a) the rental for the first year of the intermediate term of a petroleum and natural gas licence, and
  - (b) the rental for any year of the term of a petroleum and natural gas lease or licence that
    - (i) occurs during its continuation pursuant to section 15, 16 or 17 of the *Petroleum and Natural Gas Tenure Regulation* (AR 263/97), and
    - (ii) is exempted by the Minister from the operation of subsection (4),

is due and payable on the date shown as the due date for its payment in a notice given by the Minister to the lessee of the lease or licence, and shall be calculated on the basis of the area of the location as it stood at the beginning of that year.

AR 262/97 s20;251/2001;68/2011

**Liability to the Crown for interest**

**21(1)** If an amount owing to the Crown is not received in full by the Minister on or before the due date for its payment, interest is payable to the Crown by the person who owes that amount, computed in accordance with this section.

**(2)** Interest payable under this section shall be computed from the due date as an amount equal to 3% of

- (a) the principal amount owing to the Crown, or
- (b) if partial payment of that principal amount is received on or before the due date for its payment, the portion of that principal amount remaining unpaid on that due date.

**(3)** If an amount of interest that would otherwise be payable in the absence of this subsection is \$20 or less, no interest is payable.

**(4)** This section does not apply to interest on an amount owing to the Crown in cases where provisions respecting the imposition of that interest are contained in some other regulation.

AR 262/97 s21;154/2004

**Crown's liability for interest on overpayments**

**22(1)** If a payment is made in respect of an amount owing to the Crown in excess of the actual amount owing on the due date for its payment and the excess payment is wholly or primarily attributable to an error made by the Department, the excess amount is an "overpayment" for the purposes of this section.

**(2)** If the Crown is liable to a person for an overpayment, interest is payable by the Crown to that person on the amount of the overpayment, computed in accordance with this section.

**(3)** An amount of interest payable by the Crown under this section

- (a) shall be computed from the later of
  - (i) the due date for payment of the amount owing to the Crown to which the overpayment relates, and
  - (ii) the date on which the Minister received the overpayment,

continuing to the date of the requisition by the Department of a cheque for the overpayment and interest, and

- (b) shall be computed for each day in the period referred to in clause (a) at a rate of yearly interest that is 1% greater than the rate of interest established by Alberta Treasury

Branches as its prime lending rate on loans payable in Canadian dollars and in effect on the first day of the month in which that day occurs.

(4) If an amount of interest that would otherwise be payable in the absence of this subsection is \$20 or less, no interest is payable under this section.

(5) This section does not apply to the payment of interest on overpayments in cases where provisions respecting the payment of that interest are contained in some other regulation.

AR 262/97 s22;27/2002;221/2004

#### **Penalty and compensation for unauthorized taking**

**22.1(1)** Where the Minister gives a direction to pay a penalty under section 55(1)(a) of the Act, the penalty must be in the amount prescribed in item 11 or 12, as the case may be, of the Schedule.

(2) Where the Minister gives a direction to pay compensation under section 55(1)(a.1) of the Act, the compensation must be in an amount equal to the value of the mineral, as determined by the Minister, that was won, worked or recovered contrary to section 54(1) of the Act.

AR 154/2004 s5;199/2005

#### **Application of payments**

**23(1)** Subject to subsections (2) and (3), unless the Minister directs otherwise, if money is paid to the Crown in respect of an agreement, the money shall be applied in the following order:

- (a) first, goods and services tax payable under *Excise Tax Act* (Canada) in respect of amounts owing to the Crown under the agreement;
- (b) 2nd, on fees owing by that person under the agreement;
- (c) 3rd, on penalties owing by that person under the agreement;
- (d) 4th, on interest owing by that person under the agreement;
- (e) 5th, on rentals owing by that person under the agreement;
- (f) 6th, on royalty amounts owing under the agreement.

(2) If the Minister sends to any person an invoice for one or more amounts owing to the Crown, money paid to the Crown on account of that invoice shall be applied in the following order:

- (a) first, goods and services tax under the *Excise Tax Act* (Canada) charged in the invoice;
- (b) 2nd, interest owing in accordance with the invoice on the principal amount of the invoice;
- (c) 3rd, any unpaid balance of a previous invoice that is carried forward in the current invoice;
- (d) 4th, subject to clause (c), the principal amount of the invoice.

(3) Subsections (1) and (2) do not apply to payments of any class of amounts owing to the Crown if another regulation provides for some other order of application of those payments.

