



Province of Alberta

ENVIRONMENTAL PROTECTION
AND ENHANCEMENT ACT

**OIL SANDS ENVIRONMENTAL
MONITORING PROGRAM
REGULATION**

Alberta Regulation 226/2013

With amendments up to and including Alberta Regulation 15/2019

Current as of January 30, 2019

Office Consolidation

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Note

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(Consolidated up to 15/2019)

ALBERTA REGULATION 226/2013

Environmental Protection and Enhancement Act

**OIL SANDS ENVIRONMENTAL MONITORING
PROGRAM REGULATION**

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Definitions

1 In this Regulation,

- (a) “Act” means the *Environmental Protection and Enhancement Act*;
- (b) “application” means an application
 - (i) for an approval,
 - (ii) to change the activity that is the subject of an approval, or
 - (iii) to amend a term or condition of, add a term or condition to or delete a term or condition from an approval,

unless the context requires otherwise;

- (c) “approval” means an approval issued under the Act in respect of an oil sands mine, oil sands processing plant, enhanced recovery in-situ oil sands or heavy oil processing plant, unless the context requires otherwise, but does not include a plant for the extraction from crude bitumen of crude oil, natural gas and other substances;
- (d) “approved annual monitoring plan” means the plan prepared in accordance with the Oil Sands Environmental Monitoring Program, setting out the monitoring activities approved for a fiscal year;
- (e) “assessment” means the total fee payable in respect of a particular application or approval by a participant in the Oil Sands Environmental Monitoring Program, as determined by the Director in accordance with the Schedule;
- (f) “Oil Sands Environmental Monitoring Program” means the environmental monitoring program established under section 2;
- (g) “participant” means a person who is required under section 3 to participate in the Oil Sands Environmental Monitoring Program.

Establishing the Oil Sands Environmental Monitoring Program

2 The Oil Sands Environmental Monitoring Program is established, and shall consist of the Joint Canada/Alberta Oil Sands Monitoring Implementation Program, established by Ministerial Order 25/2013 made by the Minister pursuant to section 8 of the *Government Organization Act*, and any successor program.

Participation in the Oil Sands Environmental Monitoring Program

3 A person shall participate in the Oil Sands Environmental Monitoring Program for a particular fiscal year if the person, as of December 31 of the year prior to the fiscal year, holds a subsisting approval or has an active application.

Determination and notice of assessment of fees for Program

4(1) For each fiscal year, the Director shall determine the assessment of fees for the Oil Sands Environmental Monitoring Program in respect of an application or approval in accordance with the Schedule.

(1.1) For greater certainty, a fee assessed for the Oil Sands Environmental Monitoring Program constitutes a fee charged in

respect of a right to explore for or exploit an oil sands mineral deposit.

(2) A notice of assessment must include

- (a) a brief description of the approval or application to which the notice applies,
- (b) the amount of the assessment in respect of the approval or application to which the notice applies, and
- (c) a demand for payment of the total amount of the assessment.

(3) On an annual basis, a notice of assessment in respect of each application and approval must be provided to the participant for the applicable fiscal year.

(4) The notice of assessment must be accompanied by a copy of the approved annual monitoring plan for the particular fiscal year.

(5) This section applies to the 2013-2014 fiscal year and subsequent fiscal years.

AR 226/2013 s4;11/2015

Payment of assessment and penalty for late payment

5(1) A participant shall pay the full amount of an assessment within 45 days of the date the notice of assessment is sent.

(2) An assessment or part of an assessment that is not paid in accordance with subsection (1) is subject to the addition of a penalty of 20% of the unpaid assessment or part of an assessment, unless the Minister orders otherwise.

Deemed compliance with approval condition

6 Where a participant has paid the assessment in respect of an approval for a particular fiscal year, the participant is deemed to have complied with the conditions or portions of conditions, if any, in the approval that

- (a) are the subject-matter of the assessment, and
- (b) are set out in the applicable approved annual monitoring plan.

Recovery of amount owing under notice of assessment, etc.

7 If a participant fails to pay an amount required under section 5, the amount outstanding is a debt owing to the Crown, and the

Department may recover the amount outstanding by an action in debt.

Public information

8 Information collected or submitted for the purposes of this Regulation is considered to be public.

Provision of information

9 The Minister may require a department or a Government agency to provide information or a report or record that is necessary for the determination of an assessment.