### Functional Equivalency Rules

#### Interpretation and application

**23.1(1)** For the purposes of this section and sections 23.2 to 23.6,

- (a) “approved electronic document” means a document in approved electronic format;
- (b) “approved electronic format” means an electronic format, including an electronic format created for a document that is originally in non-electronic form, that has been determined or approved by the Minister;
- (c) “approved electronic transmission” means a method and means of transmission that has been determined or approved by the Minister;
- (d) “business process” means business operations or business requirements performed or administered by any unit or part of the Department and includes, but is not limited to, requirements or operations relating to the issuance, transfer, continuation and renewal of agreements and contracts and requirements or operations relating to postings and bids for the sale of mineral rights;
- (e) “document” means an application, bid, report, statement, return, request, bulletin, letter, disposition, agreement, contract, transfer, encumbrance, charge, invoice, notice or a document that is created, made, collated, issued, negotiated, sent, given, delivered, exchanged, submitted, filed, registered, stored, retained or otherwise dealt with in connection with a business process performed or administered by any unit or part of the Department;

- (f) “electronic” includes digital form or any other intangible form created by electronic, magnetic or optical means or by any other means that have similar capabilities for creation, recording, transmission or storage;
- (g) “format” means a form having certain technological attributes or characteristics in which electronic information may be presented and includes, but is not limited to, a computer graphics file or a file that contains electronic information in discrete readable data sets;
- (h) “transmission” means the sending, giving or delivery of an approved electronic document.

(2) Sections 23.2 to 23.5 apply in respect of any document dealt with in connection with a business process performed or administered by any unit or part of the Department if the Minister has directed or determined that those sections are to apply in respect of the performance or administration of the business process by that unit or part of the Department from the date specified by the Minister.

(3) A person engaged in a specified business process with any unit or part of the Department pursuant to subsection (2) must comply with sections 23.2 to 23.4.

(4) If a conflict exists between sections 23.2 to 23.4 and the provisions of the Act or any other regulation under the Act, those sections prevail.

AR 154/2004 s6;61/2006

#### **Enforceability of documents submitted in electronic format**

**23.2(1)** An approved electronic document must not be denied legal effect or enforceability solely because it is in electronic format.

(2) An approved electronic document

- (a) is exempt from any requirement that to be effective and enforceable it must be in writing or be signed, and
- (b) has the same effect for all purposes as if the document were in writing and as if the document were signed by any person that would have been required to sign it, but for the fact that it is in electronic form.

(3) Notwithstanding subsection (2), the Minister may, in respect of any approved electronic document of any particular type or class that is submitted to or sent by any unit or part of the Department, establish requirements, rules and procedures

- (a) to verify the identity of the person who created and submitted or sent the document,
  - (b) to verify the authority of that person to create, submit or send the document, and
  - (c) respecting the electronic signature on the document, including, but not limited to, the verification of the signature and the method of making the signature.
- (4) If a document exists in a written form that is not a printed copy of the approved electronic document, the approved electronic document or a non-electronic copy of the approved electronic document prevails over the written form of the document in the event of a conflict.

AR 154/2004 s6

**Standards for and approvals of electronic formats and electronic transmission**

**23.3(1)** The Minister may determine and approve the electronic format in which a document of any particular type or class is dealt with in connection with a business process performed or administered by any unit or part of the Department, including, but not limited to, the electronic format in which a document of that type or class is created, made, collated, defined, presented, issued, negotiated, sent, given, delivered, submitted, filed, registered, recorded, stored or retained.

(2) The Minister may determine and approve the methods and means of transmission of all approved electronic documents or of any particular type or class of approved electronic documents and establish rules, procedures and guidelines respecting their transmission.

(3) Notwithstanding any provision of the Act or any other regulation under the Act specifying or requiring that a document must be in a particular form, including a written or other non-electronic form, that document will not be accepted by the Minister unless it is in the electronic format determined or approved by the Minister under subsection (1).

(4) Notwithstanding any provision of the Act or any other regulation under the Act specifying how or when a document is to be submitted by the Minister to a person or by a person to the Minister, all matters relating to how and when a document must be submitted shall be determined and approved by the Minister in accordance with subsection (2).

AR 154/2004 s6;61/2006

**Submission of documents in electronic form**

**23.4(1)** Notwithstanding any provision of the Act or any other regulation under the Act, the Minister

- (a) may refuse to accept any document submitted to the Minister for any purpose, unless the document
  - (i) is submitted to the Department by approved electronic transmission in approved electronic format, and
  - (ii) is organized in the same or substantially the same manner, and contains the information prescribed for that document by the Act or a regulation under the Act,
- (b) may refuse to accept for any purpose a document of any particular type or class in respect of which rules, procedures or requirements have been established under section 23.2(3) if any of those rules, procedures or requirements have not been complied with in respect of the document, or
- (c) may exempt from any of the requirements of clause (a) documents of any type or class submitted to the Department in certain circumstances or for certain purposes or by or on behalf of certain persons in connection with a business process performed or administered by any unit or part of the Department.

**(2)** If a person complies with subsection (1), a document will be considered to have been submitted to the Department when the Minister acknowledges receipt of the document in accordance with the acknowledgment rules established by the Minister.

AR 154/2004 s6

**Electronic documents as original documents**

**23.5(1)** Notwithstanding any provision of the Act or any other regulation under the Act, an approved electronic document is deemed for all purposes to be the original of the document.

**(2)** Notwithstanding any provision of the Act or any other regulation under the Act,

- (a) an endorsement or entry made on an approved electronic document, or
- (b) a certification of a copy of an approved electronic document to be a true copy

has the same force and effect at law and the same evidentiary value as if the endorsement or entry were made on, or a certified copy were made of, an original document in written form.

AR 154/2004 s6

#### **Retention of documents in electronic form**

**23.6(1)** A requirement under the Act, this Regulation or any other regulation under the Act to keep a document is satisfied if

- (a) the document is kept in the approved electronic format for its storage and retention, and
- (b) the information contained in the document is kept accessible and printable so as to be usable for subsequent reference by any person who is entitled or authorized to have access to the document or who is entitled or authorized to require its production.

**(2)** Sections 23.1 to 23.5 may apply to the keeping of documents by any unit or part of the Department responsible for their storage or retention if considered necessary by the unit or part of the Department notwithstanding that a direction or determination under section 23.1(2) may not have been made by the Minister in respect of the keeping of documents by that unit or part of the Department.

AR 154/2004 s6

### **General**

#### **Return of deposit or security**

**24** Where

- (a) a deposit or security is furnished by the lessee of an agreement to the Government pursuant to the Act or the regulations,
- (b) the Minister subsequently registers a transfer of the agreement or of a specified undivided interest in the agreement, and
- (c) the Minister becomes obligated to return or refund all or part of the deposit or security,

then, subject to section 46(4) of the Act, the deposit or security or the part of the deposit or security, as the case may be, shall be returned or refunded to the person who originally furnished the deposit or security unless that person directs the Minister to return or refund it to some other person.

AR 262/97 s24;251/2001

**Retention of records**

**25** A person who is a lessee or a former lessee of an agreement shall keep all records that come into that person's possession or the possession of any of that person's agents and that are or were used for the purpose of preparing any return or report required to be given to or filed with the Minister by that person in relation to the agreement pursuant to the Act, the regulations or the agreement.

**Disclosure of information**

**26(1)** The Minister may make available any records, returns or other information obtained under the Act, the regulations or an agreement

- (a) to any person for the purpose of enforcing a law of Canada or a province, or
- (b) to a person employed in or acting on behalf of the Department for the purpose of administering any enactment under the administration of the Minister or evaluating, formulating or administering a policy or program of the Department.

**(2)** The Minister may classify types of information obtained under the Act, the regulations or agreements as non-confidential and may systematically authorize the release to the public of information classified as non-confidential.

**(3)** With the authorization of the Minister, confidential information obtained under the Act, the regulations or agreements may be provided or published in summarized or statistical form in such a manner that it is not possible to relate the information to any identifiable person.

**(4)** A person employed or engaged in the administration of the Act may communicate, disclose or make available records, returns or other information received in respect of an agreement pursuant to the Act, the regulations or the agreement to

- (a) the person from whom the record, return or other information was obtained, or
- (b) a person who has the consent in writing of the person from whom the record, return or other information was obtained.

**Exceptions to section 32(1)(a) of the Act**

**27(1)** Section 32(1)(a) of the Act does not apply to a well or to the installations and equipment, including casing, incidental to the well if

- (a) all or part of the spacing unit for the well continues under another agreement,
- (b) the Regulator notifies the Minister that, on the basis of evidence and representations presented to it by one or more interested parties,
  - (i) the well should not be abandoned because it is or will be used for some useful purpose, or
  - (ii) the well has evaluated a mineral, the rights to which are granted by another agreement, by reason of having penetrated a zone underlying the location of that other agreement, where the surrendered or cancelled agreement and that other agreement had a common surface area,
- (c) the agreement pursuant to which the well was drilled expires but is renewed, or
- (d) the agreement pursuant to which the well is drilled is cancelled or expires and, as a consequence of the exercise of a right of lease selection conferred by the agreement, the well is in the location of a lease so selected.