Access to land for monitoring purposes

10 A participant shall provide access to the land that is referred to in the application or approval, as the case may be, for the purposes of conducting monitoring that is set out in the approved annual monitoring plan.

Expiry

11 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 January 31, 2022.

AR 226/2013 s11;15/2019

Coming into force

12 This Regulation comes into force on the date on which the *Environmental Protection and Enhancement Amendment Act, 2013* comes into force.

Schedule**Calculation of the Fees and Assessment
for the Oil Sands Environmental
Monitoring Program**

- 1** In this Schedule,
- (a) “Budget” means the amount, expressed in Canadian dollars, to be spent for the Budget Year, to conduct the activities set out in the approved annual monitoring plan;
 - (b) “Budget Year” means the Crown’s fiscal year as set out in section 3 of the *Financial Administration Act*;

- (c) “Cut-off Date” means December 31 of the year prior to the Budget Year;
- (d) “EPEA Application” means an application subsisting on the Cut-off Date, but does not include
 - (i) an application for an amendment to an approval for an activity with an existing crude bitumen production of at least 320 cubic metres per day, or
 - (ii) an application for an approval in respect of an activity for which
 - (A) the Maximum Proposed Production is less than 320 cubic metres per day, or
 - (B) the OSCA Applications and OSCA Approvals associated with the application are in respect of schemes or operations that are of a category other than commercial;
- (e) “EPEA Approval” means an approval, subsisting on the Cut-off Date, but does not include an approval in respect of an activity for which
 - (i) the Maximum Allowed Production is less than 320 cubic metres per day, or
 - (ii) the OSCA Applications or OSCA Approvals associated with the approval are in respect of schemes or operations that are of a category other than commercial;
- (f) “Maximum Allowed Production” means the maximum allowed daily production of crude bitumen as specified in the OSCA Approvals associated with the EPEA Approval;
- (g) “Maximum Proposed Production” means the maximum amount of crude bitumen to be produced daily at the facility, as specified in the EPEA Application documentation or calculated by the Director based on information in other documents accepted by the Director;
- (h) “Operating Capacity” means the total operating capacity, in respect of crude bitumen, for an activity that is the subject of an EPEA Approval, calculated by the Director using information in the Oil Sands Quarterly Report;
- (i) “Oil Sands Quarterly Report” means the “Oil Sands Quarterly Report”, published by the Government of

Alberta, for the period with an end date closest to the Cut-off Date;

- (j) “OSCA Application” means an application, subsisting on the Cut-off Date, for an approval under the *Oil Sands Conservation Act*;
- (k) “OSCA Approval” means an approval issued under the *Oil Sands Conservation Act*, subsisting on the Cut-off Date.

2 The Director shall calculate the Base Fee in accordance with the following formula:

$$\text{Base Fee} = 0.1 \times \text{Budget} / (A+B)$$

where

A = The total number of EPEA Applications

B = The total number of EPEA Approvals

3 The Director shall calculate the Approval Fee in respect of an EPEA Approval in accordance with the following formula:

$$\text{Approval Fee} = 0.1 \times (\text{Budget} / \text{Total Number of EPEA Approvals})$$

4 The Director shall calculate the Maximum Allowed Production Fee in respect of an EPEA Approval in accordance with the following formula:

$$\text{Maximum Allowed Production Fee} = 0.4 \times \text{Budget} \times (C / D)$$

where

C = Maximum Allowed Production (in m³/day)

D = Sum of Maximum Allowed Production for all EPEA Approvals (in m³/day).

5 The Director shall calculate the Operating Capacity Fee in respect of an EPEA Approval in accordance with the following formula:

$$\text{Operating Capacity Fee} = 0.4 \times \text{Budget} \times (E / F)$$

where

E = Operating Capacity (in barrels/day)

F = Sum of Operating Capacities for all EPEA Approvals (in barrels/day)

6 The Director shall determine the assessment in respect of each EPEA Application and EPEA Approval by calculating the sum in

accordance with the applicable formula below, using the values as calculated in sections 2 to 5 of this Schedule:

- (a) Assessment in respect of an EPEA Application = Base Fee;
- (b) Assessment in respect of an EPEA Approval = Base Fee + Approval Fee + Maximum Allowed Production Fee + Operating Capacity Fee.



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