(2) Section 32(1)(a) of the Act does not apply to any installations or equipment, including casing, incidental to a well if, at the time of the expiration, surrender or cancellation of the agreement, the installations or equipment is being used in the operation of another well not affected by the expiration, surrender or cancellation.

AR 262/97 s27;251/2001;89/2013

#### **Deemed areas**

**28** For the purposes of an agreement, a section, quarter-section and legal subdivision of land are deemed to contain 256 hectares, 64 hectares and 16 hectares respectively, unless the Minister directs otherwise in a particular case.

#### **Mineral title transfers and notifications**

**29** For the purposes of the Act,

- (a) a transfer of title referred to in section 12 of the Act is issued when it is signed by the Minister, and
- (b) a notification referred to in section 13 of the Act is issued when it is signed by the Minister and delivered to the appropriate Land Titles Office for registration.

**Recalculation and audit period**

**29.1** For the purposes of section 38(6) of the Act,

- (a) the period for recalculation of a cost, charge or expense relating to reclamation in respect of a mine or mining operations is the same as the period set out in section 38(1) to (5) of the Act for the calculation, recalculation or additional calculation of the amount in section 38(2) to which the cost, charge or expense relates;
- (b) the period of auditing of a cost, charge or expense relating to reclamation in respect of a mine or mining operations is the same as the period set out in section 47(3) and (4) of the Act for retention of records to which the information in respect of the cost, charge or expense relates.

AR 199/2005 s3

**Consequential Amendments****Ammonite Shell Regulation amended**

**30(1) The *Ammonite Shell Regulation* (AR 59/89) is amended by this section.**

**(2) Section 3 is amended**

- (a) **in subsection (2) by striking out** “the fee for the permit prescribed in the *General Regulation* (Alta. Reg. 163/84)” **and substituting** “the application fee prescribed in the Schedule to the *Mines and Minerals Administration Regulation* (AR 262/97)”;
- (b) **by repealing subsection (3)(a) and substituting the following:**
  - (a) the application fee prescribed in the Schedule to the *Mines and Minerals Administration Regulation* (AR 262/97), and
- (c) **by repealing subsections (4) and (4.1).**

**Coal Royalty Regulation amended**

**31(1) The *Coal Royalty Regulation* (AR 295/92) is amended by this section.**

**(2) Section 8(2) is repealed and the following is substituted:**

- (2)** If a lessee contravenes subsection (1) by failing to submit a report on or before the deadline prescribed by or pursuant to that subsection, the Minister may impose a pecuniary penalty

on the lessee by reason of the contravention, subject to the following:

- (a) the Minister must give a notice to the lessee describing the contravention, specifying the period within which the report must be submitted to the Minister in order to avoid liability for the penalty and specifying the penalty for which the lessee will be liable if the report is not submitted before the end of that period;
- (b) the “default period” for the purposes of this subsection is the period
  - (i) commencing on the day after the expiration of the period specified in the notice given pursuant to clause (a), and
  - (ii) ending on the day immediately before the day on which the report is submitted to the Minister;
- (c) the notice shall not specify a penalty in excess of
  - (i) \$10 000 in respect of the first day of the default period, or
  - (ii) \$1000 in respect of the 2nd and each subsequent day of the default period;
- (d) if the report is not submitted to the Minister within the period specified in the notice, the lessee is liable to pay to the Minister the penalty specified in the notice.

**(3) Section 9 is amended**

- (a) in subsection (1) by striking out** “Notwithstanding section 7 of the *General Regulation* (Alta. Reg. 163/84), interest” **and substituting** “Interest”;
- (b) in subsection (2) by striking out** “Notwithstanding section 8 of the *General Regulation* (Alta. Reg. 163/84), interest” **and substituting** “Interest”;
- (c) in subsection (3) by striking out** “Notwithstanding section 7 of the *General Regulation* (Alta. Reg. 163/84), if” **and substituting** “If”.

**Metallic and Industrial Minerals Regulation amended**

**32(1) The *Metallic and Industrial Minerals Regulation* (AR 66/93) is amended by this section.**

**(2) Section 5(2)(b) is repealed and the following is substituted:**

(b) the application fee prescribed in the Schedule to the *Mines and Minerals Administration Regulation* (AR 262/97).

**(3) Section 10(2)(b) is repealed and the following is substituted:**

(b) the application fee prescribed in the Schedule to the *Mines and Minerals Administration Regulation* (AR 262/97).

**(4) Section 15.1 is amended by striking out “Subject to section 6 of the *General Regulation* (AR 163/84), the” and substituting “The”.**

**(5) Section 18(b) is repealed and the following is substituted:**

(b) the application fee prescribed in the Schedule to the *Mines and Minerals Administration Regulation* (AR 262/97),  
and

**(6) Section 19 is repealed.**

**(7) Section 23.1(b) is amended by striking out “, subject to section 6 of the *General Regulation* (AR 163/84),”.**

**Metallic and Industrial Minerals Royalty Regulation amended**

**33(1) The *Metallic and Industrial Minerals Royalty Regulation* (AR 350/93) is amended by this section.**

**(2) Section 2 is repealed and the following is substituted:**

**Returns respecting royalty**

**2(1)** The holder of a lease or licence shall furnish to the Minister written returns pertaining to the calculation of royalty reserved to the Crown in right of Alberta under the lease or licence, by the deadlines, in the manner and in respect of the periods determined by the Minister and containing the information requested by the Minister.

**(2)** If the holder of a lease or licence contravenes subsection (1) by failing to furnish a return to the Minister before the deadline determined by the Minister under that subsection, the Minister may impose a pecuniary penalty on the holder by reason of the contravention, subject to the following:

- (a) the Minister must give a notice to the holder describing the contravention, specifying the period within which the return must be furnished in order to avoid liability for the penalty and specifying the penalty for which the lessee will be liable if the return is not furnished before the end of that period;
- (b) the “default period” for the purpose of this subsection is the period
  - (i) commencing on the day after the expiration of the period specified in the notice given pursuant to clause (a), and
  - (ii) ending on the day immediately before the day on which the return is furnished to the Minister;
- (c) the notice shall not specify a penalty in excess of
  - (i) \$10 000 in respect of the first day of the default period, or
  - (ii) \$1000 in respect of the 2nd and each subsequent day of the default period;
- (d) if the return is not furnished to the Minister within the period specified in the notice, the holder is liable to pay to the Minister the penalty specified in the notice.

**Natural Gas Royalty Regulation, 1994 amended**

**34** The *Natural Gas Royalty Regulation, 1994* (AR 351/93) is amended by repealing section 25(5).

**Oil Sands Regulation amended**

**35(1)** The *Oil Sands Regulation* (AR 228/91) is amended by this section.

**(2)** Section 2(1)(a) is repealed and the following is substituted:

- (a) the application fee prescribed in the Schedule to the *Mines and Minerals Administration Regulation* (AR 262/97), and

**(3)** Section 4 is repealed.

**Oil Sands Royalty Regulation, 1997 amended**

**36** The *Oil Sands Royalty Regulation, 1997 (AR 185/97)* is amended by repealing section 33(6).

**Repeal****Repeal**

**37** The *General Regulation (AR 163/84)* is repealed.

**Expiry****Expiry**

**38** For the purpose of ensuring that this Regulation is reviewed for ongoing relevancy and necessity, with the option that it may be repassed in its present or an amended form following a review, this Regulation expires on June 30, 2014.

AR 262/97 s38;329/2002;354/2003;154/2004

**Coming into Force****Coming into force**

**39** This Regulation comes into force on January 1, 1998.

**Schedule****Prescribed Fees and Penalties****Fees Related to Agreements**

1	Fee for the issuance of an agreement sold by public tender	\$625
2	Fee for the issuance of an agreement under section 16(a) or (c) of the Act, other than an agreement referred to in item 2.1,	\$625
2.1	Fee for the issuance of an evaluation permit or carbon sequestration lease under the <i>Carbon Sequestration Tenure Regulation</i>	\$625
3	Fee for including an additional mineral to which rights are granted under an agreement	\$625
4	Fee for an application for a metallic and industrial minerals licence	\$50
5	Fee for the issuance of a new agreement resulting from a division of an agreement or the registration of a transfer of part of the location of an agreement	\$625

6	Acceptance fee referred to in section 17(5)(c)(ii) of the <i>Petroleum and Natural Gas Tenure Regulation</i> (AR 263/97)	\$25 per hectare, subject to a \$1600 minimum
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**Penalties**

7	Penalty for reinstatement pursuant to section 8(1)(e) of the Act of an agreement granting rights in respect of coal, a metallic and industrial mineral or ammonite shell	\$1000
8	Penalty for reinstatement pursuant to section 8(1)(e) of the Act of an agreement granting rights in respect of a mineral other than a mineral mentioned in item 7	\$5000
9	Penalty for processing a request to have mineral rights sold at a sale by public tender, but only if <ul style="list-style-type: none"> <li>(a) the mineral rights are offered at a sale as a result of the request,</li> <li>(b) the mineral rights are not sold at the sale, and</li> <li>(c) payment of the penalty is demanded by the Minister</li> </ul>	\$625
10	Late application penalty referred to in section 11(3)(a)(ii) or 14(5)(b)(iii) or (6)(c)(ii) of the <i>Petroleum and Natural Gas Tenure Regulation</i> (AR 263/97)	\$5000
11	Penalty for the contravention of section 54(1) of the Act in relation to coal, a metallic and industrial mineral or ammonite shell	\$5000
12	Penalty for the contravention of section 54(1) of the Act in relation to a mineral other than a mineral mentioned in item 11	\$50 000

**Registration Fees**

13(1)	Registration of a security notice, a notice of the assignment of all or part of the security interest that is the subject of a registered security notice, or a notice of the postponement of a registered security interest, for each agreement against which the notice is registered	\$50
(2)	Registration of a notice referred to in section 96(1)(a) or (d) of the Act	Nil
(3)	Registration of a transfer	Nil

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|-------|--|------|
| 14(1) | Registration under the <i>Builders' Lien Act</i> of a statement of lien or certificate of lis pendens, for each agreement against which the document is registered | \$50 |
| (2)   | Registration under the <i>Builders' Lien Act</i> of a discharge of a registered statement of lien or certificate of lis pendens                                    | Nil  |

**Fees for Searches and Information**

**(Note:** The information contained in a search, report or file under this Part is derived or obtained from either the Alberta Mineral Information system maintained by the Minister of Energy or the Geographic Land Information Management and Planning System maintained by the Minister of Environment and Sustainable Resource Development.)

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|-------|---|------|
| 15(1) | The fee for a search of an agreement or other non-confidential matter or activity related to an agreement, including, but not limited to, <ul style="list-style-type: none"> <li>(a) a written search respecting mineral agreements, restrictions, units, well spacing unit orders, fields, postings, projects, zone designations, and</li> <li>(b) a written or verbal search respecting surface activities, geo administrative areas, reservations, surface encumbrances and surface land postings</li> </ul>                       | \$6  |
| (2)   | Surcharge for each written search under subitem (1) that is requested and provided on a rush basis  | \$10 |
| 16    | Each ad hoc report from either the Alberta Mineral Information system maintained by the Minister of Energy or the Geographic Land Information Management and Planning System maintained by the Minister of Environment and Sustainable Resource Development in either summary or detailed format, including, but not limited to, each mineral land index search, mineral agreement search by client identification, surface activity search by client identification or any other request not specifically addressed in this Schedule | \$30 |
| 17    | Surcharge for an electronic download containing a search referred to in item 15 or 16   | \$20 |

(**Note:** For the purposes of the following item, “land parcel” means a quarter section, half section, section or consecutive sequence of sections up to and including one complete township.)

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|-------|--|--------|
| 18    | Public land standing report or surface activity standing report or any other surface search requested by land description and provided orally or in writing  |        |
|       | (a) \$1 for each land parcel included in the report subject to a minimum fee of \$5 per report   |        |
|       | (b) a maximum fee of \$75 for each public land standing report or surface activity standing report   |        |
| 19(1) | Complete electronic file for any one or more of the following:   |        |
|       | (a) all mineral disposition data related to Crown mineral agreements, including, but not limited to, postings, restrictions, units and encumbrances  |        |
|       | (b) all Alberta Energy Regulator administrative data, including, but not limited to, well spacing unit orders  |        |
|       | (c) Crown mineral ownership in Alberta   |        |
|       | fee for a test electronic data file  | \$500  |
|       | fee for the complete electronic data file containing data to the end of the most recent month  | \$1250 |
|       | fee for updates during each month to the electronic data file  | \$650  |
| (2)   | Complete electronic file for all data related to surface dispositions issued under the <i>Public Lands Act</i> , including, but not limited to, surface activities, geo administrative areas, reservations, surface encumbrances and surface land postings |        |
|       | fee for a test electronic data file  | \$500  |
|       | fee for the complete electronic data file containing data to the end of the most recent month  | \$1250 |
|       | fee for updates during each month to the electronic data file  | \$650  |





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